BOARD MEETING OF MAY 21, 2009

C. Kent Conine, Chair

TEXAS DEPARTMENT OF
HOUSING & COMMUNITY AFFAIRS
Building Homes. Strengthening Communities.

Gloria Ray, Vice-Chair
Leslie Bingham Escareño, Member
Tomas Cardenas, Member
Tom Gann, Member
Juan Muñoz, Member

MISSION

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

TO HELP TEXANS ACHIEVE AN IMPROVED QUALITY OF LIFE THROUGH THE DEVELOPMENT OF BETTER COMMUNITIES

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
BOARD MEETING

A G E N D A

9:30 am
May 21, 2009

D.C. Greer Building
(headquarters for Texas Department of Transportation)
Ric Williamson Hearing Room
125 E. 11th Street
Austin, TX 78701

CALL TO ORDER, ROLL CALL — Kent Conine, Chairman
CERTIFICATION OF QUORUM

Resolution recognizing June as Homeownership Month, Resolution No. 09-041

Recognition of DIONICIO "SONNY" FLORES for his service on the Governing Board of the Texas Department of Housing and Community Affairs

PUBLIC COMMENT`
The Board will solicit Public Comment at the beginning of the meeting and will also provide for Public Comment on each agenda item after the presentation made by the department staff and motions made by the Board.

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 provided under Texas Government Code Chapter 551, the Texas Open Meetings Act.

Item 1: Approval of the following items presented in the Board materials:

Executive Division: — Tim Irvine, Secretary to the Board

a) Presentation, Discussion, and Possible Approval of Board Meeting Minutes for April 23, 2009

Community Affairs: — Amy Oehler, Dir. Community Affairs

b) Presentation, Discussion, and Possible Approval of the 2010 Low Income Home Energy Assistance Program State Plan

c) Presentation, Discussion, and Possible Approval of the 2009 Emergency Shelter Grants Program Award Recommendations

Rules:

d) Presentation, Discussion, and Possible Approval to publish the proposed repeal of 10 TAC Chapter 3, Colonia Self-Help Center, and a draft of proposed new 10 TAC Chapter 3, Colonia Self-Help Center for public comment in the *Texas Register* — Homero Cabello, Dir. OCI

e) Presentation, Discussion, and Possible Approval to publish the proposed amendments of 10 TAC Chapter 5, Community Affairs Programs for public comment in the *Texas Register* — Amy Oehler, Dir. Community Affairs

Texas Homeownership:

f) Presentation, Discussion, and Possible Approval of a Request for Proposal for Master Servicer for the Single Family Mortgage Revenue Bond Programs — Eric Pike, Dir. THI

HOME and Housing Trust Fund: — Cameron Dorsey, Mgr. HOME & HTF Programs

g) Presentation, Discussion, and Possible Approval of Requests for Amendments to HOME Program Contracts/Commitments from the following list:

1001106	Costa Mariposa	RHD

Multifamily Division Items - Housing Tax Credit Program: — Robbye Meyer, Dir. Multifamily Finance

h) Presentation, Discussion, and Possible Approval of Housing Tax Credit Extensions

07094	Mesquite Terrace	Pharr

ACTION ITEMS

Item 2: Executive:

a) Presentation and Discussion on a monthly Status Report on the implementation of the American Recovery and Reinvestment Act of 2009 — Brooke Boston, DED Community Based

b) Presentation, Discussion, and Possible Action to adopt Plan submission to HUD regarding the Tax Credit Assistance Program (TCAP) — Tom Gouris, DED Housing Programs

c) Presentation, Discussion, and Possible Action to adopt Governing Board Policy regarding the TCAP Application and Award Process — Tom Gouris, DED Housing Programs

d) Presentation, Discussion, and Possible Action to approve guidelines for the implementation of the TCAP Policy — Tom Gouris, DED Housing Programs

Item 3: Disaster Recovery: — Sara Newsom, DED – Disaster Recovery and Emrgy. Housing

a) Presentation and Discussion of the Disaster Recovery Division's Status Report on CDBG and FEMA AHPP Contracts Administered by TDHCA

b) Report and Discussion on the Hurricane Ike and Dolly Action Plan

c) Presentation and Possible Discussion Regarding a request for proposal for Temporary Housing for Rapid Deployment in Response to Disasters Contingency Contract

d) Presentation, Discussion, and Possible Approval of CDBG Disaster Recovery Program Award Recommendations

Hurricane Ike Housing Assistance Programs

09-0001	City of Houston	Houston

Hurricane Dolly Housing Assistance Programs
None as of Board Book Posting

e) Presentation, Discussion, and Possible Approval of policy on homes exceeding the established rehabilitation cap due to historic designation concerns

f) Presentation, Discussion, and Possible Approval of a board policy on specific homes that exceed the cap established to address local code requirements outside of structure costs for development of homes in Hurricane Rita Round 2

g) Presentation, Discussion, and Possible Approval of a policy regarding how to proceed when the inability to obtain a hold harmless consent to build form from an existing lien holder is an impediment to providing homes to Hurricane Rita applicants in Round 2

h) Presentation, Discussion, and Possible Approval to expend remaining funds dedicated to Sabine Pass in the State of Texas Action Plan

i) Presentation, Discussion, and Possible Action regarding a Notice of Funds Availability for a $58 million affordable rental housing set-aside under CDBG disaster funding related to Hurricanes Ike and Dolly

Item 4: HOME and Housing Trust Fund Programs Division: — Cameron Dorsey, Mgr. HOME & HTF Programs

a) Presentation, Discussion, and Possible Approval of HOME Program Award Recommendations:

Owner Occupied Housing Assistance Program

2008-0159	City of Charlotte	Charlotte

Tenant-Based Rental Assistance Program – Persons With Disabilities

2008-0163	San Antonio Metropolitan Ministries, Inc.	San Antonio
2008-0165	Community Partnership for the Homeless	Austin

b) Presentation, Discussion, and Possible Approval of Housing Trust Fund Program Award Recommendations:

2009 HTF Veterans Housing Support Program

2009-0012	Community Partnership for the Homeless	Austin

2009 HTF Rental Production Program

08335	Meadow Park Village	Lockhart
08343	The Willows Apartments	Smithville

c) Presentation, Discussion, and Possible Approval of the 2009 HOME Rental Housing Development (RHD), 2009 HOME Single Family, and 2009 Colonia Model Subdivision and Single Family Development Notices of Funding Availability (NOFAs)

Item 5: Bond Finance: — Matt Pogor, Dir. Bond Finance

a) Presentation, discussion and approval of Resolution No. 09-040 authorizing the Department to enter into substitute liquidity facilities provided by the Comptroller of Public Accounts of the State of Texas for the 2004 Series A Jr. Lien, 2004 Series B, 2004 Series D, 2005 Series A and 2005 Series C Single Family Variable Rate Mortgage Revenue Bonds and approving amendments to their Supplemental Indentures, approving reoffering documents, canceling bond and swap insurance and amendments to swap agreements where applicable along with a change in remarketing agent for the 2005 Series C Single Family Variable Rate Taxable Mortgage Revenue Bonds

b) Presentation, discussion and approval of statewide monetization of the First-Time Homebuyer Tax Credit under the American Recovery and Reinvestment Act of 2009 authorizing the Department to utilize a portion of the Supplemental Bond Contingency Reserve Fund to provide statewide down payment assistance to eligible first-time homebuyers

Item 6: Multifamily Division Items - Housing Tax Credit Program: — Robbye Meyer, Dir. Multifamily Finance

a) Presentation, Discussion, and Possible Approval of Housing Tax Credit Amendments

04463	Lakeside Manor Senior Community	Little Elm
08195	Chateau Village Apartments	Houston

b) Presentation, Discussion, and Possible Action on Housing Tax Credit Appeals:

Appeals Timely Filed

c) Presentation, Discussion, and Possible Action regarding 2008 Forward Commitments for tax credits

Item 7: Multifamily Division Items–Private Activity Bond Program: — Robbye Meyer, Dir. Multifamily Finance

a) Presentation, Discussion, and Possible Approval of the First Supplement to the Trust Indenture for Center Ridge Apartments, Series 2006 Resolution #09-041

b) Presentation, Discussion, and Possible Action for a waiver of the Integrated Housing Rule §1.15 for the Willow Oak Assisted Living Bond transaction

Item 8: Real Estate Analysis: — Brent Stewart, Dir. REA

a) Presentation, Discussion, and Possible Action for 2008 Competitive Housing Tax Credit Appeals of Underwriting

08145 Oasis at the Park

Underwriting Appeals Timely Filed

EXECUTIVE SESSION — Kent Conine, Chairman

a) The Board may go into Executive Session (close its meeting to the public) on any agenda item if appropriate and authorized by the Open Meetings Act, Texas Government Code, Chapter 551

b) The Board may go into Executive Session Pursuant to Texas Government Code §551.074 for the purposes of discussing personnel matters including to deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee.

c) Consultation with Attorney Pursuant to §551.071, Texas Government Code:

1. With Respect to pending litigation styled *Rick Sims v. Texas Department of Housing and Community Affairs* filed in federal district court (new filing of previously dismissed suit)

2. With Respect to pending litigation styled *The Inclusive Communities Project, Inc.* v. *Texas Department of Housing and Community Affairs, et al* filed in federal district court

3. With Respect to pending litigation styled M.G. Valdez Ltd. v. *Texas Department of Housing and Community Affairs* filed in District Court, Hidalgo County

4. With Respect to EEOC Claim from Don Duru

5. With Respect to Any Other Pending Litigation Filed Since the Last Board Meeting

6. Potential sale of agency owned real estate and/or sales of loans

OPEN SESSION — Kent Conine, Chairman

Action in Open Session on Items Discussed in Executive Session

REPORT ITEMS

TDHCA Outreach Activities, April 2009

ADJOURN

To access this agenda & details on each agenda item in the board book, please visit our website at www.tdhca.state.tx.us or contact Nidia Hiroms, 512-475-3934; TDHCA, 221 East 11th Street, Austin, Texas 78701, and request the information. Individuals who require auxiliary aids, services or sign language interpreters for this meeting should contact Gina Esteves, ADA Responsible Employee, at 512-475-3943 or Relay Texas at 1-800-735-2989 at least two days before the meeting so that appropriate arrangements can be made. Non-English speaking individuals who require interpreters for this meeting should contact Nidia Hiroms, 512-475-3934 at least three days before the meeting so that appropriate arrangements can be made.

Personas que hablan español y requieren un intérprete, favor de llamar a Jorge Reyes al siguiente número (512) 475-4577 por lo menos tres días antes de la junta para hacer los preparativos apropiados.

BOARD SECRETARY

BOARD ACTION REQUEST

MAY 21, 2009

Action Items

Presentation, Discussion, and Possible Approval of Board Meeting Minutes for April 23, 2009.

Required Action

Review minutes for April 23, 2009 Board Meetings.

Background

The Board is required to keep minutes of each of their meetings.

Recommendation

Staff recommends approval of minutes, with any requested corrections.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
BOARD MEETING

April 23, 2009; 9:00 a.m.

D.C. Greer Building, Ric Williamson Hearing Room
125 E. 11th Street, Austin, TX 78701

SUMMARY OF MINUTES

CALL TO ORDER, ROLL CALL, CERTIFICATION OF QUORUM

The Board Meeting of the Texas Department of Housing and Community Affairs of April 23, 2009 was called to order by Chair, Kent Conine, at 9:05 a.m. It was held at the D.C Greer Building, Ric Williamson Hearing Room, 125 E. 11th St., Austin, TX 78701. Roll call certified a quorum was present.

MEMBERS PRESENT:

Kent Conine, Chair
Gloria Ray, Vice Chair
Tom Cardenas, Member
Juan Muñoz, Member
Tom H. Gann, Member
Leslie Bingham-Escareño, Member (arrived during Public Comment period)

Mr. Gerber introduced and welcomed Mr. Tom Gann, new appointee to the Governing Board, who replaced Mr. Dionicio Vidal (Sonny) Flores position. Mr. Gann was sworn into office by the Honorable Robert Nichols, Texas State Senator.

Mr. Gerber announced that that April is Fair Housing Month. Resolution No. 09-039 was signed by Mr. Gerber and all Board members.

PUBLIC COMMENT. The Board will solicit Public Comment at the beginning of the meeting and will also provide for Public Comment on each Agenda Item after the presentation made by the department staff and motions made by the Board.

Mark Mayfield, Texas Housing Foundation, provided testimony concerning two 2008 forward commitments (Waco and Llano).

Chris Dischinger, LDG Development, provided testimony concerning transactions that have not closed yet, that may be eligible for TCAP.

Bob Sherman, Red Group Development Organization, provided testimony to introduce a cost saving method of providing affordable housing on an unincorporated section of land located in Hunt County, immediately east of Dallas, Texas, and still in the Dallas MSA.

Tony Sisk, Churchill Residential, provided testimony concerning the use of TCAP and TCEP funds.

Bob Ruzicka provided testimony opposing 09-166, Goldshire Townhomes, Sugarland.

Don Dobesh provided testimony opposing 09-166, Goldshire Townhomes, Sugarland.

Loree Conrad provided testimony opposing 09-166, Goldshire Townhomes, Sugarland.

Jeff Crozier, Executive Director this morning of the Rural Rental Housing Association, provided testimony concerning the ARRA policy.

Barry Kahn, developer, provided testimony concerning this tax credit application round.

Rick Deyoe, President, RealTex Development Corporation, provided testimony concerning 09-019, the Timber Village II Apartments.

Ike Monty, President of Investment Builders, El Paso, asked the Board to extend the closing deadline for the 2008 tax credit applications that received 2009 forward commitments off the waiting list.

The Honorable State Representative Jose Menendez, provided testimony in favor of the Board's efforts and creativity, such as the use of '09 forward commitments to identify ways to keep affordable housing projects moving forward despite the significant disruptions occurring in tax credit and financial markets.

Bob Davidson, Zimmerman Properties, Springfield, Missouri, provided testimony concerning Brownfield, Cedar Street Apartments TDHCA 08-112/09-006.
Walter Moreau, Director of Foundation Communities, provided testimony concerning 09-130, M Station.
Madison Sloan, Texas Appleseed, provided testimony in favor of the policy regarding the documentation of ownership status on CDBG disaster relief benefit recipients.

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 provided under the Texas Open Meetings Act, Chapter 551 of the Texas Government Code.

AGENDA ITEM 1. Approval of the following items presented in the Board materials:

Executive Division:

a) Presentation, Discussion, and Possible Approval of Board Meeting Minutes for December 18, 2008, February 5, 2009, and March 12, 2009.
b) Resolution of the Board of Directors rescinding Resolution No. 09-020 and adopting Resolution No. 09-038, designating signature authority due to reorganization and the designation of new signature designees.

Financial Administration:

c) Presentation of the Department's 2nd Quarter Investment Report.

Office of Colonia Initiatives:

d) Presentation, Discussion, and Possible Approval of new members of the Colonia Resident Advisory Committee.

Rules:

e) Presentation, Discussion, and Possible Approval of the final order adopting amendments to 10 TAC Chapter 1, §1.36, Underwriting, Market Analysis, Appraisal, Environmental Site Assessment, Property Condition Assessment, and the Reserve for Replacement Rules and Guidelines for publication in the *Texas Register*.

Motion by Mr. Cardenas to approve Consent Agenda; seconded by Ms. Ray; passed unanimously.

ACTION ITEMS

AGENDA ITEM 2. Executive:

a) Presentation, Discussion, and Possible Action on a Status Report on the Implementation of the American Recovery and Reinvestment Act of 2009 (ARRA).
Mike Sugrue, Solutions Plus, provided testimony.
Diana Lewis, Director for the Corporation for Supportive Housing, Texas, provided testimony.
Motion by Ms. Bingham-Escareño that the Board allow the staff the flexibility to develop all needed NOFAs, RFQs, and RFPs to respond timely to the ARRA work, and that the staff will report fully to the Board at each meeting; seconded by Ms. Ray; passed unanimously.

AGENDA ITEM 3. Community Affairs:

a) Presentation, Discussion, and Possible Approval of the Draft U.S. Department of Energy State Plan for the 2009 American Recovery and Reinvestment Act Weatherization Funds.
Stella Rodriguez, Texas Association of Community Action Agencies, provided testimony.
A.R. Kampschafer, provided testimony.
Gloria Arriaga, Executive Director for the Alamo Area Council of Governments, provided testimony.
William Montez, Chair of the Housing Advisory Committee for A-COG, provided testimony.
Motion by Ms. Ray to approve staff recommendation to adopt the revised execution plan for ARRA weatherization funds; seconded by Dr. Muñoz; passed unanimously.

b) Presentation, Discussion, and Possible Approval of the Draft Substantial Amendment to the Consolidated Plan 2008 Action Plan for the Homelessness Prevention and Rapid Re-Housing Program.
Motion by Mr. Cardenas to approve staff recommendation; seconded by Ms. Bingham-Escareño; passed unanimously.

c) Presentation, Discussion, and Possible Approval of the Draft Homelessness Prevention and Rapid Re-Housing Program Notice of Funding Availability.
Motion by Ms. Bingham-Escareño to approve staff recommendation; seconded by Mr. Cardenas; passed unanimously.

d) Presentation and Discussion of Delivery Model for Existing Weatherization Network.
<u>Tama Shaw</u>, Executive Director of Hill Country Community Action in San Saba, provided testimony.
<u>Rose Jackson</u>, Weatherization Director for A-COG, provided testimony.

AGENDA ITEM 4. Disaster Recovery:

a) Presentation and Discussion of the Disaster Recovery Division's Status Report on CDBG and FEMA AHPP Contracts Administered by TDHCA.
<u>Don Atwell</u>, ACS, provided report.

b) Report and Discussion on the Hurricane Ike and Dolly Action Plan.
Kelly Crawford and Robbye Meyer provided report.

c) Presentation, Discussion, and Possible Action Regarding a Draft Request for Proposal for Contract Management, Environmental Clearance, and Technical Assistance services to assist the Department in the administration of CDBG Disaster Funding related to Hurricanes Ike and Dolly.
Motion by Ms. Ray to approve staff recommendation; seconded by Ms. Bingham-Escareño; passed unanimously.

d) Presentation and Possible Action to adopt a policy regarding the documentation of ownership status on CDBG disaster relief benefit recipients.
Motion by Ms. Ray to approve staff recommendation; seconded by Mr. Cardenas; passed unanimously.

RECESS:

At 10:30 a.m. Mr. Conine announced that the Board would recess and reconvene at 12:00 p.m.

OPEN SESSION:

At 12:15 p.m. Mr. Conine reconvened the Open Session.

AGENDA ITEM 5. HOME and Housing Trust Fund Programs Division:

a) Presentation, Discussion, and Possible Approval of HOME Program Award Recommendations:
Owner Occupied Housing Assistance Program (OCC)

2008-0134	City of Point Comfort	Point Comfort
2008-0133	County of Delta	Cooper
2008-0132	City of Agua Dulce	Agua Dulce
2008-0130	City of Mart	Mart
2008-0137	City of Willis	Willis
2008-0139	City of Seminole	Seminole
2008-0140	City of Mount Vernon	Mount Vernon
2008-0142	City of Mineola	Mineola
2008-0143	City of Carrizo Springs	Carrizo Springs
2008-0144	City of Seadrift	Seadrift
2008-0145	City of Valentine	Valentine
2008-0148	City of Roxton	Roxton
2008-0149	City of Harker Heights	Harker Heights
2008-0150	City of Trinidad	Trinidad
2008-0158	City of Annona	Annona

2008-0154	City of Smyer	Smyer
2008-0155	City of Detroit	Detroit
2008-0156	City of Pecan Gap	Pecan Gap
2008-0161	Refugio County	Refugio
2008-0162	City of Tahoka	Tahoka

Homebuyer Assistance Program (HAP)

2008-0157	Paris Living – Community Living Corp.	Paris

Tenant-Based Rental Assistance Program (TBRA)

2008-0153	Travis County HFC	Austin

Motion by Ms. Bingham-Escareño to approve staff recommendation for OCC, HAP and TBRA; seconded by Dr. Muñoz; passed unanimously.

Contract for Deed Program

2008-0129	FUTURO Communities Inc.	Uvalde

Motion by Ms. Ray to approve staff recommendation for Contract for Deed Program; seconded by Ms. Bingham-Escareño; passed unanimously.

Owner Occupied Housing Assistance – Disaster Relief

2008-0131	City of Roma	Roma

Motion by Ms. Bingham-Escareño to approve staff recommendation for OCC Disaster Relief; seconded by Dr. Muñoz; passed unanimously.

b) Presentation, Discussion, and Possible Approval of Housing Trust Fund Program Award Recommendations:

2009 HTF Homeownership SuperNOFA Program

2009-0005	Futuro Communities	Uvalde
2009-0003	Habitat for Humanity of San Antonio, Inc.	San Antonio

2009 HTF Veterans Housing Support Program

2009-0004	Futuro Communities	Uvalde
2009-0008	Center for Housing & Economic Opportunities Corporation	San Antonio

Motion by Dr. Muñoz to approve staff recommendation for the HTF Homeownership SuperNOFA and HTF Veterans Housing Support Programs; seconded by Ms. Ray; passed unanimously.

2009 HTF Rental Production Program

08335	Meadow Park Village Apartments	Lockhart

<u>Gil Piette</u>, provided testimony and requested item to be tabled so that underwriting issues may be worked out.

<u>Cynthia Bast</u>, Locke, Lord, Bissell and Liddell, provided testimony.

08343	The Willows Apartments	Smithville

<u>J. Rabelais</u>, provided testimony.

Motion by Ms. Bingham-Escareño to table action on Meadow Park Village and The Willows until the May meeting; seconded by Dr. Muñoz; passed unanimously.

c) Presentation, Discussion, and Possible Approval of Requests for Amendments to HOME Program Contracts/Commitments from the following list:

1001006	Silverleaf at Chandler	RHD

<u>Mike Sugrue</u>, provided testimony.

Motion by Ms. Ray to approve amendment forward, subject to working out the impact of the $100,000 from the City of Chandler; seconded by Ms. Bingham-Escareño; passed unanimously.

AGENDA ITEM 6. BOND Finance

a) Presentation, Discussion, and Approval of Resolution No. 09-035 authorizing the Department to utilize repayments available from a prior Down Payment Assistance Program (DPAP) and repayments available from a prior 1991 Home Improvement Loan Fund (HILF) Program to provide down payment assistance to the remaining allocation of unassisted mortgage funds on the Single Family Mortgage Revenue Bonds 2006 Series FGH, Program 68 and 2007 Series B, Program 70 along with use of the First-Time Homebuyer Tax Credit of 2009 under the American Recovery and Reinvestment Act of 2009.

Motion by Ms. Ray to approve staff recommendation; seconded by Mr. Cardenas; passed unanimously.

b) Presentation, Discussion, and Approval of Resolution No. 09-036 authorizing the Department to utilize repayments available from a prior 1991 Home Improvement Loan Fund (HILF) Program and funds within the Mortgage Credit Certificate (MCC) Program to provide down payment assistance to eligible homebuyers in conjunction with the Department's 2009 Mortgage Credit Certificate (MCC) Program along with use of the First-Time Homebuyer Tax Credit of 2009 under the American Recovery and Reinvestment Act of 2009.

Motion by Mr. Cardenas to approve staff recommendation contingent on receipt of an acceptable FHA mortgage letter; seconded by Dr. Muñoz; passed unanimously.

AGENDA ITEM 7. Multifamily Division Items - Housing Tax Credit Program:

a) Presentation, Discussion, and Possible Approval of Housing Tax Credit Amendments.

04463 Lakeside Manor Senior Community Little Elm

Elena Peinado read into the record a letter from the Honorable Representative Myra Crownover.

Motion by Mr. Cardenas to table item until May meeting; seconded by Mr. Gann; passed unanimously.

05623 Coral Hills Houston

Blake Brazeal, President, Summit Housing Partners, provided testimony.

Motion by Dr. Muñoz to approve staff recommendation; seconded by Ms. Ray; passed unanimously.

05629 Village Park Houston

Blake Brazeal, President, Summit Housing Partners, provided testimony.

Motion by Ms. Ray to table until May meeting; seconded by Ms. Bingham-Escareño; passed unanimously.

b) Presentation, Discussion, and Possible Waiver of Requirements of the 2009 Qualified Allocation Plan and Rules for Hyatt Manor Apartments

Dennis Hoover, provided testimony.

Motion by Ms. Bingham-Escareño to grant waiver with two green points; seconded by Mr. Cardenas; passed unanimously.

c) Presentation, Discussion, and Possible Action on Housing Tax Credit Appeals:

08161 Canutillo Palms El Paso

Bobby Bowling, Tropicana Building Corporation, provided testimony.

Peter McHugh, Richmond Group, provided testimony.

Motion by Ms. Bingham-Escareño to approve staff recommendation to deny appeal; seconded by Mr. Conine; Mr. Cardenas and Dr. Muñoz voted no; motion passes four to two.

09137 Meadowlake Village Mabank

Warren Maupin, developer, provided testimony.

Cynthia Bast, Locke, Lord, Bissell and Liddell, provided testimony.

Motion by Ms. Ray to approve staff recommendation to deny appeal; seconded by Mr. Cardenas; passed unanimously.

09108 Peachtree Seniors Dallas

Approved by Executive Director prior to the Board meeting.

09000 Cottonwood Apartments Eagle Lake

The name of this project is Courtwood Apartments, and this application was placed on agenda in error.

Appeals Timely Filed

09227 Mineral Wells Pioneer Crossing for Seniors

Cynthia Bast, Locke, Lord, Bissell and Liddell, provided testimony.

Noor Jooma, provided testimony.

Motion by Ms. Ray to approve staff recommendation to deny appeal; seconded by Mr. Cardenas; passed unanimously.

09279 Waterford Place Apartments

Ryan McCord, McCord development, provided testimony.

Motion by Ms. Ray to approve staff recommendation to deny appeal; seconded by Mr. Cardenas; passed unanimously.

d) Presentation, Discussion and Possible Issuance of Determination Notice for Housing Tax Credits Associated with Mortgage Revenue Bond Transactions with Other Issuers and a HOME Rental Housing Development Fund Contract:

09401 Encino Pointe; Capital Area Housing Finance Corporation
Recommended Credit Amount $1,033,705; Recommended HOME Amount $3,000,000

Barry Palmer, with Coates, Rose, provided testimony.
Tim Leonard, MNA Financial provided testimony.
Debra Guerrero, NRP Group, provided testimony.

Motion by Mr. Conine to approve the transaction subject to the Department's loan being a soft second lien with the underwritten annual debt service of $147,000 receiving priority to the deferred developer fee and other lender or syndicator fees, and a portion of any remaining cashflow after all fees are paid, subject to being worked out with lenders and borrowers; seconded by Ms. Bingham-Escareño; passed unanimously.

e) Presentation, Discussion and Possible Approval of Housing Tax Credit Extensions:

07189 Sunlight Manor Apartments Beaumont/Jefferson

Motion by Dr. Muñoz to approve staff recommendation; seconded by Ms. Ray; passed unanimously.

AGENDA ITEM 8. Multifamily Division Items–Private Activity Bond Program:

a) Presentation, Discussion, and Possible Issuance of Multifamily Mortgage Revenue Bonds Series 2009; Determination Notice for Housing Tax Credits; HOME Investment Partnership Funds and Housing Trust Funds with TDHCA as the Issuer:

09605 Woodmont Apartments; Fort Worth, Tarrant County. Resolution #09-030.
Recommended Bond Amount not to Exceed $ 15,000,000
Recommended Credit Amount $1,029,811; Recommended HOME Amounts $316,000
Recommended Housing Trust Fund Amount $460,000

Barry Palmer, with Coates, Rose, provided testimony.
Charlie Price, Housing Program Manager for the City of Fort Worth, provided testimony.
Debra Guerrero, NRP Group, provided testimony.

Motion by Mr. Conine to approve the transaction with a structure in which the Department is paid before the City of Fort Worth, but provided that the City would have second lien position and the Department's lien would be 3rd and 4th and otherwise structured similar to Encino Pointe; seconded by Ms. Ray; passed unanimously.

09604 Costa Mariposa ; Texas City, Galveston County. Resolution #09-031.
Requested Bond Amount not to Exceed $13,680,000
Requested Credit Amount $929,965; Requested HOME Amount $3,000,000

Barry Palmer, with Coates, Rose, provided testimony.
Debra Guerrero, NRP Group, provided testimony.
Tim Leonard, MNA Financial provided testimony.
Monique Allen, President of UPCDC, provided testimony.

Motion by Mr. Conine to approve the transaction with a structure providing for $654,000 of "hard" debt, balance is "soft" debt, and the variable fees are behind payments to the Department with a portion of any cashflow after fees going to repay the Department; seconded by Ms. Bingham-Escareño; passed unanimously.

b) Presentation, Discussion, and Possible Action for the Inducement Resolution Declaring Intent to Issue Multifamily Housing Mortgage Revenue Bonds for Developments Throughout the State of Texas and Authorizing the Filing of Related Applications for the Allocation of Private Activity Bonds with the Texas Bond Review Board for Program Year 2009.

09603 Willow Oak; White Settlement, Tarrant County
Resolution #09-032

George Littlejohn, Novogradac and Company, provided testimony.
Vaughan Mitchell, the developer, provided testimony.

Motion by Ms. Ray to approve inducement; seconded by Mr. Gann; passed unanimously.

AGENDA ITEM 9. Real Estate Analysis:

a) Presentation, Discussion, and Possible Action for 2008 Competitive Housing Tax Credit Appeals of Underwriting:

08154 Mineral Wells

Cynthia Bast, Locke, Lord, Bissell and Liddell, provided testimony.

Motion by Ms. Ray to grant appeal; seconded by Mr. Conine; passed unanimously.

08236 Greenbriar Village

Withdrawn from consideration by applicant.

08183 Desert Villas

Keith Puhlman, CFO of Investment Builders in El Paso, TX, provided testimony.

Ike Monte, provided testimony.

Motion by Ms. Ray to grant appeal; seconded by Dr. Muñoz; passed unanimously.

08190 Sutton Homes

Lorraine Robles, San Antonio Housing Authority, provided testimony.

Ryan Wilson, provided testimony.

Barry Palmer, with Coates, Rose, provided testimony.

Motion by Ms. Ray to grant appeal with the additional gap funding of $235,000 in tax credits, subject to a review by underwriting staff and closing by May 15, 2009; seconded by Ms. Bingham-Escareño; passed unanimously.

b) Presentation, Discussion and Possible Approval of an Extension of the Cost Certification Submission Deadline and an Increase to the Housing Tax Credit Allocation Pursuant to §49.12(d) of the 2009 Qualified Allocation Plan and Rules, for Application #04456, Champion Homes at Marshall Meadows.

Bill Fisher, Odyssey Residential, provided testimony.

Motion by Ms. Bingham-Escareño to approve staff recommendation; seconded by Ms. Ray; passed unanimously.

EXECUTIVE SESSION: No Executive Session held.

a) The Board may go into Executive Session (close its meeting to the public) on any agenda item if appropriate and authorized by the Open Meetings Act, Texas Government Code, Chapter 551 Program Contracts/Commitments from the following list:

b) The Board may go into Executive Session Pursuant to Texas Government Code §551.074 for the purposes of discussing personnel matters including to deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee.

c) Consultation with Attorney Pursuant to §551.071(a), Texas Government Code:

1. With Respect to pending litigation styled *Rick Sims v. Texas Department of Housing and Community Affairs* filed in federal district court (new filing of previously dismissed suit).
2. With Respect to pending litigation styled *The Inclusive Communities Project, Inc.* v. *Texas Department of Housing and Community Affairs, et al* filed in federal district court.
3. With Respect to pending litigation styled M.G. Valdez Ltd. v. *Texas Department of Housing and Community Affairs* filed in District Court, Hidalgo County.
4. With Respect to EEOC Claim from Don Duru.
5. With Respect to Any Other Pending Litigation Filed Since the Last Board Meeting.
6. Potential sale of agency owned real estate and/or sales of loans.

REPORT ITEMS:

1. Updated Organizational Chart
2. TDHCA Outreach Activities, March 2009

ADJOURN:

Since there was no other business to come before the Board, the meeting was adjourned at 4:15 p.m. on April 23, 2009.

Timothy K. Irvine, Board Secretary

NOTE: To view the full Transcript for this meeting, please visit the TDHCA website at: www.TDHCA.state.tx.us

COMMUNITY AFFAIRS DIVISION
BOARD ACTION REQUEST
May 21, 2009

Action Item

Presentation, Discussion and Possible Approval of the 2010 Low Income Home Energy Assistance Program State Plan.

Requested Action

Review and approval of the draft Program Year 2010 Low Income Home Energy Assistance Program State Plan.

Background

The Texas Department of Housing and Community Affairs (the Department) develops and submits a Low Income Home Energy Assistance Program (LIHEAP) plan each year on or before September 1 to the U.S. Department of Health and Human Services (HHS). HHS provides a model plan to guide the format and content. The draft, if approved, will be released for public comment and a public hearing. The public hearing provides opportunity for comment from the public as well as the subrecipient network. Upon completion of the public hearing and public comment period, staff modifies the plan based on public comment. Staff will present the revised plan to the Board for review and final approval July 16, or July 30, 2009. Staff recommends that if the Department does not receive significant public comment, the Board grant the Executive Director the authority to submit the State Plan to the U.S. Department of Health and Human Services as drafted.

Summary of Programs

LIHEAP provides funds for two primary programs as described below. The Department allocates 75% to utility assistance and the maximum 15% to weatherization and 10% for Department and Subrecipient administration.

The Comprehensive Energy Assistance Program (CEAP) provides utility assistance to eligible households. Additionally, some households can qualify for repair and/or replacement of inefficient heating and cooling unit or appliances in their household. An applicant seeking utility assistance applies to the CEAP subrecipient for assistance. The subrecipient determines income-eligibility, prioritizes status (this includes a review of billing history to determine energy burden and energy consumption), and determines which CEAP component is most appropriate for the eligible applicant. There are currently fifty subrecipient agencies that administer the CEAP.

Subrecipients utilize the LIHEAP Weatherization (WAP) funding to provide cost effective weatherization measures to improve the energy efficiency of eligible client households. Typical weatherization measures include attic and wall insulation, weather-stripping and air sealing measures, heating and cooling unit repair and/or replacement, refrigerator replacement, and minor roof repair. Potential WAP client households apply for assistance with the WAP subrecipient. The subrecipient determines if the household is income-eligible and whether they meet one or more of the priority groups.

The subrecipient conducts an energy assessment on the applicant's home and results are entered into an energy audit to determine if weatherization measures are appropriate. If the applicant is eligible, the subrecipient weatherizes the client's home. The weatherization work typically is performed by an independent contractor procured through competition and with whom the subrecipient has contracted. There are currently thirty-four subrecipient agencies that administer the WAP program.

Highlights of the Plan

- The format of the plan follows the model plan as provided by the U.S. Department of Health and Human Services.
- Eligibility determination is at 150% of Federal Poverty Income Guidelines.

Funding Formula

The Department determines the budget allocation proportions by county and subrecipient, based on poverty income, elderly poverty, local available services, median household income (2000 U.S. Census), and climate data (Southern Regional Climate Center, Louisiana State University, June 2002). The five factors used in the formula are calculated as follows:

Fund Allocation Factors	Percentage
Households in poverty with at least 1 member 64 years of age or younger.	40
Households in poverty with at least one member 65 years of age or older.	40
Household density as an inverse ratio.	5
Median income of the county.	5
Weather factor based on heating degree days and cooling degree days.	10

All demographic factors are based on the 2000 U.S. Census.

Recommendation

Staff recommends approval of the State of Texas draft PY 2010 LIHEAP State Plan. In the event that the Department does not receive significant public comment, the Board grants the Executive Director the authority to submit the State Plan to the U.S. Department of Health and Human Services.

LOW INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP)

DETAILED PLAN
PUBLIC LAW 97-35, AS AMENDED
FISCAL YEAR (FY) 2010

GRANTEE: TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

EIN: 17426105429

ADDRESS:...P.O. Box 13941
....Austin, TX 78711-3941

NAME OF LIHEAP COORDINATOR: ...Michael DeYoung

EMAIL:..michael.deyoung@tdhca.state.tx.us

TELEPHONE: ....(512) 475-2125 **FAX:** (512) 475-3935

PLEASE CHECK ONE: TRIBE ☐ **STATE** ☒ **INSULAR AREA** ☐

Department of Health and Human Services (Federal government web site: http://www.acf.hhs.gov/programs/ocs/liheap/)
Administration for Children and Families
Office of Community Services
Washington, DC 20447

August 1987, revised 05/92, 02/95, 03/96, 12/98, 11/01
OMB Approval No. 0970-0075
Expiration Date: 09/30/2011

THE PAPERWORK REDUCTION ACT OF 1995 (Pub. L. 104-13)
Use of this model plan is optional. However, the information requested is required in order to receive a Low Income Home Energy Assistance Program (LIHEAP) grant in years in which the grantee is not permitted to file an abbreviated plan. Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

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Assurances

The Texas Department of Housing & Community Affairs agrees to:
(Grantee Name)

(1) use the funds available under this title to--

(A) conduct outreach activities and provide assistance to low income households in meeting their home energy costs, particularly those with the lowest incomes that pay a high proportion of household income for home energy, consistent with paragraph (5);

(B) intervene in energy crisis situations;

(C) provide low-cost residential weatherization and other cost-effective energy-related home repair; and

(D) plan, develop, and administer the State's program under this title including leveraging programs,

and the State agrees not to use such funds for any purposes other than those specified in this title;

(2) make payments under this title only with respect to--

(A) households in which one or more individuals are receiving--

(i) assistance under the State program funded under part A of title IV of the Social Security Act;

(ii) supplemental security income payments under title XVI of the Social Security Act;

(iii) food stamps under the Food Stamp Act of 1977; or

(iv) payments under section 415, 521, 541, or 542 of title 38, United States Code, or under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978; or

(B) households with incomes which do not exceed the greater of—

(i) an amount equal to 150 percent of the poverty level for such State; or

(ii) an amount equal to 60 percent of the State median income;

except that a State may not exclude a household from eligibility in a fiscal year solely on the basis of household income if such income is less than 110 percent of the poverty level for such State, but the State may give priority to those households with the highest home energy costs or needs in relation to household income.

(3) conduct outreach activities designed to assure that eligible households, especially households with elderly individuals or disabled individuals, or both, and households with high home energy burdens, are made aware of the assistance available under this title, and any similar energy-related assistance available under subtitle B of title VI (relating to community services block grant program) or under any other provision of law which carries out programs which were administered under the Economic Opportunity Act of 1964 before the date of the enactment of this Act;

(4) coordinate its activities under this title with similar and related programs administered by the Federal Government and such State, particularly low-income energy-related programs under subtitle B of title VI (relating to community services block grant program), under the supplemental security income program, under part A of title IV of the Social Security Act, under title XX of the Social Security Act, under the low-income weatherization assistance program

under title IV of the Energy Conservation and Production Act, or under any other provision of law which carries out programs which were administered under the Economic Opportunity Act of 1964 before the date of the enactment of this Act;

(5) provide, in a timely manner, that the highest level of assistance will be furnished to those households which have the lowest incomes and the highest energy costs or needs in relation to income, taking into account family size, except that the State may not differentiate in implementing this section between the households described in clauses 2(A) and 2(B) of this subsection;

(6) to the extent it is necessary to designate local administrative agencies in order to carry out the purposes of this title, to give special consideration, in the designation of such agencies, to any local public or private nonprofit agency which was receiving Federal funds under any low-income energy assistance program or weatherization program under the Economic Opportunity Act of 1964 or any other provision of law on the day before the date of the enactment of this Act, except that—

(A) the State shall, before giving such special consideration, determine that the agency involved meets program and fiscal requirements established by the State; and

(B) if there is no such agency because of any change in the assistance furnished to programs for economically disadvantaged persons, then the State shall give special consideration in the designation of local administrative agencies to any successor agency which is operated in substantially the same manner as the predecessor agency which did receive funds for the fiscal year preceding the fiscal year for which the determination is made;

(7) if the State chooses to pay home energy suppliers directly, establish procedures to --

(A) notify each participating household of the amount of assistance paid on its behalf;

(B) assure that the home energy supplier will charge the eligible household, in the normal billing process, the difference between the actual cost of the home energy and the amount of the payment made by the State under this title;

(C) assure that the home energy supplier will provide assurances that any agreement entered into with a home energy supplier under this paragraph will contain provisions to assure that no household receiving assistance under this title will be treated adversely because of such assistance under applicable provisions of State law or public regulatory requirements; and

(D) ensure that the provision of vendor payments remains at the option of the State in consultation with local grantees and may be contingent on unregulated vendors taking appropriate measures to alleviate the energy burdens of eligible households, including providing for agreements between suppliers and individuals eligible for benefits under this Act that seek to reduce home energy costs, minimize the risks of home energy crisis, and encourage regular payments by individuals receiving financial assistance for home energy costs;

(8) provide assurances that,

(A) the State will not exclude households described in clause (2)(B) of this subsection from receiving home energy assistance benefits under clause (2), and

(B) the State will treat owners and renters equitably under the program assisted under this title;

(9) provide that--

(A) the State may use for planning and administering the use of funds under this title an amount not to exceed 10 percent of the funds payable to such State under this title for a fiscal year; and

(B) the State will pay from non-Federal sources the remaining costs of planning and administering the program assisted under this title and will not use Federal funds for such remaining cost (except for the costs of the activities described in paragraph (16));

(10) provide that such fiscal control and fund accounting procedures will be established as may be necessary to assure the proper disbursal of and accounting for Federal funds paid to the State under this title, including procedures for monitoring the assistance provided under this title, and provide that the State will comply with the provisions of chapter 75 of title 31, United States Code (commonly known as the "Single Audit Act");

(11) permit and cooperate with Federal investigations undertaken in accordance with section 2608;

(12) provide for timely and meaningful public participation in the development of the plan described in subsection (c);

(13) provide an opportunity for a fair administrative hearing to individuals whose claims for assistance under the plan described in subsection (c) are denied or are not acted upon with reasonable promptness; and

(14) cooperate with the Secretary with respect to data collecting and reporting under section 2610.

(15) * beginning in fiscal year 1992, provide, in addition to such services as may be offered by State Departments of Public Welfare at the local level, outreach and intake functions for crisis situations and heating and cooling assistance that is administered by additional State and local governmental entities or community-based organizations (such as community action agencies, area agencies on aging and not-for-profit neighborhood-based organizations), and in States where such organizations do not administer functions as of September 30, 1991, preference in awarding grants or contracts for intake services shall be provided to those agencies that administer the low-income weatherization or energy crisis intervention programs.

*** This assurance is applicable only to States, and to territories whose annual regular LIHEAP allotments exceed $200,000. Neither territories with annual allotments of $200,000 or less nor Indian tribes/tribal organizations are subject to Assurance 15.**

(16) use up to 5 percent of such funds, at its option, to provide services that encourage and enable households to reduce their home energy needs and thereby the need for energy assistance, including needs assessments, counseling, and assistance with energy vendors, and report to the Secretary concerning the impact of such activities on the number of households served, the level of direct benefits provided to those households, and the number of households that remain unserved.

Certification to the Assurances

As Chief Executive Officer, I agree to comply with the sixteen assurances contained in Title XXVI of the Omnibus Budget Reconciliation Act of 1981, as amended. By signing these assurances, I also agree to abide by the standard assurances on lobbying, debarment and suspension, and a drug-free workplace.

Signature of the Tribal or Board Chairperson or Chief Executive Officer of the State or Territory.

Signature: /s

Title: Executive Director

Date: August 1, 2009

The Governor of Texas has delegated the responsibility of signing this document to the Executive Director of the Texas Department of Housing and Community Affairs. A copy of the letter is attached.

The EIN (Entity Identification Number) of the Texas Department of Housing & Community Affairs, which receives the grant funds, appears on the cover of this application.

In the above assurances which are quoted from the law, "State" means the 50 States, the District of Columbia, an Indian Tribe or Tribal Organization, or a Territory; "title" of the Act refers to Title XXVI of the Omnibus Budget Reconciliation Act of 1981 (OBRA), as amended, the "Low Income Home Energy Assistance Act"; "section" means Section 2605 of OBRA; and, "subsection" refers to Section 2605(b) of OBRA.

Components Operated Under LIHEAP

Statutory references
http://www.acf.hhs.gov/programs/ocs/liheap/guidance/index.html#sr

2605(a) 2605(b)(1)	➢ Please check which components you will operate under the LIHEAP program. (Note: You must provide information for each component designated here as requested elsewhere in this plan.)

Use of Funds

	Program Component	Dates of Operation
☒	heating assistance	December – February
☒	cooling assistance	March – November
☒	crisis assistance	January - December
☒	weatherization assistance	April - March

2605(c)(1)(C)	➢ Please estimate what amount of available LIHEAP funds will be used for each component that you will operate: **The total of all percentages must add up to 100%.**	
Use of Funds	10%	heating assistance
	50%	cooling assistance
	10%	crisis assistance
2605(k)(1)	15%	weatherization assistance
	0%	carryover to the following fiscal year
2605(b)(9)	10%	administrative and planning costs
2605(b)(16)	5%	services to reduce home energy needs including needs assessment (assurance 16)
	0%	used to develop and implement leveraging activities (limited to the greater of 0.08% or $35,000 for States, the greater of 2% or $100 for territories, tribes and tribal organizations).
	100%	**TOTAL**

Alternate Use of Crisis Assistance Funds

2605(c)(1)(C)	➢ The funds reserved for winter crisis assistance that have not been expended by March 15 will be reprogrammed to:	
	☐	Heating assistance
	☐	Cooling assistance
	☐	weatherization assistance
	☒	Other(specify): Year-round crisis

➢ Do you accept applications for energy crisis assistance at sites that are geographically accessible to all households in the area to be served? (This is required by the statute.)
Yes ☒ No ☐

Eligibility

2605(b)(2) 2605(c)(1)(A)	➢ What are your maximum eligibility limits? (Please check the components to which they apply.) **Current year guidelines must be used.** *http://aspe.os.dhhs.gov/poverty/figures-fed-reg.shtml*
☒	150% of the poverty guidelines: Heating ☒ Cooling ☒ Crisis ☒ WX ☒
☐	125% of the poverty guidelines: Heating ☐ Cooling ☐ Crisis ☐ WX ☐
☐	110% of the poverty guidelines: Heating ☐ Cooling ☐ Crisis ☐ WX ☐
☐	60% of the State's median income: Heating ☐ Cooling ☐ Crisis ☐ WX ☐

N/A	*	Households automatically eligible if one person is receiving						
	TANF	☐	SSI	☐	Food Stamps	☐	WX	☐
N/A	**NONE**	Certain means-tested veterans programs						
	Heating	☐	Cooling	☐	Crisis	☐	WX	☐

* Subrecipient agencies will base applicant household eligibility on TAC Title 10, Part 1, Chapter 5, Subchapter A, §5.19 and §5.20.

		Yes	No
2605(c)(1)(A) 2605(b)(2) (eligibility)	➢ Do you have additional eligibility requirements for: **Heating Assistance?**	☐	☒
	➢ Do you use:		
	Assets test?	☐	☒
	➢ Do you give priority in eligibility to:		
	Elderly?	☒	☐
	Disabled?	☒	☐
	Young children?	☒	☐
	Other: (If Yes, please describe) **High energy burden, High energy consumption.**	☒	☐

		Yes	No
2605(c)(1)(A) 2605(b)(2) (eligibility)	➢ Do you have additional eligibility requirements for: **Cooling Assistance?**	☐	☒
	➢ Do you use:		
	Assets test?	☐	☒
	➢ Do you give priority in eligibility to:		
	Elderly?	☒	☐
	Disabled?	☒	☐
	Young children?	☒	☐
	Other: (If Yes, please describe) **High energy burden, High energy consumption.**	☒	☐

		Yes	No
2604(c) 2605(c)(1)(A) (eligibility)	➢ Do you have additional eligibility requirements for: **Crisis Assistance?**	☐	☒
	➢ Do you use:		
	Assets test?	☐	☒
	Must the household have received a shut-off notice or have an empty tank?	☐	☒
	Must the household have exhausted regular benefit?	☐	☒
	Must the household have received a rent eviction notice?	☐	☒
	Must heating/cooling be medically necessary?	☐	☒
	Other (Please explain):	☐	☒
	➢ What constitutes a crisis? (Please describe) A utility disconnection notice may constitute an energy crisis if client demonstrates a history of good faith in paying prior utility bills, or if brought about by sudden or unexpected events. Extreme hot or cold weather, defined at the local level.		

		Yes	No
2605(c)(1)(A) (eligibility)	➢ Do you have additional eligibility requirements for: **Weatherization?**	☐	☒
	➢ Do you use:		
	Assets test?	☐	☒
	Priority groups? (Please list)	☒	☐
	Elderly?	☒	☐
	Disabled?	☒	☐
	Young children?	☒	☐
	Other: (If Yes, please describe) **High energy burden, High energy consumption.**	☒	☐
	➢ Are you using Department of Energy (DOE) Low Income Weatherization Assistance Program (LIWAP) rules (http://apps1.eere.energy.gov/weatherization/) to establish eligibility or to establish priority eligibility for households with certain characteristics?	☒	☐
	➢ If Yes, are there exceptions? Please list below. **Texas Administrative Code Title 10, Part 1, Chapter 5, Subchapter E.** ***http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=5&sch=E&rl=Y***	☒	☐

Outreach Activities

2605(b)(3)	➢ Please check the outreach activities that you conduct that are designed to

2605(c)(3)(A)	assure that eligible households are made aware of all LIHEAP assistance available:	
	☒	provide intake service through home visits or by telephone for the physically infirm (i.e. elderly or disabled).
	☒	place posters/flyers in local and county social service offices, offices of aging, Social Security offices, VA, etc.
	☒	publish articles in local newspapers or broadcast media announcements.
	☒	include inserts in energy vendor billings to inform individuals of the availability of all types of LIHEAP assistance.
	☐	Make mass mailing to past recipients of LIHEAP.
	☒	inform low income applicants of the availability of all types of LIHEAP assistance at application intake for other low-income programs.
	☒	execute interagency agreements with other low-income program offices to perform outreach to target groups.
	☐	other (Please specify):

Coordination

2605(b)(4)	➢ ***Please describe how you will assure that LIHEAP is coordinated with similar and related programs. The description provided applies to all components unless specifically noted.***
2605 (b)(1)(C) 2605(b)4	Subrecipients coordinate with other social service agencies to provide services to eligible households. In particular, subrecipients make documented referrals to the local WAP subrecipient.
2605(b)(7)(D)	Subrecipients coordinate with local energy vendors to arrange for arrearage reduction, reasonably reduced payment schedules, or cost reductions.
2605(b)(6)	Community Action Agencies, local government entities, and private nonprofit agencies, administer the LIHEAP program. To share information, enhance and develop service capacities, and integrate resources, The Department works with the Texas Association of Community Action Agencies, the Public Utility Commission, the Texas Railroad Commission, utility companies, and other State entities serving the low-income population.

Benefit Levels: Equal Treatment

2605(b)(5) 2605(b)(2) 2605(b)(8A)	➢ ***The statute requires that there be no difference in the treatment of households eligible because of their income and those eligible because they receive benefits under TANF, Food Stamps, SSI, or certain means-tested veterans programs ("categorically eligible"). How do you ensure there is no difference when determining eligibility and benefit amounts? This applies to all components unless specifically noted below.***
	There is no difference in treatment based on the receipt or non-receipt of public assistance benefits. Subrecipients will base applicant household eligibility on TAC Title 10, Part 1, Chapter 6, Subchapter B, §6.105 for

	WAP and on Subchapter C, §6.205 for Comprehensive Energy Assistance Program (CEAP).

Determination of Benefits

Heating Component

2605(b)(5)	➢ Please check the variables you use to determine your benefit levels (check all that apply):		
	☒	Income	
	☒	family (household) size	
	☒	home energy cost or need	
		☐	fuel type
		☐	climate/region
		☒	individual bill
		☐	dwelling type
		☒	energy burden (% of income spent on home energy)
		☒	energy need
		☒	other (describe): Household contains inefficient or unsafe equipment.

Benefit Levels

2605(b)(5) 2605(c)(1)(B)	➢ ***Describe how you will assure that the highest benefits go to households with the lowest incomes and the highest energy costs or needs in relation to income, taking into account family size.*** ***Please describe benefit levels or attach a copy of your payment matrix.***		
	Households With Incomes of:	Household may receive an amount needed to address their energy payment shortfall not to exceed:	
	0 to 50% of Poverty	$1,200.	
	50% to 75% of Poverty	$1,100.	
	75% to 150% of Poverty	$1,000.	
	Income eligible household contains inefficient or unsafe equipment.	Allow equipment repair, replacement, and/or retrofit up to $5,000.	
	➢ Do you provide in-kind (e.g., blankets, space heaters) and/or other forms of benefits?		
	☐ Yes	☒ No	If Yes, please describe.

Cooling Component

2605(b)(5) 2605(c)(1)(B)	➢ Please check the variables you use to determine your benefit levels (check all that apply):	
	☒	Income

	☒	family (household) size	
	☒	home energy cost or need	
		☐	fuel type
		☐	climate/region
		☒	individual bill
		☐	dwelling type
		☒	energy burden (% of income spent on home energy)
		☒	energy need
		☒	other (describe): Household contains inefficient or unsafe equipment.

Benefit Levels

2605(b)(5) 2605(c)(1)(B)	➢ ***Describe how you will assure that the highest benefits go to households with the lowest incomes and the highest energy costs or needs in relation to income, taking into account family size.*** ***Please describe benefit levels or attach a copy of your payment matrix.***	
	Households With Incomes of:	Household may receive an amount needed to address their energy payment shortfall not to exceed:
	0 to 50% of Poverty	$1,200.
	50% to 75% of Poverty	$1,100.
	75% to 150% of Poverty	$1,000.
	Income eligible household contains inefficient or unsafe equipment.	Allow equipment repair, replacement, and/or retrofit up to $5,000.
	➢ Do you provide in-kind (e.g., blankets, space heaters, fans) and/or other forms of benefits?	
	☐ Yes ☒ No	If Yes, please describe.

Crisis Component

2605(b)(5), 2605(c)(1)(B)	➢ How do you handle crisis situations?	
	☒ Separate component	☐ other (please explain)
	➢ If you have a separate component, how do you determine crisis assistance benefits?	
	☒	amount to resolve crisis, up to maximum
	☐	other (please describe)

Benefit Levels

	➢ ***Please indicate the maximum benefit for each type of crisis assistance offered.***		
	Heating	$ n/a	maximum benefit
	Cooling	$ n/a	maximum benefit

		Year-round	$1,200	maximum benefit
	➢ Do you provide in-kind (e.g. blankets, space heaters, fans) and/or other forms of benefits?			
	☐ Yes	☒ No	If Yes, please describe.	

WEATHERIZATION & OTHER ENERGY RELATED HOME REPAIR AND IMPROVEMENTS

2605(b)(5), 2605(c)(1), (B) & (D)	➢ What LIHEAP weatherization services/materials do you provide? (Check all categories that apply.)

Types of Assistance

	☒	Weatherization needs assessments/audits.
	☒	Caulking, insulation, storm windows, etc.
	☒	Furnace/heating system modifications/repairs
	☒	Furnace replacement
	☒	Cooling efficiency modifications/repairs/replacement
	☒	Other <u>Energy Related Home Repair</u> (Please describe) a) roof, wall, and floor repair to complete weatherization measures; b) repair or replace essential electrical wiring to complete related weatherization measures, while complying with safety codes; c) solar screens or window film (where appropriate); d) replacement of refrigerators 1993 or older or metered to have an SIR of 1 or greater on the Departments refrigerator tool; e) mobile home skirting to protect belly insulation; f) overhangs to protect mobile home doors; g) carpentry work to protect outside water heater from exposure; and h) weatherization-related health and safety safeguards as defined by DOE.

Benefit Levels

	➢ Do you have a maximum LIHEAP weatherization benefit/expenditure per household?			
	☒ Yes	☐ No	If Yes, what is the maximum amount?	**$4,000**

Types of Rules (DOE or LIHEAP)

	➢ Under what rules do you administer LIHEAP weatherization? (Check only one.)	
	☐	Entirely under LIHEAP (not DOE) rules
	☐	Entirely under DOE LIWAP rules

	☒	Mostly under LIHEAP rules with the following DOE LIWAP rule(s) where LIHEAP and LIWAP rules differ (Check all that apply):		
		☒	Weatherize buildings if at least 66% of units (50% in 2- & 4-unit buildings) are eligible units or will become eligible within 180 days	
		☒	Weatherize shelters temporarily housing primarily low income persons (excluding nursing homes, prisons, and similar institutional care facilities).	
		☒	Other (Please describe)	
			☐	Mostly under DOE LIWAP rules, with the following LIHEAP rule(s) where LIHEAP and LIWAP rules differ (Check all that apply.)
			☒	Weatherization not subject to DOE LIWAP maximum statewide average cost per dwelling unit.
			☒	Other <u>Energy Related Home Repair</u> (Please describe.) TDHCA will allow the use of a client's LIHEAP weatherization award for structural and ancillary repairs only if required to enable effective weatherization.

Agency Designation

2605(b)(6)	The state administers LIHEAP through the following types of local agencies:	
	☐	county welfare offices
	☒	community action agencies (weatherization component only)
	☒	community action agencies (heating, cooling or crisis)
	☒	charitable organizations (nonprofit)
	☐	not applicable (i.e. state energy office)
	☐	tribal office
	☒	other, describe: **Units of local government and Councils of Government.**

	➢ Have you changed local administering agencies from last year?	☒ Yes	☐ No
	If Yes, please describe how you selected them. **Request for Application (RFA)**		
	➢ What components are affected by the change? **Heating, cooling, crisis, weatherization.**		

Targeting of Assistance

2605(c)(1)(E)	➢ *Please describe any additional steps (other than those described elsewhere in this plan) that will be taken to target assistance to households with high home energy burdens.* ***(This applies to all components. If all steps to target households with high home energy burdens are described elsewhere in the plan, no further information is required here.)***
☒	The Heating & Cooling Equipment Replacement component targets assistance to high energy burden households where inefficient or malfunctioning equipment needlessly increases energy consumption and therefore impairs the household's ability to pay their own home energy bills.

Energy Suppliers

2605(b)(7)	➢ Do you make payments directly to home energy suppliers?		
	Heating	☒ Yes	☐ No
	Cooling	☒ Yes	☐ No
	Crisis	☒ Yes	☐ No
	If Yes, are there exceptions?	☐ Yes	☒ No
	If Yes, please describe.		

2605(b)(7)(A)	➢ *If you make payments directly to home energy suppliers, how do you notify the client of the amount of assistance paid? (Please describe)*
	When the client applies for assistance, the subrecipient determines eligibility, the amount of assistance, and the appropriate component. This information is given to the client along with the client agreement.
2605(b)(7), (B) & (C)	➢ *How do you make sure the home energy supplier performs what is required in this assurance? If vendor agreements are used, they may be attached. Indicate each component for which this description applies.*
	Vendor agreements are used in all components. A sample copy is attached.

Owners & Renters

2605(b)(8)(B)	➢ Is there any difference in the way owners and renters are treated? If Yes, please describe.		
	Heating Assistance	☐ Yes	☒ No
	Cooling Assistance	☐ Yes	☒ No
	Crisis Assistance	☐ Yes	☒ No
	Weatherization	☐ Yes	☒ No

Program, Fiscal Monitoring, and Audit

2605(b)(10)	➢ *How do you ensure good fiscal accounting and tracking of LIHEAP funds? (Please describe. Include a description of how you monitor fiscal activities.)* 1. review annual audits; 2. monitor fiscal records; 3. review Monthly Expenditure and Performance Reports.
	➢ *How do you monitor program activities? (Please be sure to include a description of how you monitor eligibility and benefit determination.)* • The Department requires each subrecipient to submit monthly funding and

	performance reports. Reports are due on the fifteenth of the following month. • Contract Specialists will complete a desk monitoring review of monthly funding and performance reports to ensure the subrecipient has the capacity to carry out program activities in a timely manner. • Assigned Program Officer's for each subrecipient will track program compliance and performance activities. • Program Officer's will perform an onsite monitoring visit of each subrecipient at least once every two years based on a Risk Assessment Module. On-site monitoring will be performed in conjunction with the Division's Community Service Block Grant whenever possible. TDHCA may monitor a subrecipient more than once based on the previous monitoring report and current contract performance. • Program Officer will review the subrecipient's financial records such as the single audit, general ledgers, receipts, bank statements, bank reconciliation reports, and checks to ensure that program funds are being expended on allowable program activities. • Program Officer will review individual client records to ensure the clients are eligible, prioritized, and served within the contract and TDHCA established guidelines. Client files will also be reviewed to ensure household needs have been identified, the client has been provided client education, and referred to other programs that have been identified by the subrecipient. The Department has set a minimum client record sample of 10 per component. • Program Officer will complete a monitoring check list and report that outlines findings and recommendations. • Upon the Manager's review a report will be mailed to each subrecipient. • Subrecipient must submit a written response within 30 days of the report. The response must address any possible corrective actions if any. • A review of the response in order to ensure all possible corrective actions have been implemented by the subrecipient.

	➢ How is your LIHEAP program audited?		
	Under the Single Audit Act?	☒ Yes	☐ No
	If not, please describe:		
	For States and Territories:		
	➢ Is there an annual audit of local administering agencies?	☒ Yes	☐ No
	If not, please explain. TDHCA contract requires subrecipients that exceed $500,000 in expenditures to follow the single Audit procedures and submit a copy of the Audit to the Department for review.		

Timely and Meaningful Public Participation

2605(b)(12)	➢ *How did you get timely and meaningful public participation in the development of the plan? (Please describe.)* • The Department prepared a Draft LIHEAP Plan for FFY 2010 as a means of

	informing interested parties prior to the annual LIHEAP Public Hearing in June 2009. • The draft plan was submitted for The Department Board approval at the May 21, 2009 meeting – prior to publication. • A Texas Register announcement (see appendix) and The Department internet publication informed the Texas Legislature and general public about the public hearing. • The Draft LIHEAP Plan appeared on the Department Internet site beginning May 13, 2009. • The Department transmitted the Draft LIHEAP Plan by e-mail and fax to all TDHCA Energy Assistance subrecipients, Weatherization Policy Advisory Committee members, and other interested parties and let them know the document's internet location (http://www.tdhca.state.tx.us/ea.htm). • The Department accepted written and verbal comments within the public participation process through June 12 , 2009, 5:00 p.m. The Department requested that comments be sent by e-mail to john.touchet@tdhca.state.tx.us or by fax (512) 475-3935 or by postal service to TDHCA, Energy Assistance Section, P.O. Box 13941, Austin, Texas 78711-3941. • The Department incorporates public comments, including workable suggestions that do not alter the intent of LIHEAP, into the final plan. • The Department Board receives the final plan for approval in July.		
2605(a)(2)	➢ Did you conduct public hearings on the proposed use and distribution of your LIHEAP funds?	☒ Yes	☐ No
	When? June 12, 2009; 2p.m.		
	Where? Thomas Jefferson Rusk Building, 208 East 10th St., Room #227 (new venue tba), Austin, Texas		

Fair Hearing Procedures

Fair Hearings 2605(b)(13)	➢ *Describe your fair hearing procedures for households whose applications are denied or not acted on in a timely manner. When are applicants informed of these rights?*
	The Department will ensure that subrecipients provide an opportunity for a fair administrative hearing to individuals whose application for assistance is denied or not acted upon in a timely manner by requiring subrecipients to: • print information about clients' rights on the application forms and information sheets; • provide opportunity for fair administrative hearings in cases of application denial, delay, or inaction; • Provide written notification to applicant of denial of assistance within ten (10) days of the adverse determination. Notification includes written instructions of the appeals process and specific reasons for the denial. Applicants wishing to appeal a decision must provide written notice to subrecipient within 10 days of receipt of the denial notice. Subrecipient maintains documentation of appeals in the client files. Applicants may subsequently appeal to the Department. An applicant must provide a written appeal request to the Department within 10 days of receiving

	the subrecipient's second determination. A the Department appeals committee composed of at least three persons hears the appeal within 10 days of receiving the appeal. The subrecipient provides to the Department an audio tape recording or detailed notes of its hearing and pertinent client files. The Department will review the recording and notes from the hearing, the committee's decision and any other relevant information. The Department will not take additional oral testimony. The Department will notify all parties in writing of its decision within 30 days of the receipt of the appeal.

Alternate Outreach and Intake

2605(b)(15)	**For States and Puerto Rico only** (not applicable to Tribes and tribal organizations, or to territories whose annual regular LIHEAP allotments are $200,000 or less):		
	➢ Does the State agency that administers the following LIHEAP component also administer the State's welfare program?		
	Heating Assistance	☐ Yes	☒ No
	If Yes, describe alternate process for outreach and intake:		
	Cooling Assistance	☐ Yes	☒ No
	If Yes, describe alternate process for outreach and intake:		
	Crisis Assistance	☐ Yes	☒ No
	If Yes, describe alternate process for outreach and intake:		

Assurance 16 Activities

2605(b)(16)	➢ Do you use LIHEAP funds to provide services that encourage and enable households to reduce their home energy needs and thereby the need for energy assistance? (This assurance refers to activities such as needs assessments, counseling, and assistance with energy vendors.)	
	☒ Yes	☐ No
	If Yes, please describe these activities. 1. Identify household needs. 2. Provide literature and energy conservation education. 3. Refer client to other appropriate programs. 4. Encourage responsible vendor and consumer behavior. Subrecipients provide applications, forms, and energy education materials in Spanish, English, or other language when appropriate.	
	If Yes, how do you ensure that you don't use more than 5% (statutory ceiling) of your LIHEAP funds for these activities? Assurance 16 activities are a separate budget category at both the state and subrecipient levels. Both the accounting and the reporting systems do not allow expenditures over the 5% cap.	

Leveraging

	➢ Please describe leveraging activities planned for the fiscal year. **(This entry**

2607A	**is optional.*)** Complete this entry if you plan to apply for LIHEAP leveraging incentive funds and to include in your leveraging report resources/benefits provided to low income households this fiscal year under criterion (iii) in 45 CFR 96.87(d)(2). Provide the following information for each: (1) Identify and described each resource/benefit; (2) Identify the source(s) of each resource; and (3) Describe the integration/coordination of each resource/benefit with the LIHEAP program, consistent with 1 or more of conditions A-H in 45 CFR 96.87(d)(2)(iii).
2607(A) 45CFR96 §96.87(d)(2) (i)	In order for subrecipients to serve eligible households in a comprehensive manner, creation of partnerships with private industries and utility vendors is essential. LIHEAP staff members, both at the grantee and the subrecipient level, have devoted substantial time and resources in the negotiation and design of these partnerships.
§96.87(d)(1)	The resources leveraged by these activities are from non-federal sources such as utility companies. They are provided to the LIHEAP grantee or only accessible to LIHEAP clients. They represent a net addition to the total home energy resources available to low-income households, are measurable and quantifiable, and meet the requirements for countable resources. The following resources have been leveraged on behalf of LIHEAP clients:
§96.87(d)(2) (iii)(D), §96.87(d)(2) (iii)(E), §96.87(d)(2) (iii)(F), §96.87(e)(1) (i)	Subrecipients utilize state approved vendor agreements with energy providers. These agreements may provide for waivers on reconnection fees and waivers on deposits. These agreements ensure that the energy vendor will charge the eligible household only the difference between the cost of home energy actually consumed and the amount of the payment made by TDHCA through LIHEAP. Agreements ensure that energy vendors will treat LIHEAP clients with no disadvantage relative to all other customers. TDHCA currently uses written agreements with private, investor owned electric utility companies (IOUs) to provide funding for the following resources or services:
§96.87(d)(2)(ii) §96.87(e)(1)(iii) §96.87(e)(1)(vi)	IOU Weatherization Programs provide additional funding for the LIHEAP-funded Weatherization Assistance Program. Utility funds supplement work on housing units weatherized under the state's WAP. TDHCA administers the funds through its LIHEAP WAP network of weatherization contractors.

* Leveraged resources/benefits that are counted under criterion (iii) in 45 CFR 96.87(d)(2) must be identified and described in the grantee's LIHEAP plan and distributed as indicated in the plan. In addition, leveraging resources/benefits that are counted under criterion (ii) must be carried out under one or more components of the grantee's regular LIHEAP program.

ADDITIONAL CERTIFICATIONS AND REQUIREMENTS

Attached are additional certifications required as follows:

- **Lobbying certification**, which must be filed by all States and territories. If applicable, Form LLL, which discloses lobbying payments, must be submitted. **(Tribes and tribal organizations are EXEMPT)** (Above link shows source document only.)

- **Debarment and suspension certification**, which must be filed by all grantees. (Above link shows source document only.)

- **Drug-free workplace requirement certification**, which must be filed by all grantees, unless the grantee has filed a statewide certification with the Department of Health and Human Services. **STATES ONLY:** If you have filed a statewide certification for the drug-free workplace requirement, please check here: ☐_(Above link shows source document only.)

- One of the new requirements included in the 1994 reauthorization of the statute is that grantees must include in their annual application for funds a report on the number and income levels of households applying for and receiving LIHEAP assistance, and on the number of recipient households that have members who are elderly, disabled, or young children.

  All Tribes and those territories with allotments of less than $200,000 need only submit data on the number of households served by each component (heating, cooling, weatherization and crisis). The approval for the collection of information contained in the **LIHEAP Household Report** is covered by OMB approval number 0970-0060.

- Though not a part of this application, the report on funds to be carried over or available for reallotment as required by section 2607(a) for the preceding year must be submitted by August 1 of each year. A grant award for the current fiscal year may not be made until the carryover/reallotment report is received. The approval for the collection of information contained in the **LIHEAP Carryover and Reallotment Report** is covered by OMB approval number 0970-0106.

Attachments

- LIHEAP Household Report
- Contractors (Subrecipient Agencies) http://www.tdhca.state.tx.us/ea/index.htm
- Required Certifications
- Vendor agreement sample copy
- DOE State Plan http://www.tdhca.state.tx.us/ea/docs.htm

COMMUNITY AFFAIRS DIVISION
BOARD ACTION REQUEST
May 21, 2009

Action Item

Presentation, Discussion and Possible Approval of the 2009 Emergency Shelter Grants Program (ESGP) Award Recommendations.

Requested Action

Approve, deny or approve with modifications the recommendations for the 2009 Emergency Shelter Grants Program Awards.

Background

The Emergency Shelter Grants Program (ESGP) is funded by the U. S. Department of Housing and Urban Development (HUD) and is included in the State of Texas' Consolidated Annual Performance and Evaluation Report. The ESGP regulations authorize HUD to make grants available to states, units of local government, and private nonprofit organizations for the rehabilitation or conversion of buildings for use as emergency shelter for the homeless, for the payment of certain operating expenses and for essential services in connection with emergency shelters for the homeless, and for homelessness prevention activities. The 2009 ESGP funds are $5,228,867. Ninety-five percent, $4,967,423 is awarded through the competitive grant process and five percent, $261,443, of the funds will be retained by the Department to administer and monitor the grant. The State must share a portion of the State administrative funds with awardees which are a city or county government; in this case three of them will share $15,612. The state administration amount to be added to the contract is not shown in the recommended amount.

HUD requires that the Department commit ESGP grant awards within 65 days of the date of the grant award letter. The deadline is July 4, 2009. Any ESGP funds that are not committed within the 65 day time period may be recovered from the Department by HUD and reallocated.

On November 19, 2008, the Department released a Notice of Funding Availability (NOFA) for Federal Fiscal Year 2009. The Department received 125 applications for ESGP funds; only 110 applications were eligible. Of those, 74 are recommended for funding.

ESGP funds are distributed within each of the 13 Uniform State Service Regions according to the poverty population in the region. Of the 13 regions, four regions (3, 6, 9, and 11) are referred to as large-funded regions, make up 63% of the poverty population and have 63% of the ESGP funds are reserved for these four regions. There are nine regions (1, 2, 4, 5, 7, 8, 10, 12, and 13), referred to as small-funded regions, which have 37% of the poverty population and 37% of the funds are reserved for these nine regions. Each region has ESGP funds reserved, according to the poverty population of the region.

ESGP funds are distributed within each of the 13 Uniform State Service Regions, with the highest ranking application being funded first at 75% of their requested amount until there is less than $30,000 remaining in a region. The last applicant funded within a region may not receive 75% of the request, if that region does not have sufficient funds remaining. The notice of fund availability (NOFA) establishes the minimum funding at $30,000. If an applicant requested $30,000 and was recommended for funding, they received 100% of their request. After as many applications are funded as possible, then the remaining funds are put in a pot for redistribution. After the first cycle of fund distribution, a balance of $179,801 remained to redistribute. Of the amount left to redistribute, $89,905 was from Region 11, where only 5 of the 11 applications received were eligible for funding. The NOFA established that any application receiving a score that is 70% or below the highest score in the region is ineligible for funding. In order to keep as much money as possible in Region 11, per the formula distribution, the five eligible applications are recommended to be funded at 100% instead of 75%. Once the funds available for each region are distributed according to the methodology utilized and the maximum number of applications are funded in each region, the remaining balance is distributed to the smaller funded regions beginning with the lowest funded region first. In the second round of distribution, the application next in line will be bought up to 75% or if the last one funded was at 75%, then the next one in line will be funded at 75% if sufficient funds remain to redistribute. In the second round of distribution, three additional applicants were funded and one application received additional funds.

The Department utilizes a standardized scoring instrument to evaluate and score each eligible competitive proposal. The scores from the review team members are averaged to establish a raw score, and then bonus points are added to determine an adjusted score. Past performance of previously funded ESGP subrecipients is also a factor and is taken into consideration during the final stage of the proposals review process. Points are deducted for previous contract compliance/performance deficiencies. The Department's Compliance Division is consulted to determine if potential applicants have any monitoring, audit, or compliance issues with Department-funded programs. Serious deficiencies in past or current performance can impact funding recommendations and could lead to disqualification for access to ESGP funds for the current funding cycle. Eligible applicants with unresolved monitoring or audit findings from any Department funded programs are ineligible for funding.

The attached document, the 2009 ESGP Funding Recommendations lists the applicants recommended for funding by region and by rank within the region. The ranking takes into account all the cumulative factors previously mentioned.

Recommendation

Staff recommends approval of the 2009 ESGP Award Recommendations.

2009 ESGP Funding Recommendations

Regional Fund Distribution	Region	#	Legal Name of Applicant	Final Score	Total Funds Requested	Total Funds Recommended
$197,443	1	2	Panhandle Crisis Center	106.33	$47,639	$35,729
	1	1	Amarillo, City of	100.00	$211,801	$158,851
	1	5	Crisis Center of the Plains	91.67	$100,000	$75,000
	1	3	Driskill Halfway House, Inc.	79.33	$100,000	$0
	1	4	Women's Protective Services of Lubbock	54.00	$75,000	Ineligible score below 70%
			Subtotal Region 1 (3 funded)		$534,440	$269,580
$124,464	2	2	Abilene Hope Haven, Inc.	90.33	$100,000	$75,000
	2	3	Pecan Valley Regional Domestic Violence Shelter, Inc.	89.00	$37,803	$30,000
	2	1	First Step of Wichita Falls, Inc.	81.33	$39,172	$30,000
	2	4	Salvation Army, Abilene	62.00	$100,000	Ineligible score below 70%
			Subtotal Region 2 (3 funded)		$276,975	$135,000
$943,728	3	15	Salvation Army - Denton Corps	100.67	$50,000	Ineligible PMC non-compliance
	3	6	Four Rivers Outreach	100.00	$100,000	$75,000
	3	4	The Family Place	99.33	$71,000	$53,250
	3	22	Daniel's Den, Inc.	98.00	$30,000	$30,000
	3	1	Johnson County Family Crisis Center	96.00	$100,000	$75,000
	3	12	Salvation Army, Arlington Family Life Center	95.67	$100,000	$75,000
	3	8	Grayson County Shelter	95.67	$95,056	$71,292
	3	5	SafeHaven of Tarrant County	94.33	$100,000	$75,000
	3	19	Grayson County Juvenile Alternatives, Inc. dba North Texas Youth Connection	94.00	$88,727	$66,545
	3	7	Irving, City of	91.00	$100,000	$75,000
	3	23	Denton, City of	90.00	$208,603	$156,452
	3	3	New Beginning Center, Inc.	89.00	$100,000	$75,000
	3	18	Mission Granbury, Inc.	89.00	$81,411	$61,058
	3	9	Promise House, Inc.	88.67	$100,000	$55,130
	3	21	Arlington Life Shelter	88.33	$88,120	$0
	3	2	Dallas Jewish Coalition dba Vogel Alcove	87.33	$45,500	$0
	3	17	Dallas Mission for Life dba Dallas Life Foundation	87.00	$60,735	$0
	3	11	Salvation Army, First Choice Program	84.67	$100,000	$0
	3	20	Collin Intervention to Youth	84.00	$99,999	$0
	3	16	Hope's Door, Inc.	81.33	$94,448	$0
	3	10	Salvation Army, Casa Youth Emergency Shelter	81.00	$70,000	Ineligible due to Hmls Rep attendance.
	3	14	Salvation Army, Sherman	79.67	$50,000	$0
	3	13	Salvation Army - Carr P. Collins Social Service Center	71.67	$100,000	Ineligible due to Hmls Rep attendance.

2009 ESGP Funding Recommendations

Regional Fund Distribution	Region	#	Legal Name of Applicant	Final Score	Total Funds Requested	Total Funds Recommended
			Subtotal Region 3		$2,033,599	$943,728
$243,930	4	1	Shelter Agencies for Families in East Texas	92.00	$40,850	$30,638
	4	4	Salvation Army, Tyler	90.67	$100,000	$75,000
	4	6	Sabine Valley Regional MHMR Center	88.67	$54,628	$40,971
	4	3	Randy Sams Outreach Shelter, Inc.	87.67	$96,764	$72,573
	4	5	Salvation Army, Longview	86.00	$60,000	$0
	4	2	East Texas Crisis Center	85.67	$81,850	$0
	4	7	Kilgore Community Crisis Center	69.00	$52,164	$0
			Subtotal Region 4		$486,256	$219,181
$193,444	5	3	Love I.N.C. of Nacogdoches	100.00	$64,755	$48,566
	5	5	Women's Shelter of East Texas, Inc.	90.00	$45,885	$34,414
	5	6	Just Out - Fresh Start, Inc.	88.33	$98,506	$73,880
	5	4	The Salvation Army, Lufkin	87.67	$50,000	$37,500
	5	2	Port Cities Rescue Mission Ministries	86.67	$100,000	$0
	5	1	Family Services of Southeast Texas, Inc.	80.00	$90,705	$0
			Subtotal Region 5		$449,851	$194,360
$1,051,697	6	2	The Women's Home	98.67	$92,166	$69,125
	6	11	Santa Maria Hostel, Inc.	96.00	$99,479	$74,609
	6	7	The Bridge Over Troubled Waters, Inc.	93.00	$75,000	$56,250
	6	6	The Missions of Yahweh, Inc.	91.33	$100,000	$75,000
	6	9	Wesley Community Center, Inc.	86.67	$65,000	$48,750
	6	15	Covenant House Texas	86.33	$100,000	$75,000
	6	8	Harris County Community Services Department	86.00	$100,000	$75,000
	6	23	Westside Homeless Partnership	86.00	$65,000	$48,750
	6	20	Wheeler Avenue 5Cs, Inc.	85.67	$94,380	$70,785
	6	17	The Salvation Army, Galveston	85.00	$98,040	$73,530
	6	12	Harmony House, Inc.	81.67	$100,000	$75,000
	6	4	SEARCH	80.67	$162,852	$122,139
	6	13	Star of Hope Mission	80.33	$100,000	$75,000
	6	3	Houston Area Women's Center	78.67	$99,884	$74,913
	6	25	Memorial Assistance Ministries	78.33	$99,400	$37,846
	6	5	Fort Bend County Women's Center, Inc.	77.67	$56,200	$0
	6	14	YWCA-Gateway Branch-Adult Services	77.67	$93,974	$0
	6	18	Northwest Assistance Ministries	73.33	$100,000	$0
	6	19	Bread of Life	72.33	$100,000	$0
	6	1	Focusing Families	71.00	$100,000	$0
	6	16	The Salvation Army, Houston	68.67	$100,000	Ineligible score below 70%
	6	21	Montgomery County Women's Center	51.00	$96,600	Ineligible score below 70%
	6	22	The Children's Center, Inc.	50.00	$148,225	Ineligible score below 70%
	6	10	Eagle's Lift Ministries	0.00	$100,000	Ineligible missing docmtn

2009 ESGP Funding Recommendations

Regional Fund Distribution	Region	#	Legal Name of Applicant	Final Score	Total Funds Requested	Total Funds Recommended
	6	24	Mary's Miracles Outreach Program, Inc.		$118,156	Ineligible missing docmtn
			Subtotal Region 6		$2,464,356	$1,051,697
$232,433	7	3	Bastrop County Women's Shelter, dba Family Crisis Center	103.67	$80,000	$60,000
	7	2	Advocacy Outreach	103.33	$100,000	$75,000
	7	7	Hays County Women's Center	102.67	$105,040	$78,780
	7	9	Highland Lakes Family Crisis Center, Inc.	102.00	$45,000	$0
	7	1	Travis County Domestic Violence and Sexual Assault	101.67	$39,442	$0
	7	4	Casa Marianella	100.33	$50,000	$0
	7	6	Williamson-Burnet County Opportunities, Inc.	99.00	$60,500	$0
	7	8	Youth and Family Alliance dba LifeWorks	99.00	$100,000	$0
	7	5	The Salvation Army - Austin	98.00	$75,000	$0
			Subtotal Region 7		$654,982	$213,780
$239,431	8	6	Faith Mission and Help Center, Inc.	99.33	$99,978	$74,984
	8	1	Families In Crisis, Inc.	83.00	$69,115	$51,836
	8	5	Family Abuse Center, Inc.	82.67	$59,637	$44,728
	8	2	Compassion Ministries of Waco, Inc.	80.67	$30,000	$30,000
	8	4	The Salvation Army - Waco	80.33	$59,000	$37,884
	8	3	Twin City Mission, Inc.	77.33	$100,000	Ineligible PMC non-compliance
			Subtotal Region 8		$417,730	$239,432
$428,377	9	2	Family Violence Prevention Services, Inc.	100.33	$100,000	$75,000
	9	11	The Salvation Army, San Antonio	95.00	$100,000	$75,000
	9	4	Comal County Family Violence Sherlter, Inc.	93.67	$53,000	$39,750
	9	5	Seton Home	92.00	$92,867	$69,650
	9	7	Connections Individual and Family Services, Inc.	88.33	$100,000	$75,000
	9	1	Ellis Community Resources, Inc.	86.67	$55,000	$41,250
	9	6	The Salvation Army - Kerville	86.00	$99,227	$52,727
	9	10	Catholic Charities, Archdiocese of San Antonio, Inc.	82.33	$90,170	$0
	9	8	San Antonio Metropolitan Ministry, Inc.	75.33	$100,000	$0
	9	3	Community Council of South Central Texas	73.67	$100,000	$0
	9	9	St. Peter-St. Joseph Children's Home		$100,000	Inelig due to Hmls Rep Attndnc
			Subtotal Region 9		$990,264	$428,377
$211,939	10	1	Women's Shelter of South Texas	88.33	$99,926	$74,945
	10	4	The Salvation Army, Corpus Christi	88.00	$100,000	$75,000
	10	2	Corpus Christi Hope House, Inc.	86.00	$85,104	$61,994
	10	6	Mid-Coast Family Services, Inc.	79.00	$75,118	$35,248
	10	5	Corpus Christi Metro Ministries, Inc.	78.33	$75,000	$0
	10	3	The Salvation Army - Victoria	65.33	$59,456	$0
			Subtotal Region 10		$494,604	$247,187

2009 ESGP Funding Recommendations

Regional Fund Distribution	Region	#	Legal Name of Applicant	Final Score	Total Funds Requested	Total Funds Recommended
$730,289	11	1	Family Crisis Center, Inc.	94.33	$200,000	$200,000
	11	7	Friendship of Women, Inc.	89.33	$200,000	$200,000
	11	8	Wintergarden Women's Shelter, Inc.	77.67	$68,770	$68,770
	11	6	Provicence Ministry Corp. dba La Posada Providencia	77.00	$71,614	$71,614
	11	10	Women Together Foundation, Inc.	75.00	$100,000	$100,000
	11	9	City of Brownsville	63.00	$300,000	Ineligible score below 70%
	11	5	Amistad Family Violence and Rape Crisis Center	61.33	$41,405	Ineligible score below 70%
	11	3	Bethany House of Laredo	61.33	$100,000	Ineligible score below 70%
	11	4	Advocacy Resource Center for Housing	47.33	$68,000	Ineligible score below 70%
	11	2	The Salvation Army, McAllen		$80,000	Ineligible missing elig docmtn
			Subtotal Region 11		$1,229,789	$640,384
$136,461	12	2	Institue of Cognitive Development, Inc.	95.33	$30,000	$30,000
	12	1	Midland Fair Havens, Inc.	95.00	$91,000	$68,250
	12	3	The Salvation Army - Odessa	89.00	$49,480	$37,110
			Subtotal Region 12		$170,480	$135,360
$264,924	13	3	La Posada Home	97.00	$68,865	$51,649
	13	8	El Paso Villa Maria, Inc.	92.00	$41,000	$30,750
	13	1	Opportunity Center for the Homeless	85.33	$100,000	$75,000
	13	4	Child Crisis Center of El Paso	83.67	$68,034	$51,026
	13	7	International AIDS Empowerment	82.00	$54,578	$40,934
	13	2	Project Vida	76.00	$51,784	$0
	13	5	Rescue Mission of El Paso	74.00	$60,000	$0
	13	6	Sin Fronteras Organizing Project	73.00	$100,000	$0
	13	9	Center Against Family Violence	70.00	$68,475	$0
	13	10	YWCA El Paso del Norte Region	58.00	$55,000	Ineligible score below 70%
			Subtotal Region 13		$667,736	$249,358
			GRAND TOTALS		$10,871,061	**$4,967,423**
					available	$4,967,423
			74 Projects Recommended for Funding		obligated	$4,967,423
					unobligated	$0

OFFICE OF COLONIA INITIATIVES

BOARD ACTION REQUEST
May 21, 2009

Action Items

Presentation, Discussion and Possible Action on the publication in the *Texas Register* for public comment of a notice of the proposed Colonia Self-Help Center Program Rules, Title 10, Texas Administrative Code, Part 1, Chapter 3.

Required Action

Approve the repeal of Title 10, Texas Administrative Code, Part 1, Chapter 3 and approve, deny or approve with modifications the proposed publication for public comment of Title 10, Texas Administrative Code, Part 1, Chapter 3 governing the Colonia Self-Help Center Program.

Background

The current and first-ever Colonia Self-Help Center Program rules were adopted by the Board on February 1, 2007 and no longer contain all of the required guidance needed to administer the program. The recommended rules would further define and ensure compliance with all statutory requirements and include revisions to policies and administrative changes to enhance further the Colonia Self-Help Center Program. Several sections were combined to align processes with structure. These proposed rules incorporate changes recommended by the Department's Internal Audit Division.

Upon approval by the Board, the proposed rules will be published in the Texas Register and released to the public for comment. The public comment period will be for at least 30 days. A final recommendation for the proposed rules will be presented to the Board in July 2009.

Summary of Significant Changes

Staff is recommending a reorganization of the rule by eliminating ten sections and incorporating those sections into the eight remaining sections of the rule. In addition, some of the more significant Colonia Self-Help Center Program changes and staff recommendations are outlined below.

1. *§3.2(6) Colonia definition*

   Staff has amended the definition to conform to current law.

2. *§3.2(15) Income Eligible Families*

   Staff has incorporated the state definition of low (80% AMFI) to very low income (60% AMFI). Under the CDBG program HUD defines low income as 50% AMFI and very low income as 30% and below AMFI.

3. *§3.4(c) Baseline award*

   The Department established performance based incentives to expedite the delivery of services to very low income families by creating financial incentives related directly to past performance. The baseline award was lowered to $700,000 from $1.2 million.

each expenditure threshold met on the previous Colonia Self-Help Center contract and an additional $100,000 for an accepted proposal submitted on time.

4. *§3.4(f) Proposals*

   This proposed section requires contractors to submit program required documentation with the proposal. This section specifies the elements required to be submitted as part of the Colonia Self-Help Center proposal. During the audit of the Colonia Self-Help Center program, it was recommended that the Department capture contract special conditions and verify that the Colonia Self-Help Center operators complied with the special condition requirements prior to the release of funds.

5. *§3.4(f)(9)(a) Administrative*

   The current rules allow the Colonia Self-Help Center contracts to allocate up to 20% of the contract funds for administrative expenses. Staff is proposing the cap be reduced to 15% of the total contract.

6. *§3.4(f)(9)(C) Self-Help activities*

   Staff is proposing to require the Colonia Self-Help Center contracts have a minimum of 15% self-help type activities. The current rules do not contain a minimum requirement.

7. *§3.4(f)(9)(E) Direct delivery costs (soft costs)*

   Staff is recommending that direct delivery be defined in the rules and limited to 10% of each budget line item. The current rules do not contain this requirement.

8. *§3.4(f)(13) Written policies and procedures*

   Staff is proposing that written policies and procedures for all activities to be undertaken be required to be included with the proposal submission. This will allow the Department to examine how the Contractor will schedule and execute the proposed activities.

9. *§3.4(j) Contract term*

   The section advises that the Colonia Self-Help Center contracts will be for four year terms in accordance to §2306.587(a) of the Texas Government Code. Staff is also proposing to disallow any contract extension for Colonia Self-Help Center contracts.

10. *§3.4(k) Decline to Fund*

    Staff is proposing to insert language to give the Department the ability to negotiate, reduce, and/or decline funding a proposal that does not represent prudent use of Colonia Self-Help Center funds.

11. *§3.5(b) Colonia Resident Advisory Committee (C-RAC) Members*

    The current rules do not have term limits established for C-RAC members. Staff is proposing to establish four year term limits.

12. *§3.5(g) Awarding Contracts*

    The Department is proposing that the Contractor whose Proposal is being presented to the Board shall be invited to attend the Board Meeting in which the award is an agenda item.

The Department is proposing that the Contractor whose Proposal is being presented to the Board shall be invited to attend the Board Meeting in which the award is an agenda item.

13. *§3.6(b) Environmental*

The Colonia Self-Help Center Contractors are responsible for complying with 24 CFR Part 58. Staff is recommending this be referenced in the rule.

14. *§3.6(c) Texas Residential Construction Commission (TRCC)*

Staff is proposing to insert the Contractor's requirement of complying with the Texas Residential Construction Commission registration requirements for all repairs, rehabilitation, reconstruction and new construction of a home at a cost of $10,000 or higher.

15. *§3.6(g) Inspections*

Staff is proposing that third party inspections be inspected by a professional inspector licensed by the Texas Real Estate Commission, a professional engineer licensed by the Texas Board of Engineering, an architect registered with the Texas Board of Architectural Examiners, or a third-party inspector registered with the Texas Residential Construction Commission to perform home inspections.

16. *§3.6(j) Waiver*

Staff is proposing to insert language that provides the Board at its discretion and within the limits of federal and state law, the ability to waive one or more of the requirements of this Chapter.

17. *§3.7 Administrative Threshold*

The current rules allow for up to ninety percent of the administrative line item to be drawn when one activity has been initiated. New proposal requirements and administrative thresholds were incorporated to reflect reasonable expenditure of administrative funds. Staff, in response to the audit recommendation, is proposing the administration draws be funded proportionate to work performed as outlined in the contract threshold requirements.

18. *§3.8 Expenditure Thresholds and Closeout Requirements*

Staff is proposing Contractors meet the four expenditure threshold requirements. Each threshold details the percentage of funds that need to be processed for each contract threshold. Staff is also proposing that expenditure thresholds impact future Colonia Self-Help Center award amounts. The Department is proposing performance based incentives to expedite the delivery of services to very low income families by creating financial incentives related directly to past performance.

Recommendation

Staff is recommending the repeal of Title 10, Texas Administrative Code, Part 1, Chapter 3 and approval of the publication in the *Texas Register* for public comment of the proposed draft rules governing the Colonia Self-Help Program.

Texas Administrative Code

TITLE 10 COMMUNITY DEVELOPMENT

PART 1 TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 3 COLONIA SELF-HELP CENTER PROGRAM

Rules

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Texas Administrative Code

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TITLE 10	COMMUNITY DEVELOPMENT
PART 1	TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CHAPTER 3	COLONIA SELF-HELP CENTER PROGRAM
RULE §3.1	**Purpose and Services**

The purpose of this chapter is to establish the requirements governing Colonia Self-Help Centers, created pursuant to Subchapter Z of Chapter 2306 of the Texas Government Code and its funding including the use and administration of all funds provided to the Texas Department of Housing and Community Affairs by the legislature of the annual Texas Community Development Block Grant allocation from the United States Department of Housing and Urban Development. Colonia Self-Help Centers are designed to assist individuals and families of low-income and very low-income to finance, refinance, construct, improve, or maintain a safe, suitable home in the colonias' designated service area or in another area the Department has determined is suitable.

(a) A Colonia Self-Help Center shall set a goal to improve the living conditions of residents in the colonias designated by TDHCA, according to the Texas Government Code within a four year period after a Contract is awarded.

(b) A Colonia Self-Help Center may serve individuals and families of low-income and very low-income by:

(1) providing assistance in obtaining loans or grants to build, rehabilitate, repair or reconstruct a home;

(2) teaching construction skills necessary to repair or build a home;

(3) providing model home plans;

(4) operating a program to rent or provide tools for home construction and improvement for the benefit of property owners in colonias who are building or repairing a residence or installing necessary residential infrastructure;

(5) helping to obtain, construct, access, or improve the service and utility infrastructure designed to service residences in a colonia, including potable water, wastewater disposal, drainage, streets, and utilities;

(6) surveying or platting residential property that an individual purchased without the benefit of a legal survey, plat, or record;

(7) providing credit and debt counseling related to home purchase and finance;

(8) applying for grants and loans to provide housing and other needed community improvements;

(9) providing other services that the Colonia Self-Help Center, with the approval of the Department, determines are necessary to assist colonia residents in improving their physical living conditions, including help in obtaining suitable alternative housing outside of a colonia's area;

(10) providing assistance in obtaining loans or grants to enable an individual or a family to acquire fee simple title to property that originally was purchased under a contract for a deed, contract for sale, or other executory contract;

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(11) providing access to computers, the internet and computer training pursuant to the General Appropriations Act.

(12) providing monthly programs to educate individuals and families on their rights and responsibilities as property owners; and

(c) Through a Colonia Self-Help Center, a colonia resident may apply for any direct loan or grant program operated by the Department.

(d) Ineligible activities. Any type of activity not allowed by the Federal Housing and Community Development Act of 1974, (42 United States Code §5301 et seq.) is ineligible for funding.

(e) A Colonia Self-Help Center may not provide grants, financing, or mortgage loan services to purchase, build, rehabilitate, or finance construction or improvements to a home in a colonia if water service and suitable wastewater disposal are not available.

(f) For a manufactured home to be approved for installation and use as a dwelling in a colonia:

(1) the home must be a HUD-code manufactured home, as defined by §1201.003, Occupations Code and in accordance to §2306.591 of the Texas Government Code.

(2) the home must be habitable, as described by §1201.453, Occupations Code.

(3) ownership of the home must be properly recorded with the manufactured housing division of the department.

(g) An owner of a manufactured home is not eligible to participate in a grant loan program offered by the department, including the single-family mortgage revenue bond program under §2306.142, Texas Government Code unless the owner complies with this subsection.

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Texas Administrative Code

Next Rule>>

TITLE 10 COMMUNITY DEVELOPMENT
PART 1 TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CHAPTER 3 COLONIA SELF-HELP CENTER PROGRAM
RULE §3.2 **Definitions**

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Common definitions used under the Community Development Block Grant (CDBG) are incorporated herein by reference.

(1) Applicant--A unit of general local government who is preparing to submit or has submitted a Proposal for Colonia Self-Help Center funds.
(2) Beneficiary—A person or family benefiting from the activities of a Self-Help Center Contract.
(2) Board--The governing board of the Texas Department of Housing and Community Affairs.
(4) C-RAC--Colonia Residents Advisory Committee. Advises the Department's Governing Board and evaluate the needs of colonia residents, review programs that are proposed or operated through the Colonia Self-Help Centers and activities that may be undertaken through the Colonia Self-Help Centers to better serve the needs of colonia residents.
(5) Contract Budget--An exhibit in the Contract which specifies in detail the Contract funds by budget category, which is used in the drawdown processes. The budget also includes all other funds involved that are necessary to complete the performance statement specifics of the Contract.
(6) Colonia--A geographic area located in a county some part of which is within 150 miles of the international border of this state that consists of 11 or more dwellings that are located in close proximity to each other in an area that may be described as a community or neighborhood, and that:
(A) Has a majority population composed of individuals and families of low income and very low income, based on the federal Office of Management and Budget poverty index, and meets the qualifications of an economically distressed area under §17.921, Water Code.
(B) Has the physical and economic characteristics of a colonia, as determined by the Department.
(7) Colonia Self-Help Center Provider--An organization with which the Contractor has an executed Contract to administer Colonia Self-Help Center activities.
(8) Community Action Agency--A political subdivision, combination of political subdivisions, or nonprofit organization that qualifies as an eligible entity under 42 U.S.C. §9902.
(9) Community Development Block Grant (CDBG) nonentitlement area funds—The

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funds awarded to the State of Texas pursuant to the Housing and Community Development Act of 1974, Title I, as amended, (42 U.S.C. §5301 et seq.) and the regulations promulgated thereunder in 24 C.F.R. Part 570.

(10) Contract--A written agreement including all amendments thereto, executed by the Department and Contractor.

(11) Contractor--A Unit of General Local Government with which the Department has executed a Contract.

(12) Department--The Texas Department of Housing and Community Affairs.

(13) HUD--The United States Department of Housing and Urban Development.

(14) Implementation Manual--A set of guidelines designed to be an implementation tool for the Contractor and Colonia Self-Help Center Providers that have been awarded Community Development Block Grant Funds and allows the Contractor to search for terms, regulations, procedures, forms and attachments.

(15) Income Eligible Families--include both Low and Very low-income families--

(A) Low income families means families whose annual incomes do not exceed 80% of the median income of the area as determined by HUD and published by the Department, with adjustments for family size and;

(B) Very low-income families means families whose annual incomes do not exceed 60% of the median family income for the area, as determined by HUD and published by the Department, with adjustments for family size.

(16) Needs assessment--A demographic and characteristics study of the colonias residing in the target area and the housing needs that the Colonia Self-Help Center is designed to address, using qualitative and quantitative information and other source documentation that is required as a part of a Proposal.

(17) Nonentitlement area--An area which is not a metropolitan city or part of an urban County as defined in 42 United States Code, §5302.

(18) Nonprofit organization--A public or private organization that:

(A) Is organized under state or local laws;

(B) Has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;

(C) Has a current tax exemption ruling from the Internal Revenue Service (IRS) under §501(c)(3), a charitable, nonprofit corporation, or §501(c)(4), a community or civic organization, of the Internal Revenue Code of 1986, as amended, as evidenced by a certificate from the IRS that is dated 1986 or later. The exemption ruling or classification as a subordinate of a central organization nonprofit under the Internal Revenue Code, as evidenced by a current group exemption letter, that is dated 1986 or later, from the IRS, must be effective throughout the length of the Contract.

(19) ORCA--The Office of Rural Community Affairs.

(20) Performance Statement--An Exhibit in the Contract which specifies in detail the scope of work to be performed.

(21) Proposal--A written request for Colonia Self-Help funds in the format required by the Department.

(22) Self-Help – Housing programs which allow low and very low income families to build or rehabilitate their homes through their own labor or volunteers.

(23) Unit of General Local Government (UGLG) --A city, town, county, or other

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____ general purpose political subdivision of the State; a consortium of such subdivisions
____ recognized by HUD in accordance with 24 CFR §92.101 and any agency or
____ instrumentality thereof that is established pursuant to legislation and designated by
____ the chief executive to act on behalf of the jurisdiction. A county is considered a unit
____ of general local government under the Colonia Self-Help Center Program.

Texas Administrative Code

Next Rule>>

TITLE 10	COMMUNITY DEVELOPMENT
PART 1	TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CHAPTER 3	COLONIA SELF-HELP CENTER PROGRAM
RULE §3.3	**Colonia Self-Help Centers Establishment**

Pursuant to §2306.582 of the Texas Government Code, the Department has established Colonia Self-Help Centers in El Paso, Hidalgo, Starr, Webb, Cameron, (also serves Willacy), Maverick and Val Verde Counties.

(a) The Department shall designate:

(1) appropriate staff in the Department to act as liaison to the Colonia Self-Help Centers to assist the centers in obtaining funding to enable the centers to carry out the center's programs;

(2) five colonias in each service area to receive concentrated attention from the Colonia Self-Help Centers in consultation with the Colonia Resident Advisory Committee and the appropriate unit of local government; and

(3) a geographic area for the services provided by each Colonia Self-Help Center.

(b) The Department shall make a reasonable effort to secure:

(1) contributions, services, facilities, or operating support from the county commissioner's court of the county in which a Colonia Self-Help Centers is located which it serves to support the operation of that Colonia Self-Help Center; and

(2) an adequate level of funding to provide each Colonia Self-Help Center with funds for low interest mortgage financing, grants for self-help programs, revolving loan fund for septic tanks, a tool lending program, and other activities the Department determines are necessary.

(c) The El Paso Colonia Self-Help Center shall establish a technology center to provide ___ internet access to colonia residents pursuant to the General Appropriations Act.

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(2) five colonias in each service area to receive concentrated attention from the Colonia Self-Help Centers in consultation with the Colonia Resident Advisory Committee and the appropriate unit of local government

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Texas Administrative Code

Next Rule>>

TITLE 10 COMMUNITY DEVELOPMENT

PART 1 TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 3 COLONIA SELF-HELP CENTER PROGRAM

RULE §3.4 **Allocation and the Colonia Self-Help Center Proposal Requirements**

Deleted: Colonia Self-Help Centers Designation

(a) The Department distributes Colonia Self-Help Center funds to UGLGs from the 2.5% set-aside of the annual Community Development Block Grant allocation to the State of Texas.

(b) The Department shall allocate no more than $1.2 million per Colonia Self-Help Center award except as provided by section 3.6(h)(2). If there are insufficient funds available from any specific program year to fund a proposal fully, the awarded Contractor may accept the amount available at that time and wait for the remaining funds to be committed upon the Department's receipt of the CDBG set-aside allocation from the next program year.

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(c) With a baseline award beginning at $700,000, the Department will add an additional $100,000 for each expenditure threshold as defined in section 3.8 of this Chapter (6-month, 18-month, 30-month, and 42-month) met on the previous Self Help Center Contract and an additional $100,000 for an accepted proposal submitted by the deadline. If a Contractor can demonstrate that any violation of an Expenditure Threshold was beyond the control of the Contractor, it may request of the Board that an individual violation be waived for the purpose of future funding. The Board, in its discretion and within the limits of federal and state law, may waive any one or more of the expenditure threshold requirements if the Board finds the waiver is appropriate to fulfill the purposes or policies, of the Texas Government Code, or for good cause, as determined by the Board.

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(d) The Contractor shall submit its proposal no later than three months before the expiration of its current Contract, or when ninety (90%) of the funds under the current Contract have been expended, which ever comes first. If this requirement is not met, the Department will apply the options outlined in §3.4(c) and may result in delayed funding.

(e) Proposal reviews are conducted on a first-come first-serve basis until all Self Help Center funds for the current program year and deobligated Self Help Center funds are committed. Each complete proposal will be assigned a "received date" based on the date and time it is received by the Department.

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(f) In order to be accepted, each proposal must include the following:

(1) Evidence of the submission of the Contractor's current annual single audit.
(2) A comprehensive needs assessment not older than three years, for each of the five colonias identified to receive concentrated attention from that center.
(3) A description of the five colonias to be served. Information should present an accurate picture of the areas to be served to include the number of houses, the number of platted and unplatted lots, water and wastewater services, utilities, housing conditions and number of residents.
(4) A boundary map for each of the five colonias.
(5) A description of the scope of work. Based on the results obtained by the needs assessments, the Contractor shall develop a scope of work for each colonia based on the activities listed in §3.1(b). In order to provide these services, the Contractor may be required to leverage funds, coordinate with financial institutions, prepare grant applications and coordinate with their contracted partners.
(6) A description of the method of implementation. For each colonia to be served by the Colonia Self Help Center, the Contractor shall describe the services and activities to be delivered. The Proposal must identify:
   (A) The percentage and scope of work that will be performed using self-help methodologies;
   (B) The estimated percentage or services that will be contracted to the Colonia Self Help Center Provider; and
   (C) The activities that the Contractor will be administering.
(7) Evidence that the contracted Colonia Self-Help Center provider selected by the Contractor has the capacity to administer and manage financial resources and provided documentation and auditable programmatic compliance, as evidenced by previous experience in any of the following:
   (A) implementation of a CDBG contract;
   (B) affordable housing, including new construction; and housing rehabilitation, reconstruction, small repair; and experience in homebuyer and down payment assistance programs;
   (C) grantsmanship, project planning and development in housing and infrastructure, and project management;
   (D) home ownership counseling, home loan processing and coordinating with private financial institutions;
   (E) property development, including experience in processes related to surveying, platting, and recording of property records;
   (F) self-help programs related to housing or infrastructure, including operation of a tool library;
   (G) managing state/federally funded projects or projects funded under private foundations and not have major outstanding monitoring or audit issues.
(8) The proposed Performance Statement. The Contractor must include the number of colonia residents to be assisted from each colonia, the activities to be performed (including all sub-activities under each budget line item), and corresponding budget.
(9) The proposed Contract Budget must address the following:

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(C) The activities that the Contractor will be administering. ¶
(7) Evidence that the contracted Colonia Self-Help Center provider selected by ¶
the Contractor has the capacity to administer and manage financial¶
resources
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(A) The Administration line item

(A) The Administration line item may not exceed 15% of the total budget.
(B) The Public Service line item may not exceed more than fifteen (15%) of the total budget.
(C) The proposal must identify at least 15% of the budget that will be allocated for direct Self-Help activities.
(D) The amount of leveraged funding.
(E) Direct Delivery Costs (soft costs) for all contractual activities cannot exceed 10% of each budget line item. Direct Delivery Costs (soft costs) are costs related to and identified with a specific housing unit or public service other than construction costs. Eligible direct delivery costs include:
i. preparation of work write-ups, work specifications, and cost estimates
ii. architectural, engineering, or professional services required to prepare plans, drawings or specifications directly attributable to a particular housing unit or public service
iii. home inspections, inspections for lead-based paint, asbestos, termites, and interim inspections
iv. other costs as approved by the Department's executive director

(10) Proposed housing guidelines (includes small repair, rehabilitation, reconstruction, new construction and all other housing activities)
(11) Pre-agreement costs request, if applicable
(12) Evidence of model subdivision rules adopted by the Contractor
(13) Written policies and procedures for the following, as applicable:
(A) solid waste removal
(B) construction skill classes
(C) homeownership classes
(D) technology access
(E) homeownership assistance
(F) tool lending library. All Colonia Self Help Centers are required to operate a tool lending library.
(14) Authorized signatory form and accompanying UGLG resolution and direct deposit authorization.
(15) Unit of General Local Government resolution authorizing the submission of the proposal and appointing the primary signator for all Contract documents.
(16) Acquisition report (even if there is no acquisition activity)
(17) Certification of exemption for HUD funded projects
(18) Initial disclosure report

(g) Upon receipt of the Proposal, the Department will perform an initial review to determine whether the Proposal is complete and that each activity meets a national objective as required by §104(b)(3) of the Housing and Community Development Act of 1974 (42 U.S. C. §5304(b)(3)).

(h) The Department may reduce the funding amount requested in the proposal in

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(B) The Public Service line item

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the total budget. ¶
(C) The proposal must identify at least 15% of the budget that will be ¶
allocated for direct Self-Help activities.¶
(D) The amount of leveraged funding.¶
(E) Direct dD

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exceed 10% of each budget line item. Direct D

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accordance to §3.4(c) of this chapter. Should this occur, the Department shall notify the appropriate Contractor within ten working days before the proposal is submitted to C-RAC for review, comments and approval. The Department and the Contractor will work together to jointly agree on the performance measures and proposed funding amounts for each activity.

(i) If applicable, the Department shall coordinate with the Texas Water Development Board and ORCA to eliminate delay in water and wastewater hookups.

(j) The Department shall execute a four-year Contract with Contractor. No Contract extensions will be allowed. If the Contractor requirements are completed prior to the end of the four year contract period, the Contractor may submit a new proposal.

(k) Decline to Fund. The Department may decline to fund any proposal if the activities do not, in the Department's sole determination, represent a prudent use of Colonia Self Help Center funds. The Department is not obligated to proceed with any action pertaining to any proposal which is received, and may decide it is in the Department's best interest to refrain from pursuing any selection process. The Department through it's executive director or its designee reserves the right to negotiate individual elements of any proposal.

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activities do not, in the Department's sole determination, represent a prudent use¶
of Colonia Self Help Center funds. The Department is not obligated to proceed¶
with any action pertaining to any proposal which is received, and may decide it is¶
in the Department's best interest to refrain from pursuing any selection process. ¶
The Department

Deleted: (a) The Department shall designate: ¶
(1) a geographic area for the services provided by each Colonia Self-Help Center; and ¶
(2) In consultation with the Colonia Residents Advisory Committee and the appropriate unit of local government and Colonia Self-Help Center, the Department shall designate five colonias in each service area to receive concentrated attention from the Colonia Self-Help Centers. ¶
(b) In consultation with the Colonia Residents Advisory Committee and the appropriate unit of local government and Colonia Self-Help Center, the Department may change the designation of colonias made under paragraph (a)(2) of this section.

Texas Administrative Code

Next Rule>>

TITLE 10	COMMUNITY DEVELOPMENT
PART 1	TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CHAPTER 3	COLONIA SELF-HELP CENTER PROGRAM
RULE §3.5	**Colonia Resident Advisory Committee Duties and Awarding Contracts**

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(a) The Board shall appoint not fewer than five persons who are residents of colonias to serve on the Colonia Residents Advisory Committee. The members of the Colonia Residents Advisory Committee shall be selected from lists of candidates submitted to the Department by local nonprofit organizations and the commissioner's court of a county in which a Colonia Self-Help Center is located.

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(b) The Colonia Resident Advisory Committee members' terms will expire every four years. Colonia Resident Advisory Committee members may be reappointed by the Board; however, the Board shall review and approve all members at least every four years.

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(c) The Board shall appoint one committee member to represent each of the counties in which a Colonia Self-Help Center is located. Each committee member:

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(1) must be a resident of a colonia in the county the member represents; and

(2) may not be a board member, contractor, or employee of or have any ownership interest in an entity that is awarded a Contract under this chapter and cannot be in default on any Department obligation.

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(3) The Department will conduct a compliance check on all members.

(d) The Department may also select to have an alternate member from the list for each county in the event that the primary member is unable to attend meetings.

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(e) The Colonia Resident Advisory Committee shall advise the Board regarding:

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(1) the housing needs of colonia residents;

(2) appropriate and effective programs that are proposed or are operated through the Colonia Self-Help Centers; and

(3) activities that might be undertaken through the Colonia Self-Help Centers to serve the needs of colonia residents better.

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(f) The Colonia Resident Advisory Committee shall advise the colonia initiatives coordinator as provided by §775.005 of the Texas Government Code.

(g) Awarding Contracts:

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(1) Upon reaching an agreement with the Contractor, the Department will set the date for the Colonia Resident Advisory Committee meeting. The Colonia Resident Advisory Committee shall meet before the 30th calendar day preceding the date on which a contract is scheduled to be awarded by the Board for the operation of a Colonia Self-Help Center and may meet at other times.

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(2) The Contractor shall be present at the Colonia Resident Advisory

Committee if its Proposal is being considered to answer questions that the Colonia Resident Advisory Committee may have.

(3) After the Colonia Resident Advisory Committee makes a recommendation on a proposal, the recommendation will undergo the Department's award process.

(4) The Contractor whose Proposal is being presented to the Board shall be invited to attend the Board Meeting in which the award is an agenda item.

(h) Reimbursement of Colonia Resident Advisory Committee members for their reasonable travel expenses in the manner provided by §3.6(k) is allowable and shall be paid by the Contractor.

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shall be paid by the Contractor.

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Texas Administrative Code

Next Rule>>

TITLE 10	COMMUNITY DEVELOPMENT
PART 1	TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CHAPTER 3	COLONIA SELF-HELP CENTER PROGRAM
RULE §3.6	**Self-Help Center Contract Operation and Implementation**

Deleted: Duties of the Colonia Residents Advisory Committee

The Department shall contract with a Unit of General Local Government for the operation of a Colonia Self-Help Center. The UGLG shall subcontract with a local nonprofit organization, local community action agency, or local housing authority that has demonstrated the ability to carry out all or part of the functions of a Colonia Self-Help Center.

(a) Upon award of Colonia Self-Help Center funds by the Board, the Department shall deliver a Contract based on the scope of work to be performed within thirty days of the award date. Any activity funded under the Colonia Self Help Center Program will be governed by a written Contract that identifies the terms and conditions related to the awarded funds. The Contract will not be effective until executed by all parties to the Contract.

(b) Environmental. Contractors are required to complete their environmental reviews in accordance with 24 CFR Part 58 and receive the Authority to Use Grant Funds from the Department before:

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(1) Any commitment of CDBG funds (i.e., execution of a legally binding agreement and expenditure of CDBG funds) for activities other than those that are specifically exempt from environmental review

(2) Any commitment of non-CDBG funds associated with the scope of work in the Contract that would have an adverse environmental impact (i.e. demolition, excavating, etc.) or limit the choice of alternatives (i.e. acquisition of real property, rehabilitation of buildings or structures, etc.).

(c) All housing rehabilitation, reconstruction, and new construction contractor/builders, including Self Help Center Provider(s) performing any housing activities, as defined by the Texas Residential Construction Commission, making improvements to or reconstructing an existing home at a cost exceeding $10,000 must be registered with the Texas Residential Construction Commission.

(d) All reconstruction and new construction activities must meet the accessibility requirements pursuant to §2306.514 of the Texas Government Code.

(e) Request for Payments. The Contractor shall submit a properly completed request for reimbursement, as specified by the Department, at a minimum on a quarterly basis;

however the Department reserves the right to request more frequent reimbursement requests as it deems appropriate. The Department shall determine the reasonableness of each amount requested and shall not make disbursement of any such payment request until the Department has reviewed and approved such request. Payments under the Contract are contingent upon the Contractor's full and satisfactory performance of its obligations under the Contract.

(1) $2,500.00 is the minimum amount for a draw to be processed. Exceptions to this rule are as follows:

(a) The draw request exceeds 25 percent of a budgeted line item but less than $2,500.00 and the Contractor is requesting funds only for that line item.

(b) The draw request is for the final retainage of a construction contract

(c) The Contractor received prior approval from the Department

(d) The request is the final draw.

(2) Draw requests will be reviewed to comply with all applicable laws, rules and regulations. The Contractor is responsible for maintaining a complete record of all costs incurred in carrying out the activities of the Contract.

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(3) Draw requests for all housing activities will only be reimbursed upon satisfactory completion of types of activities (i.e., all plumbing completed, entire roof is completed, etc.), consistent with the work write-up and subsequent construction contract.

(4) The Contractor will be the principal contact responsible for reporting to the Department and submitting draw requests.

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(f) Reporting. The Contractor shall submit to the Department reports on the operation and performance of the Contract on forms as prescribed by the Department. Quarterly Reports shall be due no later than the twentieth (20th) calendar day of the month after the end of each calendar quarter. The Contractor shall maintain and submit to the Department up-to-date accomplishments in quarterly reports identifying quantity and cumulative data including the expended funds, activities completed and total number of Beneficiaries.

(g) Inspections. At a minimum, inspections will be required for all housing rehabilitation (initial and final), small home repair (initial only), reconstruction (initial and final) and new construction (final only) activities and must be inspected by a professional inspector licensed by the Texas Real Estate Commission, a professional engineer licensed by the Texas Board of Engineering, an architect registered with the Texas Board of Architectural Examiners, or a third-party inspector registered with the Texas Residential Construction Commission to perform home inspections.

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(1) The final inspections for housing rehabilitation must ensure that the construction on the house is complete, that the home is safe and that it meets at a minimum, Colonia Housing Standards. A copy of the final inspection report must be given to the homeowner.

(2) The final inspections for reconstruction and new construction must ensure that the construction on the home is complete, that the home is

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(3) The initial inspections for small home repair will identify and prioritize areas in need of repair. Only the area being repaired under the small home repair activity must meet, at a minimum, Colonia Housing Standards. A copy of the initial inspection report must be given to the homeowner.

(4) Homes receiving only first-time water connections are not required to meet Colonia Housing Standards or have a third-party inspection.

(5) The Department will only reimburse for two inspection reports for housing rehabilitation and reconstruction, and one inspection report for new construction and small home repair.

(6) The Contractor must ensure and verify that each construction contractor performing activities in the amount of $10,000.00 or more under the Contract is registered and maintains good standing with the Texas Residential Construction Commission in accordance with 16 TAC, Subtitle C, §16.001

(7) The Contractor must ensure and verify that each housing unit being rehabilitated in the amount of $10,000.00 or more under the Contract is registered with the Texas Residential Construction Commission in accordance with 16 TAC, Subtitle C, §426.003

(h) Amendments. Any alterations, additions, or deletions to the terms of the Contract shall be submitted in writing to the Department. Reduced Beneficiaries or activities, due to extenuating or unforeseeable circumstances, may be allowed as approved by the Department. The Department's executive director or its designee, may authorize, execute, and deliver amendments to any Contract:

(1) Contract Time Extensions beyond the four-year contract period will not be allowed for Self-Help Center contracts.

(2) The Department, at its discretion and in coordination with a Contractor, may increase a contract budget amount and the number of activities and beneficiaries based on the availability of Self Help Center funds, the exemplary performance in the implementation of a Contractor's current contract, and the time available in the four-year contract period. Upon Board approval, the cap on the maximum contract amount may be exceeded if the terms of this paragraph are met by a Contractor.

(i) If the Contractor fails to meet a Contract requirement the awarded funds related to the lack of performance may be entirely or partially deobligated at the Department's sole discretion.

(j) Waiver. The Board, in its discretion and within the limits of federal and state law,

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Inserted: Ensure and verify that each housing unit being rehabilitated in the ¶ amount of $10,000.00 or more under the Contract is registered with the ¶ Texas Residential Construction Commission in accordance with 16 TAC, ¶ Subtitle C, §426.003¶ ¶ (

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may waive any one or more of the requirements of this Chapter if the Board finds that waiver is appropriate to fulfill the purposes or policies, Chapter 2306 of the Texas Government Code, or for good cause, as determined by the Board.

(k) Travel. Costs incurred by Colonia Self Help Center employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, shall be considered reasonable and allowable only to the extent such costs do no exceed charges normally allowed by the State Comptroller's Travel Allowance Guide.

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Inserted: j) Travel. Costs incurred by Colonia Self Help Center employees and officers for¶
travel, including costs of lodging, other subsistence, and incidental expenses,¶
shall be considered reasonable and allowable only to the extent such costs do no¶
exceed charges normally allowed by the State Comptroller's Travel Allowance¶
Guide.

Deleted: (a) The Colonia Residents Advisory Committee shall advise the Board regarding: ¶
(1) the needs of colonia residents; ¶
(2) appropriate and effective programs that are proposed or are operated through the Colonia Self-Help Centers; and ¶
(3) activities that may be undertaken through the Colonia Self-Help Centers to better serve the needs of colonia residents. ¶
(b) The Colonia Residents Advisory Committee shall meet before the 30th day preceding the date on which a contract is scheduled to be awarded by the Board for the operation of a Colonia Self-Help Center and may meet at other times. ¶
(c) The Colonia Residents Advisory Committee shall advise the colonia initiatives coordinator as provided by §775.004 of the Texas Government Code.

Texas Administrative Code

Next Rule>>

TITLE 10	COMMUNITY DEVELOPMENT
PART 1	TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CHAPTER 3	COLONIA SELF-HELP CENTER PROGRAM
RULE §3.7	**Administrative Thresholds**

Administrative draw request. Administrative draw requests are funded out of the portion of the Contract Budget specified for administrative cost (Line 13. Administration) These costs are not directly associated with an activity. The administration line item will be disbursed as follows:

(1) Threshold 1. The initial administrative draw request allows up to ten percent of the administration line item to be drawn down prior to the start of any project activity included in the Performance Statement of the Contract (provided that all pre-draw requirements, as described in the Contract, for administration have been met). Subsequent administrative funds will be reimbursed in proportion to the percentage of the work that has been completed as identified below.

(2) Threshold 2. Allows up to an additional fifteen percent (twenty-five percent of the total) of the administration line item to be drawn down after a start of project activity has been demonstrated. For the purposes of this threshold, if Davis-Bacon labor standards are required for a given program activity, "start of project activity" is evidenced by the submission of a start of construction form. If labor standards are not required on a given project activity that has commenced (and for which reimbursement is being sought), the submission of a drawdown request that includes sufficient back-up documentation for expenses of non-administrative project activities evidences a start of project activity. Direct delivery/soft costs charges will not constitute a start of project activity.

(3) Threshold 3. Allows up to an additional twenty-five percent (fifty percent of the total) of the administration line item to be drawn down after compliance with the 18-Month threshold requirement has been demonstrated as described in section 3.8.

(4) Threshold 4. Allows up to an additional twenty-five percent (seventy-five percent of the total) of the administration line item to be drawn down after compliance with the 30-Month threshold requirement has been demonstrated as described in section 3.8.

(5) Threshold 5. Allows up to an additional fifteen percent (ninety percent of the total) of the administration line item to be drawn down after compliance with the 42-Month threshold requirement has been demonstrated as described in section

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Threshold 4. Allows up to an additional twenty-five percent (seventy-five percent of the total) of the administration line item to be drawn down after compliance with the 30-Month threshold requirement has been demonstrated as described in section 3.8.¶
¶
Threshold 5. Allows up to an additional fifteen percent (ninety percent of the total) of the administration line item to be drawn down after compliance with the 42-Month threshold requirement has been demonstrated as described in section 3.8.¶
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Threshold 6. Allows an additional five percent (ninety-five percent of th ... [33]

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(6) Threshold 6. Allows an additional five percent (ninety-five percent of the total) of the administration line item to be drawn down upon receipt of all required close-out documentation.

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(7) Threshold 7. Allows the final five percent (one hundred percent of the total, less any administrative funds reserved for audit costs as noted on the Project Completion Report of the administration line item to be drawn down following receipt of the programmatic close-out letter issued by TDHCA.

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(8) Threshold 8. Any funds reserved for audit costs will be released upon completion and submission of an acceptable audit. Only the portion of audit expenses reasonably attributable to the Contract are eligible.

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(b) The Department and the Colonia Self-Help Center may apply for and receive public or private gifts or grants to enable the centers to achieve their purpose.

Texas Administrative Code

Next Rule>>

TITLE 10 COMMUNITY DEVELOPMENT

PART 1 TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 3 COLONIA SELF-HELP CENTER PROGRAM

RULE §3.8 **Expenditure Thresholds and Closeout Requirements**

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(a) Contractors must meet the following expenditure threshold requirements:

(1) 6-Month Threshold. An Environmental Assessment that meets the requirements outlined in the environmental clearance requirements of the Contract must be submitted to the Department within 6 months from the start date of the Contract.

(2) 18-Month Threshold. To meet this requirement the Contractor must have expended and submitted for reimbursement to the Department at least thirty (30%) percent of the total Colonia Self Help Center funds awarded within eighteen (18) months from the start date of the Contract.

(3) 30-Month Threshold. To meet this requirement the Contractor must have expended and submitted for reimbursement to the Department least sixty percent (60%) of the total Colonia Self-Help Center funds awarded within thirty (30) months from the start date of the Contract.

(4) 42-Month Threshold. To meet this requirement the Contractor must have expended and submitted for reimbursement to the Department at least ninety percent (90%) of the total Colonia Self-Help Center funds awarded within forty-two (42) months from the start date of the Contract.

(b) For purposes of meeting a threshold, "expended and submitted" means that a draw request was received by the Department, is complete, and all costs needed to meet a threshold are adequately supported. The Department will not be liable for a threshold violation if a draw request is not received by the threshold date.

(c) The final draw request and complete closeout documents must be submitted no later than sixty (60) days after the Contract end date. If closeout documents are late, the remaining Contract balance may be subject to deobligation as the Department's liability for such costs will have expired. If a Contractor has reserved funds in the project completion report for a final draw request, the Contractor has ninety (90) days after the Contract end date to submit the final draw request, with the exception of audit costs which may be reimbursed upon submission of the final single audit.

(d) If these thresholds are not met, the Department will apply its Administration Rules, Title 10, Part 1, Chapter 1, Texas Administrative Code.

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which is funded with Community Development Block Grant nonentitlement area funds.

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(11) County--A unit of general local government eligible to administer Colonia Self-Help Center funds.

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(13) Executive Director--The Executive Director of the Department.

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, or its successor

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must serve both Low and Very low-income families--

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and moderate income families means families whose annual incomes do not exceed 80% of the median income of the area,

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The county must prepare a

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must be effective throughout the length of any contract agreements;

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(D) A private nonprofit organization's pending application for 501(c)(3) or (c)(4) status cannot be used to comply with the tax status requirement.

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(20) Open Cycle--A defined period during which Proposals may be submitted and which will be reviewed on a first come first serve basis until all funds are committed. Each Proposal will be assigned a "received date" based on the date and time it is physically received by the Department and will be reviewed in accordance with §3.11 - §3.13 of this chapter.

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(22) PER--Performance Evaluation Report produced by the Unit of local government which should include up-to-date accomplishments in quarterly reports identifying cumulative data including the colonias served, activities performed and total number of beneficiaries.

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by eligible activity as noted in §3.1 of this chapter.

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(24) Poverty--The current official poverty line established by the Director of the Federal Office of Management and Budget.

(25) Primary beneficiary--A Low or Moderate income person or family.

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(3) a geographic area for the services provided by each Colonia Self-Help Center.

(b) The Department shall make a reasonable effort to secure:

(1) contributions, services, facilities, or operating support from the county commissioner's court of the county in which

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the Colonia Self-Help Centers

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s.

(2) an adequate level of funding to provide

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the Colonia Self-Help Center with funds for low interest mortgage financing, grants for self-help programs,a revolving loan fund for septic tanks, a tool lending program, and other activities the Department determines are necessary.

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of the 79th Legislature Regular Session.

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terms of this paragraph are met by a Contractor.

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h) If the Contractor fails to meet a Contract requirement the awarded funds related to the lack of performance may be entirely or partially deobligated at the Department's sole discretion.

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i) Waiver. The Board, in its discretion and within the limits of federal and state law, may waive any one or more of the requirements of this Chapter if the Board finds that waiver is appropriate to fulfill the purposes or policies,

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, Performance Statement, of the Contract (provided that all pre-draw requirements, as described in the Contract, for administration have been met). Subsequent administrative funds will be reimbursed in proportion to the percentage of the work that has been completed as identified below.

Threshold 2. Allows up to an additional fifteen percent (twenty-five percent of the total) of the administration line item to be drawn down after a start of project activity has been demonstrated. For the purposes of this threshold, if Davis-Bacon labor standards are required for a given program activity, "start of project activity" is evidenced by the submission of a start of construction form. If labor standards are not required on a given project activity that has commenced (and for which reimbursement is being sought), the submission of a drawdown request that includes sufficient back-up documentation for expenses of non-administrative project activities evidences a start of project activity. Direct delivery/soft costs charges will not constitute a start of project activity.

Threshold 3. Allows up to an additional twenty-five percent (fifty percent of the total) of the administration line item to be drawn down after compliance with the 18-Month threshold requirement has been demonstrated as described in section 3.8.

Threshold 4. Allows up to an additional twenty-five percent (seventy-five percent of the total) of the administration line item to be drawn down after compliance with the 30-Month threshold requirement has been demonstrated as described in section 3.8.

Threshold 5. Allows up to an additional fifteen percent (ninety percent of the total) of the administration line item to be drawn down after compliance with the 42-Month threshold requirement has been demonstrated as described in section 3.8.

Threshold 6. Allows an additional five percent (ninety-five percent of the total) of the administration line item to be drawn down upon receipt of all required close-out documentation.

Threshold 7. Allows the final five percent (one hundred percent of the total, less any administrative funds reserved for audit costs as noted on the Project Completion Report of the administration line item to be drawn down following receipt of the programmatic close-out letter issued by TDHCA.

Threshold 8. Any funds reserved for audit costs will be released upon completion and submission of an acceptable audit. Only the portion of audit expenses reasonably attributable to the Contract are eligible.

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TITLE 10	COMMUNITY DEVELOPMENT
PART 1	TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CHAPTER 3	COLONIA SELF-HELP CENTER PROGRAM
RULE §3.9	**Colonia Self-Help Center Set-Aside FundSanctions and Deobligations**

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CHAPTER 3	COLONIA SELF-HELP CENTER PROGRAM
RULE §3.10	**Allocation of Colonia Self-Help Center Funds**

(a) The Colonia Self-Help Center is funded through a set-aside of the legislature from the annual Community Development Block Grant allocation.
(b) The Department allocates the Colonia Self-Help Center funds on an annual basis to eligible Counties pursuant to §3.3 of this chapter.

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CHAPTER 3	COLONIA SELF-HELP CENTER PROGRAM
RULE §3.11	**Distribution of Funds and Proposal Requirements**

(a) The Department distributes Colonia Self-Help Center funds to counties from the 2.5%

set-aside of the annual Community Development Block Grant allocation.
(b) The 2.5% set-aside from the Community Development Block Grant allocation is distributed to a county though the following means:
(1) The county submits its Proposal one hundred and twenty (120) days before the latter of the expiration of its current contract, or when 80% of the funds under the current contract have been expended along with the needs assessment during the open cycle.
(2) Reviews are conducted on a first come first serve basis until all funds are committed. Each Proposal will be assigned a "received date" based on the date and time it is physically received by the Department and will be reviewed in accordance with §3.12 and §3.13 of this chapter.
(3) The Department allocates no more than $1.2 million per Colonia Self-Help Center contract. If there are insufficient funds available from any specific program year to fully fund a Proposal, then the affected Applicant may accept the amount available at that time and wait for the remaining funds to be committed upon the Department's receipt of the Community Development Block Grant set-aside allocation from the next year.
(c) The county shall complete a needs assessment for each of the selected colonias as outlined under §3.4 of this chapter.
(d) Upon completion of the needs assessments, the county shall publish a Request for Proposals (RFP) for a Colonia Self-Help Center operator and review, score and gain the approval of commissioners' court for the operation of a Colonia Self-Help Center within its respective area.
(e) The county shall establish a Colonia Self-Help Center to provide any or all of the activities outlined under §3.1(c) of this chapter so long as the activities provided by the Colonia Self-Help Center are in line with the results of the needs assessments. Proposals must cover the following categories:
(1) Description of Colonias to be Served. Information should be sufficient to present an accurate picture of the areas to be served (i.e. number of houses, number of residents, platted/unplatted, water, wastewater disposal, utilities, housing conditions, etc.).
(2) Scope of Work. Based on the results obtained by the needs assessments, the county shall develop a scope of work for each selected colonia. In order to provide these services, the county shall be required to leverage funds, coordinate with financial institutions, prepare grant applications and coordinate with their contracted partners.
(3) Method of Implementation. For each colonia to be served by the Colonia Self-Help Center, the county shall describe the services and activities to be delivered. The county shall describe the years of experience and accomplishments relating to affordable housing projects within the last three years of the organization recommended by the county to operate and manage the daily operation of the Colonia Self-Help Center.
(4) Results. The county must include number of colonia residents to be assisted from each colonia. The county must also specify with Colonia Self-Help Center funds the number of houses to be rehabilitated, number of houses to be reconstructed, number of technical assistance visits, number of grant applications to be submitted for possible leverage, number of checkouts from the tool lending library, etc.
(f) Upon approval from commissioner's court; the county shall submit a Proposal to the Department along with a copy of its needs assessment.

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CHAPTER 3	COLONIA SELF-HELP CENTER PROGRAM
RULE §3.12	**Colonia Self-Help Center Process of Awards**

(a) Upon receipt of the Proposal and needs assessment, the Department will perform an initial review to determine whether the Proposal is complete. Proposed activities must identify a proposed funding amount and determine that the activities being funded under the Colonia Self-Help Center are eligible under §3.1(c) of this chapter and §105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. §5305(a)). The Proposal must also show how each activity meets a national objective as required by §104(b)(3) of the Housing and Community Development Act of 1974 (42 U.S. C. §5304(b)(3)).
(b) The Department may reduce the proposed funding amount. Should this occur, the Department shall notify the appropriate county within ten working days of receipt of the Proposal. The Department and the county will work together to jointly agree on the performance measure and proposed funding amounts for each activity.
(c) Upon reaching an agreement with the county, the Department will set a Colonia Residents Advisory Committee meeting. The Colonia Residents Advisory Committee shall meet before the 30th day preceding the date on which a contract is scheduled to be awarded by the Board for the operation of a Colonia Self-Help Center and may meet at other times.
(d) The Department will forward the proposed Performance Statement, Budget and needs assessment to each Colonia Residents Advisory Committee member for its review at least seven calendar days before the scheduled meeting date.
(e) The county is expected to be present at the Colonia Residents Advisory Committee meeting if its Proposal is being considered for a recommendation to the Board for an award. The county shall be available to answer questions that the Colonia Residents Advisory Committee may have on its Proposal.
(f) After the Colonia Residents Advisory Committee makes a recommendation, the recommendation will move forward for the standard award process including Department Review which is anticipated to take a minimum of three weeks.
(g) The county whose Proposal is being presented to the Board shall be required to be present at the Board Meeting.
(h) The Department shall execute four year contracts as required by §2306.587(a) of the Texas Government Code.

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CHAPTER 3	COLONIA SELF-HELP CENTER PROGRAM
RULE §3.13	**Threshold Selection Criteria**

(a) At a minimum, the following threshold selection criteria will be utilized in evaluating the Proposals for the Colonia Self-Help Center.

(1) Needs Assessment. The Proposal must meet the demographic, and characteristics of the selected colonias and the needs that the Colonia Self-Help Center is designed to deliver the activities as described in §3.1 of this chapter.

(2) Program Design. Whether the proposed project meets the needs identified in the needs assessment, whether the design is complete and whether the project fits within the community setting. Information required includes, but is not limited to: community involvement; scope of program; income and population targeting; marketing, fair housing and relocation plans and other items as the Department deems applicable.

(3) Capacity of Colonia Self-Help Center provider. The selected Colonia Self-Help Center provider selected by the county must have the capacity to administer and manage financial resources, as evidenced by previous experience of managing state and/or federal programs based on one or more of the following preferred experience:

(A) Three (3) years experience in provision of affordable housing, including new construction; and housing rehabilitation; and experience in homebuyer and down payment assistance programs.

(B) Three (3) years experience in grantsmanship, project planning and development in housing and infrastructure, and project management.

(C) Three (3) years experience in homeownership counseling, home loan processing and coordinating with private financial institutions.

(D) Three (3) years experience in property development, including experience in processes related to surveying, platting, and recording of property.

(E) Three (3) years experience in self-help programs related to housing or infrastructure, including operation of a tool library.

(F) three (3) years experience in managing state/federally funded projects or projects funded under private foundations and not have major outstanding monitoring or audit issues.

(b) Administrative Costs for Colonia Self-Help Center. Each county is required to contract with a nonprofit organization, community action agency and/or housing authority to provide staff, office space and equipment (computer, facsimile, telephone, copier, etc.) necessary for full operation of the Colonia Self-Help Center.

(1) the county must determine a reasonable amount of administrative costs, and work with the selected Self-Help Center provider to determine a reasonable amount of operational cost not to exceed twenty (20%) percent which must be included in its Proposal. Costs should also include costs associated with salaries, travel, supplies, training, subscriptions, utilities, rent and other related services for both the county and Colonia Self-Help Center provider.

(2) a cost allocation plan (indirect cost) will not be accepted under this program.
(3) cost incurred by colonia self-help center employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, shall be considered reasonable and allowable only to the extent such costs do not exceed charges normally allowed by the State Comptrollers Travel Allowance Guide.

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CHAPTER 3	COLONIA SELF-HELP CENTER PROGRAM
RULE §3.14	**Expenditure Threshold Requirements**

(a) A county that has a current contract must meet the following expenditure threshold requirements:
(1) 6-Month Milestone. Any County that has not begun any project activities, including the initiation of the environmental review within six months after contract execution will have its funds subject to deobligation. The county will be evaluated after the first twelve months of the contract period for progress made to carry out project activities.
(2) 18-Month Milestone. The county must expend at least thirty (30%) percent of the total Colonia Self-Help Center funds awarded within eighteen (18) months from the start date of the contract.
(3) 30-Month Milestone. The county must expend at least sixty percent (60%) of the total Colonia Self-Help Center funds.
(4) 42-Month Milestone. In order to meet this requirement the county must expend at least ninety percent (90%) of the total Colonia Self-Help Center funds.
(5) 50-Month Milestone. If a county has a contract that is 48 months old or older, one hundred percent (100%) of all activities have completed all contract fund requests, and a Certificate of Completion report (which documents the expenditure of all Colonia Self-Help Center funds utilized for contract activities and does not include any reserved funds other than the funds needed to pay for a final audit) must be submitted to the Department. To meet this threshold, all the Colonia Self-Help Center funds needed for the contract activities, except for the reserved audit funds, must be expended in order to be considered for future funding.
(b) If these thresholds are not met, the Department will apply the options outlined in §3.17 of this chapter.

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CHAPTER 3	COLONIA SELF-HELP CENTER PROGRAM
RULE §3.15	**Contract Delivery Administration**

(a) Upon approval of Colonia Self-Help Center funds by the Board, the Department shall work with the county to deliver a fully executed contract based on the work to be performed with milestones beginning sixty days of award date.
(b) Environmental. Before any funds can be disbursed environmental clearance must be approved by the Department.
(c) Amendments. Any alterations, additions, or deletions to the terms of the contract shall be submitted in writing to the Department. The Department, acting by and through its Executive Director or his/her designee, may authorize, execute, and deliver modifications and/or amendments to any Colonia Self-Help Center Proposal or written agreement provided that:

(1) In case of a modification or amendment to the dollar amount of the request or award, such modification or amendment does not increase the dollar amount by more than 25% of the original request or award, or $50,000, whichever is greater;

(2) In the case of all other modifications or amendments, such modification or amendment does not, in the estimation of the Executive Director, significantly decrease the benefits to be received by the Department as a result of the award; and

(3) Modifications and/or amendments that increase the dollar amount by more than 25% of the original award or $50,000, whichever is greater; or significantly decreases the benefits to be received by the Department in the estimation of the Executive Director, will be presented to the Board for approval.

(d) Request for Payments. The county shall submit a properly completed request for reimbursement form, as specified by the Department, at a minimum on a quarterly basis; however the Department reserves the right to request more frequent reimbursement requests as it deems appropriate to ensure compliance with the federal cost principles. The Department shall determine the reasonableness of each amount requested and shall not make disbursement of any such payment until the Department has reviewed and approved such request. Payments under the contract are contingent upon the county's full and satisfactory performance of its obligations under the contract.
(e) All eligible activities must meet a national objective and have a corresponding budget line item in the budget. This requirement will be clearly reflected in the performance statement and budget of the contract.
(f) Reporting. The county shall submit to the Department such reports on the operation and performance of the contract as may be required by the Department. Quarterly reports shall be due no later than the twentieth (20th) day of the month after the end of each calendar quarter.

(1) The county shall maintain and submit to the Department up to date accomplishments in quarterly reports identifying quantity and cumulative data including the colonias

served, activities performed and total number of beneficiaries.
(2) The county shall submit and maintain program information at the detailed project activity level such as how many low and moderate-income households reside in safe, decent housing, and the number of years of affordability created for these households.
(g) Inspections. All housing rehabilitation and new construction activities must be inspected by an individual licensed by the Texas Real Estate Commission to perform home inspections. The inspection must ensure that the construction on the house is complete, that the home is safe and that it meets at a minimum, Colonia Housing Standards. The licensed inspector must utilize the most current Property Inspection Report as promulgated by the Texas Real Estate Commission and all items noted on the inspection report must be corrected and repaired.

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RULE §3.16	**Manufactured Homes Installed in Colonias**

(a) For a manufactured home to be approved for installation and use as a dwelling in a colonia:
(1) the home must be a HUD-code manufactured home, as defined by §1201.003, Occupations Code and in accordance to §2306.591 of the Texas Government

Code.
(2) the home must be habitable, as described by §1201.453, Occupations Code.
(3) ownership of the home must be properly recorded with the manufactured housing division of the department.
(b) An owner of a manufactured home is not eligible to participate in a grant loan program offered by the department, including the single-family mortgage revenue bond program under §2306.142, Texas Government Code unless the owner complies with subsection (a) of this section.

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RULE §3.17	**Suspension**

(a) Suspension. In the event the county fails to comply with any term of the contract, the Department may, upon written notification to the county, suspend the contract in whole or in part and withhold further payments to the county, and prohibit the county from incurring additional obligations of funds under the contract. If a suspension continues it could move to Sanction/Deobligation under §3.16 of this chapter.
(b) The Department reserves the right to take all allowable actions to enforce the terms of the contract.
(c) Potential allowable actions are covered by Board policy or rules.

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CHAPTER 3	COLONIA SELF-HELP CENTER PROGRAM
RULE §3.18	**Sanction/Deobligation**

(a) Sanction/Deobligation funds. The Department reserves the right to apply appropriate graduated sanctions leading up to, but not limited to, deobligation of funds and future debarment from participating in the program in the following situations:
(1) county has any unresolved compliance issues on existing or prior contracts with the Department;
(2) county fails to set-up programs/projects or expend funds in a timely manner;
(3) county defaults on any agreement by and between the county and the Department;
(4) county misrepresents any facts to the Department during the Proposal process, award of contracts, or administration of contract;
(5) county is unable to provide adequate financial support to administer the contract or withdrawal of significant financial support;
(6) county fails to expend all funds awarded.
(b) The Department may exercise other compliance or enforcement rules as appropriate

COMMUNITY AFFAIRS DIVISION
BOARD ACTION REQUEST
May 21, 2009

Action Item

Presentation, Discussion and Possible Approval to publish the proposed amendments of 10 TAC Chapter 5, Community Affairs Programs for comment in the Texas Register.

Subchapter A §5.3. Definitions
Subchapter A §5.20. Determining Income Eligibility
Subchapter B §5.203. Distribution of CSBG Funds
Subchapter D §5.407. Subrecipient Requirements for Establishing Priority for Eligible Households and Client Eligibility Criteria
Subchapter D §5.422. General Assistance and Benefit Levels

Requested Action

Approve, reject or approve with modifications the publication of the proposed amendment of 10 TAC Chapter 5, Subchapters A, B, and D.

Background

At the December 18, 2008 meeting the TDHCA Board approved for publication in the Texas register a final order adopting 10 TAC Chapter 5, Subchapters A, B, C, D, E , F and G. The Community Affairs Division rules were adopted March 6, 2009. In response to grant guidance for implementing the American Recovery and Reinvestment Act (ARRA), the Department held four public input sessions and a public hearing in order to draft a recommendation for the Board. During the input sessions and the public hearing, staff was asked to increase the eligibility criteria for the Community Services Block Grant (CSBG) Program, Comprehensive Energy Assistance Program (CEAP) and the Weatherization Assistance Program (WAP). The only amendments to the rules increase the eligibility of all three programs from 125% to 200% of Federal poverty level which allows assistance to a broader applicant pool. The Federal poverty guideline for a family of 4 is $22,050, so by this action we are enabling households with incomes up to $44,100 (up from $27,562) to qualify for assistance.

Recommendation

Approve the publication of the revised rules for public comment.

Title 10 Chapter 5 Subchapter A
§5.3. Definitions.

(a) To ensure a clear understanding of the terminology used in the context of the Community Affairs Programs, a list of terms and definitions has been compiled as a reference.
(b) The following words and terms in this chapter shall have the following meaning unless the context clearly indicates otherwise.

(1) CAA--Community Action Agency.

(2) CFR--Code of Federal Regulations.

(3) Children--Household dependents not exceeding eighteen (18) years of age.

(4) Collaborative Application--An application from two or more organizations which will use Emergency Shelter Grants Program (ESGP) funds to provide services to the target population as part of a local continuum of care. If a unit of general local government applies for only one organization, this will not be considered a collaborative application. Partners in the collaborative application must coordinate services and prevent duplication of services.

(5) Community Action Plan--A plan required by the Community Services Block Grant (CSBG) Act which describes the local (subrecipient) service delivery system, how coordination will be developed to fill identified gaps in services, how funds will be coordinated with other public and private resources and how the local entity will use the funds to support innovative community and neighborhood based initiatives related to the grant.

(6) Cooling--Modifications including, but not limited to, the repair or replacement of air conditioning units, evaporative coolers, and refrigerators.

(7) Community Action Agencies (CAAs)--Local private and public non-profit organizations that carry out the Community Action Program (CAP), which was founded by the 1964 Economic Opportunity Act to fight poverty by empowering the poor in the United States. Each CAA must have a board consisting of at least one-third elected public officials, not fewer than one-third representatives of low-income individuals and families, chosen in accordance with democratic selection procedures, and the remainder are members of business, industry, labor, religious, law enforcement, education, or other major groups and interests in the community.

(8) Community Affairs Division (CAD)--The Division at the Texas Department of Housing and Community Affairs which administers the CSBG, ESGP, Comprehensive Energy Assistance Program (CEAP), Weatherization Assistance Program (WAP), and Section 8 Housing Choice Voucher Programs.

(9) The Community Services Block Grant (CSBG)--A grant which provides U.S. federal funding for Community Action Agencies (CAAs) and other eligible entities that seek to address poverty at the community level. Like other block grants, CSBG funds are allocated to the states and other jurisdictions through a formula.

(10) Community Services Block Grant (CSBG Act)--The CSBG Act is a law passed by Congress authorizing the Community Services Block Grant. The CSBG Act was amended by the Community Services Block Grant Amendments of 1994 and the Coats Human Services Reauthorization Act of 1998 under 42 U.S.C. §§9901, et seq. The act authorized establishing a community services block grant program to make grants

available through the program to states to ameliorate the causes of poverty in communities within the states.

(11) CSBG Subrecipient--Includes CSBG eligible entities and other organizations that are awarded CSBG funds.

(12) Department--The Texas Department of Housing and Community Affairs.

(13) Discretionary Funds--Those CSBG funds maintained in reserve by a State, at its discretion, for CSBG allowable uses as authorized by §675C of the CSBG Act, and not designated for distribution on a statewide basis to CSBG eligible entities and not held in reserve for state administrative purposes.

(14) DOE--The United States Department of Energy.

(15) DOE WAP Rules--10 CFR Part 440 of the Code of Federal Regulations describing the Weatherization Assistance for Low Income Persons as administered through the Department of Energy.

(16) Dwelling Unit--A house, including a stationary mobile home, an apartment, a group of rooms, or a single room occupied as separate living quarters.

(17) Equipment--A tangible non-expendable personal property including exempt property, charged directly to the award, having a useful life of more than one year, and an acquisition cost of $5,000 or more per unit. For CSBG, CEAP, and WAP, if the unit acquisition cost exceeds $5,000, approval from the TDHCA Community Affairs Division must be obtained before the purchase takes place. For ESGP, if the unit acquisition cost exceeds $500, approval from TDHCA Community Affairs Division must be obtained before the purchase is made.

(18) Elderly Person--A person who is sixty (60) years of age or older.

(19) Electric Base-Load Measure--Weatherization measures which address the energy efficiency and energy usage of lighting and appliances.

(20) Eligible Entity--Those local organizations in existence and designated by the federal government to administer programs created under the federal Economic Opportunity Act of 1964. This includes community action agencies, limited-purpose agencies, and units of local government. The CSBG Act defines an eligible entity as an organization that was an eligible entity on the day before the enactment of the Coats Human Services Reauthorization Act of 1998, (October 27, 1998), or is designated by the Governor to serve a given area of the State and that has a tripartite board or other mechanism for local governance.

(21) Emergency--Defined by the LIHEAP Act of 1981 (Title XXVI of the Omnibus Budget Reconciliation Act of 1981, 42 U.S.C. §8622):

(A) natural disaster;

(B) a significant home energy supply shortage or disruption;

(C) significant increase in the cost of home energy, as determined by the Secretary;

(D) a significant increase in home energy disconnections reported by a utility, a State regulatory agency, or another agency with necessary data;

(E) a significant increase in participation in a public benefit program such as the food stamp program carried out under the Food Stamp Act of 1977 (7 U.S.C. §§2011, et seq.), the national program to provide supplemental security income carried out under title XVI of the Social Security Act (42 U.S.C. §§1381, et seq.) or the State temporary assistance for needy families program carried out under Part A of Title IV of the Social Security Act (42 U.S.C. §§601, et seq.), as determined by the head of the appropriate federal agency;

(F) a significant increase in unemployment, layoffs, or the number of households with an individual applying for unemployment benefits, as determined by the Secretary of Labor; or

(G) an event meeting such criteria as the Secretary, at the discretion of the Secretary, may determine to be appropriate.

(22) Energy Repairs--Weatherization related repairs necessary to protect or complete regular weatherization energy efficiency measures.

(23) Energy Audit--The energy audit software and procedures used to determine the cost effectiveness of weatherization measures to be installed in a dwelling unit.

(24) Families with Young Children--A family that includes a child age five (5) or younger.

(25) USDHHS--U.S. Department of Health and Human Services.

(26) High Energy Burden--Determined by dividing a household's annual home energy costs by the household's annual gross income. The percentage at which energy burden is considered high is defined by data gathered from the State Data Center.

(27) High Energy Consumption--Household energy expenditures exceeding the median of low-income home energy expenditures expressed in the data collected from the State Data Center.

(28) Homeless or homeless individual--An individual who:

(A) lacks a fixed, regular, and adequate nighttime residence; or

(B) has a primary nighttime residence that is:

(i) a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);

(ii) an institution that provides a temporary residence for individuals intended to be institutionalized; or

(iii) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. (Exclusion: The term "homeless" or "homeless individual" does not include any individual imprisoned or otherwise detained pursuant to an Act of Congress or a State law.)

(29) Household--Any individual or group of individuals who are living together in a dwelling unit as one economic unit. For energy programs, these persons customarily purchase residential energy in common or make undesignated payments for energy.

(30) Inverse Ratio of Population Density Factor--The number of square miles of a county divided by the number of poverty households of that county.

(31) Local Units of Government--City, county, or council of governments.

(32) Low Income--Income in relation to family size which:

(A) For CEAP, WAP, and CSBG is at or below ~~125~~ 200% of the Federal Income guidelines;

(B) For ESGP is at or below 100% of the poverty level, determined in accordance with criteria established by the Director of the Office of Management and Budget;

(C) Is the basis on which cash assistance payments have been paid during the preceding twelve (12) month-period under titles IV and XVI of the Social Security Act or applicable state or local law; or

(D) If a State elects, is the basis for eligibility for assistance under the Low Income Home Energy Assistance Act of 1981, provided that such basis is at least 125% of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget.

(33) Low Income Home Energy Assistance Program (LIHEAP)--A federally funded block grant program that is implemented to serve low income households who seek assistance for their home energy bills and/or weatherization services.

(34) Migrant Farm worker--An individual or family that is employed in agricultural labor or related industry and is required to be absent overnight from their permanent place of residence.

(35) Multifamily Dwelling Unit--A structure containing more than one dwelling unit.

(36) National Performance Indicator--An individual measure of performance within the Department's reporting system for measuring performance and results of subrecipients of funds. There are currently twelve indicators of performance which measure self-sufficiency, family stability, and community revitalization.

(37) Needs Assessment--An assessment of community needs in the areas to be served with CSBG funds. The assessment is a required part of the Community Action Plan per Assurance 11 of the CSBG Act.

(38) OMB--Office of Management and Budget, a federal agency.

(39) Outreach--The method that attempts to identify clients who are in need of services, alerts these clients to service provisions and benefits, and helps them use the services that are available. Outreach is utilized to locate, contact and engage potential clients.

(40) Performance Statement--A document which identifies the services to be provided by a CSBG subrecipient. The document is an attachment to the CSBG contract entered into by the Department and the CSBG subrecipient.

(41) Persons with Disabilities--Any individual who is:

(A) a handicapped individual as defined in §7(9) of the Rehabilitation Act of 1973;

(B) under a disability as defined in §1614(a)(3)(A) or §223(d)(1) of the Social Security Act or in §102(7) of the Developmental Disabilities Services and Facilities Construction Act; or

(C) receiving benefits under 38 U.S.C., Chapter 11 or 15.

(42) Population Density--The number of persons residing within a given geographic area of the state.

(43) Poverty Income Guidelines--The official poverty income guidelines as issued by the U.S. Department of Health and Human Services annually.

(44) Private Nonprofit Organization--An organization which has status as a §501(c)(3) tax-exempt entity. Private nonprofit organizations applying for ESGP funds must be established for charitable purposes and have activities that include, but are not limited to, the promotion of social welfare and the prevention or elimination of homelessness. The entity's net earnings may not inure to the benefit of any individual(s).

(45) Public Organization--A unit of local government, as established by the Legislature of the State of Texas. Includes, but may not be limited to, cities, counties, and councils of governments.

(46) Referral--The process of providing information to a client household about an agency, program, or professional person that can provide the service(s) needed by the client.

(47) Rental Unit--A dwelling unit occupied by a person who pays rent for the use of the dwelling unit.

(48) Renter--A person who pays rent for the use of the dwelling unit.

(49) Seasonal Farm Worker--An individual or family that is employed in seasonal or temporary agricultural labor or related industry and is not required to be absent overnight from their permanent place of residence. In addition, at least 20% of the household annualized income must be derived from the agricultural labor or related industry.

(50) Secretary--Chief Executive of the U.S. Department of Health and Human Services.

(51) Service--The provision of work or labor that does not produce a tangible commodity.

(52) Shelter--Defined by the Department as a dwelling unit or units whose principal purpose is to house on a temporary basis individuals who may or may not be related to one another and who are not living in nursing homes, prisons, or similar institutional care facilities.

(53) Single Family Dwelling Unit--A structure containing no more than one dwelling unit.

(54) Social Security Act--42 U.S.C. §§601, et seq., CSBG works with activities carried out under Title IV Part A to assist families to transition off of state programs.

(55) State--The State of Texas or the Texas Department of Housing and Community Affairs.

(56) Subcontractor--An organization with whom the subrecipient contracts with to administer programs.

(57) Subrecipient--According to each program subchapter, subrecipient may be defined as organizations with whom the Department contracts with and provides CSBG funds; ESGP funds; DOE funds or, LIHEAP funds.

(58) Supplies--All personal property excluding equipment, intangible property, and debt instruments, and inventions of a contractor conceived or first actually reduced to practice in the performance of work under a funding agreement ("subject inventions"), as defined in 37 CFR Part 401, "Rights to Inventions Made by Non-profit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements."

(59) TAC--Texas Administrative Code.

(60) Targeting--Focusing assistance to households with the highest program applicable needs.

(61) Terms and Conditions--Binding provisions provided by a funding organization to grantees accepting a grant award for a specified amount of time.

(62) Treatment as a State or Local Agency--For purposes of 5 U.S.C. Chapter 15 any entity that assumes responsibility for planning, developing, and coordinating activities under the CSBG Act and receives assistance under CSBG Act shall be deemed to be a State or local agency.

(63) Units of General Local Government--A unit of local government which has, among other responsibilities, the authority to assess and collect local taxes and to provide general governmental services.

(64) U.S.C.--United States Code.

(65) Vendor Agreement--An agreement between the subrecipient and energy vendors that contains assurance as to fair billing practices, delivery procedures, and pricing for business transactions involving LIHEAP beneficiaries.

(66) WAP--Weatherization Assistance Program.

(67) WAP PAC--Weatherization Assistance Program Policy Advisory Council. The WAP PAC was established by the Department in accordance with 10 CFR §440.17 to provide advisory services in regards to the WAP program.
(68) Weatherization Material--The material listed in Appendix A of 10 CFR Part 440.
(69) Weatherization Project--A project conducted in a single geographical area which undertakes to reduce heating and cooling demand of dwelling units that are energy inefficient.

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Title 10 Chapter 5 Subchapter A
§5.20. Determining Income Eligibility.

(a) The U.S. Department of Health and Human Services (USDHHS) annually provides poverty income guidelines for use in determining client eligibility. Community Affairs Division programs are required to follow these guidelines.
(b) The subrecipients shall establish the client eligibility level at ~~125~~ 200% of the federal poverty level in effect at the time the client makes an application for services.
(c) To determine income eligibility for program services, subrecipients must base annualized eligibility determinations on household income from thirty (30) days prior to the date of application for assistance. Each subrecipient must maintain documentation of income from all sources for all household members for the entire thirty (30) day period prior to the date of application and multiply the monthly amount by twelve (12) to annualize income. Income documentation must be collected from all income sources for all household members eighteen (18) years and older for the entire thirty (30) day period.
(d) If proof of income is unavailable, the applicant must complete and sign a Department approved Declaration of Income Statement.

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Title 10 Chapter 5 Subchapter B
§5.203. Distribution of CSBG Funds.

(a) The CSBG Act requires that no less than 90% of the state's allocation be allocated to eligible entities. The Department currently utilizes a multi-factor fund distribution formula to equitably provide CSBG funds throughout the state's 254 counties to the CSBG eligible entities. The formula incorporates the most current decennial U.S. Census figures at ~~125~~ 200% of poverty; a $50,000 base; a $150,000 floor (the minimum funding level); a 98% weighted factor for poverty population; and, a 2% weighted factor for the inverse ratio of population density.
(1) Each eligible entity receives a base amount of $50,000;
(2) The weighted factors of poverty population and population density are applied to the funds remaining after the base award funds have been distributed to each eligible entity;
(3) The Department then determines if any eligible entity is below the $150,000 floor after the base amount and weighted factors (poverty population and population density) have been applied, then the minimum floor amount is reserved for those entities below $150,000;

(4) The remaining funds are distributed to the remaining eligible entities. As was done with the initial run of the formula, each of the remaining eligible entities receives the base amount of $50,000 and then the weighted factors (poverty population and population density) are applied to determine the allocation amounts for eligible entities funded above the $150,000.
(b) Five percent (5%) of the Department's annual allocation of CSBG funds and any funds not spent as identified in subsection (c) of this section, may be expended for activities as per 42 U.S.C. §9907(b)(A) - (H) and activities that may include:
(1) the provision of training and technical assistance to CSBG eligible entities;
(2) services to low-income migrant seasonal farm worker and Native American populations;
(3) assisting CSBG eligible entities in responding to natural or man-made disasters;
(4) funding for innovative and demonstration projects that assist CSBG target population groups to overcome at least one of the barriers to attaining self-sufficiency; and
(5) other projects/initiatives, including state conference expenses. The Department may provide monetary awards to subrecipients for outstanding performance. To ensure consistent and comparable results, the process for monetary awards to CSBG subrecipients will be standardized.
(c) Up to five percent (5%) of the Department's annual allocation of CSBG funds will be used for administrative purposes consistent with state and federal law.

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Title 10 Chapter 5 Subchapter D §5.407. Subrecipient Requirements for Establishing Priority for Eligible Households and Client Eligibility Criteria.

(a) The subrecipients shall set the client income eligibility level at or below ~~125~~ 200% of the federal poverty level in effect at the time the client makes an application for services.
(b) Subrecipient shall determine client income. The Department will provide definition of income lists to determine total household income. The lists contain income inclusions and exclusions and are located in §5.19 of this chapter (relating to Client Income Guidelines).
(c) Subrecipients shall base annualized eligibility determinations on household income from the 30 day period prior to the date of application for assistance. Each subrecipient shall document and retain proof of income from all sources for all household members eighteen (18) years and older for the entire thirty (30) day period prior to the date of application and multiply by twelve (12) to annualize income.
(d) In the case of migrant, or seasonal workers, or similarly situated workers, a longer period than thirty (30) days may be used for annualizing income.
(e) If proof of income is unavailable, the applicant must complete and sign a Declaration of Income Statement (DIS). In order to use the DIS form, each subrecipient shall develop and implement a written policy and procedure on the use of the DIS form. In developing the policy and procedure, subrecipients shall give consideration to limiting the use of the DIS form to cases where there are serious extenuating circumstances that justify the use of the form. Such circumstances might include crisis situations such as applicants that are affected by natural disaster which prevents the applicant from obtaining income documentation, applicants that flee a home due to physical abuse, applicants who are

unable to locate income documentation of a recently deceased spouse, or whose work is migratory, part-time, temporary, self-employed or seasonal in nature. To ensure limited use, the Department will review the written policy and its use during on-site monitoring visits.
(f) Social security numbers are not required for applicants for CEAP.
(g) Proof of citizenship is not required for CEAP.
(h) The subrecipients shall establish priority criteria to serve persons in households who are particularly vulnerable such as the elderly, persons with disabilities, families with young children, high residential energy users, and households with high energy burden. High residential energy users and households with high energy burden are defined as follows:
(1) Households with Energy Burden which exceeds the median energy burden of income-eligible households characterized by the Department as experiencing high energy burden. The Department calculates energy burden by dividing home energy costs by the household's gross income.
(2) Households with annual energy expenditures which exceed the median home expenditures for income-eligible households are characterized by the Department as high energy consumers.
(i) Homeowners and renters will be treated equitably under all programs funded in whole or in part from LIHEAP funds. For those renters who pay heating and/or cooling bills as part of their rent, the subrecipient shall make special efforts to determine the portion of the rent that constitutes the fuel heating and/or cooling payment. If "sub metering" is not available, the subrecipient shall exercise care when negotiating with the landlords so the cost of utilities quoted is in line with the consumption for similar residents of the community. If the subrecipient pays the landlord, then the landlord shall furnish evidence that he/she has paid the bill and the amount of assistance must be deducted from the rent, if the utility payment is not stated separately from the rent. An agreement stating the terms of the payment negotiations must be signed by the landlord.
(j) A household unit cannot be served, if the meter is utilized by another household.

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Title 10 Chapter 5 Subchapter D §5.422. General Assistance and Benefit Levels.

(a) Subrecipients shall not discourage anyone from applying for CEAP assistance. Subrecipients shall provide all potential clients with opportunity to apply for LIHEAP programs.
(b) CEAP provides assistance to targeted beneficiaries being households with low incomes at or below ~~125~~ 200% of the Federal Poverty Level, with priority given to the elderly, persons with disabilities, families with young children; households with the highest energy costs or needs in relation to income, and households with high energy consumption.
(c) CEAP includes activities, as defined in Assurances 1-16 in Title XXVI of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35), as amended; such as education; and financial assistance to help very low- and extremely low-income consumers reduce their utility bills to an affordable level. CEAP services include utility

payment assistance; heating and cooling system replacement, repair, and/or retrofit; energy education; and budget counseling.

(d) Sliding scale benefit for all CEAP components:

(1) Benefit determinations are based on the household's income, the household size, the energy cost and/or the need of the household, and the availability of funds.

(2) Energy assistance benefit determinations will use the following sliding scale (Except Heating and Cooling System Replacement, Repair and/or Retrofit Component):

(A) Households with Incomes of 0 to 50% of Federal Poverty Guidelines may receive an amount needed to address their energy payment shortfall not to exceed $1,200.

(B) Households with Incomes of 51% to 75% of Federal Poverty Guidelines may receive an amount needed to address their energy payment shortfall not to exceed $1,100.

(C) Households with Incomes of 76% to ~~125~~ 200% of Federal Poverty Guidelines may receive an amount needed to address their energy payment shortfall not to exceed $1,000.

(D) The Heating and Cooling System Replacement, Repair, and/or Retrofit Component maximum household benefit limit is $5,000.

(e) Subrecipient shall not establish lower local limits of assistance for any component.

(f) Total maximum possible annual household benefit (all components combined) equals $8,600.

(g) Subrecipient shall determine client eligibility for utility payments and/or retrofit based on the agency's household priority rating system and household's income as a percent of poverty.

(h) Subrecipients shall provide only the following types of assistance with funds from CEAP:

(1) Payment to vendors and suppliers of fuel/utilities, goods, and other services, such as electrical wiring, butane tanks, and lines, etc. for past due or current bills related to the procurement of energy for heating and cooling needs of the residence, not to include security lights and other items unrelated to energy assistance;

(2) Payment to vendors--only one energy bill payment per month as required by component;

(3) Needs assessment and energy conservation tips, coordination of resources, and referrals to other programs;

(4) Energy assistance to low-income elderly and disabled individuals most vulnerable to high cost of energy for heating and cooling needs of the residence;

(5) Payment of water bills only when such costs include expenses from operating an evaporative water cooler unit or when the water bill is an inseparable part of a utility bill. As a part of the intake process, outreach, and coordination, the subrecipient shall confirm that a client owns an operational evaporative cooler and has used it to cool the dwelling within sixty (60) days prior to application. Payment of other utility charges such as wastewater and waste removal are allowable only if these charges are an inseparable part of a utility bill. Documentation from vendor is required. Whenever possible, subrecipient shall negotiate with the utility providers to pay only the "home energy"--heating and cooling--portion of the bill;

(6) Energy bills already paid by householders may not be reimbursed by the program;

(7) Payment of reconnection fees in line with the registered tariff filed with the Public Utility Commission and/or Texas Railroad Commission. Payment cannot exceed that stated tariff cost. Subrecipient shall negotiate to reduce the costs to cover the actual labor

and material and to ensure that the utility does not assess a penalty for delinquency in payments;

(8) Payment of security deposits only when state law requires such a payment, or if the Public Utility Commission or Texas Railroad Commission has listed such a payment as an approved cost, and where required by law, tariff, regulation, or a deferred payment agreement includes such a payment. Subrecipients shall not pay such security deposits that the energy provider will eventually return to the client;

(9) While rates and repair charges may vary from vendor to vendor, Subrecipient shall negotiate for the lowest possible payment. Prior to making any payments to an energy vendor a Subrecipient shall have a signed vendor agreement on file from the energy vendor receiving direct LIHEAP payments from the Subrecipient;

(10) Subrecipient may make payments to landlords on behalf of eligible renters who pay their utility and/or fuel bills indirectly. Subrecipient shall notify each participating household of the amount of assistance paid on its behalf. Subrecipient shall document this notification. Subrecipient shall maintain proof of utility or fuel bill payment. Subrecipient shall ensure that amount of assistance paid on behalf of client is deducted from client's rent; and

(11) In lieu of deposit required by an energy vendor, Subrecipient may make advance payments. The Department does not allow LIHEAP expenditures to pay deposits, except as noted in paragraph (7) of this subsection. Advance payments may not exceed an estimated two months' billings. Funds for the Texas CEAP shall not be used to weatherize dwelling units, for medicine, food, transportation assistance (i.e., vehicle fuel), income assistance, or to pay for penalties or fines assessed to clients.

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TEXAS HOMEOWNERSHIP DIVISION

BOARD ACTION REQUEST
MAY 21, 2009

Action Items

Request approval to publish a Request For Proposal (RFP) for Master Servicer for the Single Family Mortgage Revenue Bond Program

Required Action

Approve a Request For Proposal (RFP) for Master Servicer for the Single Family Mortgage Revenue Bond Program

Background and Recommendations

Summary

TDHCA's Single Family First Time Homebuyer Program channels low interest rate mortgage funds through participating lenders across the State to eligible borrowers who are purchasing a home for the first time or who have not owned a home in the past three years. In order to provide funds for the program, TDHCA generally issues Mortgage Revenue Bonds several times a year. As the loans are originated and closed by the program's participating lenders, they are delivered to the trustee via the Master Servicer and purchased on the Department's behalf. The Master Servicer must service the mortgage loans in accordance with sound loan servicing practices and as required by the terms and conditions of a Program Administration and Servicing Agreement.

Additionally, the Master Servicer is responsible for securing commitments from Fannie Mae/Freddie Mac/GNMA, pooling and warehousing loans, servicing the loans, issuing Fannie Mae, Freddie Mac/GNMA certificates and selling the certificates to the Program's Bond Trustee. The Master Servicer is also required to assist TDHCA in establishing the necessary procedures and guidelines to facilitate efficient operation of the Programs.

The Master Servicer also reviews all documents relating to the Program and examines all loans to assure compliance with program guidelines and applicable Federal and State law. They also approve all mortgage lenders for participation in the program and manage reservation allocations on a first come first served basis. Additionally, they track and report portfolio delinquencies and foreclosures and participate in lender trainings as well as provide detailed quarterly status reports regarding program performance.

Recommendation

Staff requests approval to publish a Request For Proposal (RFP) for Master Servicer for the Single Family Mortgage Revenue Bond Program.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

REQUEST FOR PROPOSAL ("RFP") FOR MASTER SERVICER FOR THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS SINGLE FAMILY RESIDENTIAL MORTGAGE REVENUE BOND PROGRAMS

I. BACKGROUND OF THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

A. PURPOSE

The Texas Department of Housing and Community Affairs ("TDHCA") was created pursuant to Chapter 762, Acts of the Seventy-second Legislature of the State of Texas, Regular Session, 1991, as designated in Chapter 2306, Government Code in part to increase the supply of affordable housing for low- and moderate-income Texans. The Bond Finance Division of TDHCA issues tax-exempt and taxable bonds to finance single-family housing.

The Texas Homeownership Division of TDHCA manages TDHCA's relationship with private sector financial and lending institutions participating in TDHCA's tax-exempt and taxable single family bond issues. Private sector financial institutions throughout the state originate and/or service loans for the Texas Homeownership Division of TDHCA on a fee for service basis.

B. BOARD OF DIRECTORS & STAFF

TDHCA is governed by a six-member Board appointed by the Governor with the advice and consent of the Senate serving staggered six-year terms with the terms of three directors expiring on January 31 of each odd-numbered year. Members may be re-appointed.

The Board appoints an Executive Director who is responsible for the overall administration of TDHCA and its programs and directing the operations of TDHCA staff.

C. FIRST TIME HOMEBUYER PROGRAM

TDHCA's Single Family First Time Homebuyer Program (the "Program") channels low interest mortgage funds through participating lenders across the State to eligible borrowers who are purchasing a home for the first time or have not owned a home in the past three years. In order to provide funds for the Program, TDHCA generally issues Mortgage Revenue Bonds several times a year with lendable proceeds ranging in size from approximately $50 million to $200 million. Revenues to retire the bonds will be derived solely from the repayment of the mortgage loans made with the bond proceeds. The bonds are not a general obligation debt of TDHCA or the State of Texas.

II. SCOPE OF SERVICES TO BE PROVIDED BY THE MASTER SERVICER

A. GENERAL DESCRIPTION OF THE PROGRAM

The proceeds of all or a portion of the bonds are expected to be available several times annually for the purchase of GNMA, Fannie Mae and/or Freddie Mac securities formed with qualifying mortgage loans (FHA, VA, RHS). Bond proceeds are made available on a first-come first-served basis with no participation fee required. ***Approximately thirty percent (30%) of the total funds released are reserved during the first twelve months of the Program for Mortgage Loans to eligible borrowers having an income of eighty percent (80%) or less of area median family income ("AMFI").*** In addition, approximately twenty percent (20%) of the total funds are reserved during the first twelve months of the Program for Mortgage Loans to eligible borrowers purchasing homes in Targeted Areas.

Down payment assistance may be made available by TDHCA to all qualifying homebuyers in conjunction with TDHCA Programs. Depending on the program structure, the assistance may be made available in the form of a grant or a 2nd lien loan.

B. VENDOR QUALIFICATIONS

The Master Servicer must be a qualified GNMA issuer/servicer, a Fannie Mae/Freddie Mac approved seller/servicer, an FHA-approved mortgagee, a VA approved lender and a RHS approved lender. The institution should also provide evidence of experience in administering and processing GNMA-secured, Fannie Mae/Freddie Mac-secured, FHA-insured, RHS and VA-guaranteed mortgage pool programs. The Master Servicer must also have an extensive background in servicing and administering tax-exempt mortgage revenue bond mortgage portfolios.

C. NATURE OF SERVICES REQUIRED

A sample Program Administration and Servicing Agreement (the "Servicing Agreement") may be obtained from TDHCA at the address indicated in Section III, C of this request for proposal if the respondent desires. Such sample documents are to be considered drafts only and are subject to modification by TDHCA.

The Master Servicer must service the mortgage loans in accordance with sound loan servicing practices and as required by the terms and conditions of a two-year Program Administration and Servicing Agreement (the "Agreement"). The effective date of the Agreement shall commence on the closing date of the first TDHCA Single Family Mortgage Revenue Bond Program after October 14, 2009. It shall be within the sole discretion of TDHCA to renew and extend the Agreement at the end of the two-year term under three annual options for an additional one-year term. TDHCA reserves the right to issue a Request for Proposals for Master Servicer responsibilities at any such time after the expiration of the term of the Agreement.

The Master Servicer shall provide, among other things, the services set forth in such proposed Agreements. The Master Servicer will be responsible for securing commitments from Fannie Mae/Freddie Mac/GNMA, purchasing the loans from the loan originators, pooling and warehousing loans, servicing the loans, issuing Fannie Mae/Freddie Mac/GNMA certificates, and selling the certificates to the Program's Bond Trustee. The Master Servicer will be required to assist TDHCA in establishing the necessary procedures and guidelines to facilitate efficient operation of the Programs.

In addition to those specific duties outlined above, the Master Servicer will also be required to:

1. Review all documents relating to the Program and examine all loans to assure compliance with program guidelines as established by TDHCA and applicable Federal and State law.

2. Manage reservations allocated on a first-come first-served basis.

3. Assist in informational meetings for participating lenders. Provide a training workshop for participating lenders and provide program guidelines and informational materials to each lender. Sponsor additional meetings, workshops or conferences as directed by TDHCA (e.g. in the event of reallocation of funds or extension of the program term).

4. Supervise lenders to maintain compliance with program guidelines and expected level of service. The Master Servicer will report in writing to TDHCA any events or transactions relating to lenders which may adversely affect TDHCA or which are inappropriate and unprofessional.

5. Identify problem loans and notify TDHCA as to delinquencies and foreclosures. The Master Servicer is responsible for all foreclosure and REO activities.

6. Submit monthly reports to TDHCA detailing loan originations, delinquency, and foreclosure data, and mortgage prepayments (payoffs) and any additional information that may be required in a format and time frame prescribed by TDHCA.

7. Maintain program files, and prepare and present detailed quarterly status reports to TDHCA and the Bond Trustee regarding Program performance including:

   (a) The number and dollar amount of loans applied for, committed, closed, and purchased to date in Targeted and Non-Targeted areas including whether any loans qualified for the Contract for Deed exception

   (b) Information on loans purchased through the Program (individual and averages) including purchase price, loan address, applicant income, address, household size, ethnicity, type of home (new or existing), located in a targeted or non-targeted area, and loan type

(c) A minimum of two audited program reports (semi-annual and final)

(d) Additional information or analysis deemed necessary by TDHCA. All information shall be submitted in a form and time frame designated by TDHCA.

8. Process borrowers' requests for assumption of loan and other special requests by the borrower as allowed by the Program Guidelines and applicable Federal and State laws.

9. Perform all other duties as set forth in the Agreement.

D. RELATIONSHIP BETWEEN TDHCA AND THE MASTER SERVICER

The Master Servicer will be an independent contractor for TDHCA and not an employee of TDHCA. TDHCA reserves the right to assume any or all of the responsibilities of the Master Servicer pursuant to a default or as negotiated with the Master Servicer and included in the Mortgage Servicing Agreement.

E. CONFLICT OF INTEREST

To avoid all possibility of conflict of interest, the Master Servicer must certify that none of the owners, officers, or stockholders of the company and none of their families are related within the third degree of consanguinity or the second degree of affinity to any TDHCA employee or any member of the TDHCA governing Board.

III. RFP INSTRUCTIONS

A. TIMETABLE

The deadline for submissions in response to this proposal is **Wednesday, July 1, 2009, at 4:00P.M. Central Standard Time. No proposal will be accepted after deadline**. Telephone and fax responses are not appropriate for this request.

B. INFORMATION TO BE INCLUDED

If your organization wishes to serve as Master Servicer for TDHCA's Single Family Mortgage Revenue Bond Programs, please respond in writing with the following information:

1. State full name and address of your firm and identify the parent company if you are a subsidiary. Specify the branch office or other subordinate element which will perform, or assist in performing, the work to be performed. Indicate whether you operate as a partnership, corporation, or sole proprietorship. You must submit evidence of authorization to do business or operate in Texas.

2. Evidence of qualifications and experience in GNMA/Fannie Mae/Freddie Mac securitized programs, FHA, VA, and RHS mortgages, and single-family programs funded with tax-exempt bonds. Include qualified Fannie Mae/Freddie Mac and GNMA seller-servicer numbers.

3. Names, addresses and telephone numbers of three clients we can contact concerning your firm's performance as Master Servicer for single-family mortgage revenue bond programs. List references for which you have acted as master servicer, currently or in the past, including name, address, telephone number and contact person. Please provide this information for all state agencies for which you have provided these services.

4. Names and brief resumes of all key personnel who will be assigned to this project and the primary responsibilities assigned to each person. Indicate the level of knowledge each individual has regarding the Texas mortgage market, lending practices, and foreclosure laws.

5. Name, address and telephone number for the contact person in your firm authorized to negotiate agreement terms and render binding decisions on contract matters.

6. Enclose a statement addressing the participation of women and minorities. The purpose of this section is to promote economic opportunity by affording equal access to the procurement of agreements for services connected with the financing of bonds by state issuers. Therefore, the following information about each participant must be included:

   (a) The degree of ownership and control of each participant firm by minorities and women.

   (b) The number and percentage of professionally employed women and minorities in each participant's firm.

   (c) A brief description of the effort made by each participant to encourage and develop participation of women and minorities. Also, describe your firm's degree of achievement of the affirmative action goals in the past 12 months and provide an employee profile showing the number and percentage of male, female, and minority employees by category, i.e., senior management, professional, technical and clerical.

7. Location of the office that will service loans and administer the program. Indicate whether there is a toll free phone number that will be available to program participants. Indicate the number of and identify the positions of personnel that will be available to answer questions during the mortgage loan origination period.

8. Describe your firm's Internet capabilities. Describe what elements of your program administration and loan servicing administration is a benefit to the issuer, lender and borrower utilizing the Internet.

9. Describe your firm's efforts to identify and meet the credit needs of low/very low-income families and individuals in Texas. Describe the specific steps your firm will take to increase home ownership opportunities for low/very low-income families when developing procedures for and administering the Program.

10. Describe your firm's Loss Mitigation efforts to minimize losses for the homeowner, mortgage loan investor and to maintain favorable ratings on Housing Finance Agency bonds. What types of specialized servicing, if any, is provided.

11. Describe the process for preparing the lender manuals and how updates on the manuals will be prepared and distributed.

12. If your firm plans to subcontract any of the services required to be provided as Master Servicer, please indicate which, if any, will be subcontracted. Also provide which services will be subcontracted to minority or woman-owned businesses and indicate what percentage of total revenues these comprise. Please identify those firms with which you will subcontract and describe the subcontractor's experience with the services being provided.

13. Describe how your firm will process approval of lenders and what the time frame is for which that process will be completed. Describe your firm's approach for organizing and communicating with the lenders to ensure a successful program.

14. Describe your firm's past experience and ability to work with Texas lenders.

15. For other existing or prior single-family bond programs, describe the average amount of time in which your firm has processed loans from the time a loan/reservation is received through the purchase and pooling process until the certificate is purchased by the Bond Trustee. Please give detailed information on specific programs that may be verified.

16. If applicable, please describe your firm's method of conducting business with mortgage brokers. Please specify: whether your firm recruits mortgage brokers, the minimum qualifications required of mortgage brokers associating with your firm, the number of mortgage brokers located in Texas affiliated with your firm, and your firm's policies and procedures for preventing and detecting mortgage broker errors, omissions and fraud.

17. Provide current servicing portfolio and delinquency statistics for each category:

    (a) Volume of all single-family mortgages
    (b) Volume of all single-family loans financed with tax-exempt bond proceeds
    (c) Volume of all Fannie Mae, Freddie Mac securitized, RHS and VA loans
    (d) Volume of all GNMA securitized loans

18. Please provide a fee proposal for the complete master servicing rights for the TDHCA Single Family Mortgage Revenue Bond Program.

    Please indicate the amount to be paid at the bond closing, tax compliance fee and how it will be paid, ongoing servicing fee and any other fee remittance to TDHCA you may suggest. Also indicate any amount to be paid upon issuance of GNMA and Fannie Mae/Freddie Mac certificates.

19. The Department's Bond Counsel will prepare the lender Program documents. If your institution will need counsel for such documents, what is the name and location of the firm and how will they be compensated. If you propose that such counsel will be an expense reimbursable by TDHCA, please estimate your counsel's fees and out-of-pocket expenses on a not to exceed basis and in what manner you anticipate payment will be made.

20. State, describe, and estimate any other fees your firm will require to act as Master Servicer.

21. If your firm will also be or intends to become a participating lender in the Program, indicate how many branch offices will be participating and an estimate of the allocation you will be originating.

22. Submit the audited financial statements for the most recent fiscal year of the firm which is proposing to act as Master Servicer, and if the proposing company is a subsidiary, the most recent audited financial statements of its parent company as well. Include the most recent Statement on Auditing Standards No. 70: Service Organizations (SAS 70).

23. State whether your firm is willing to provide an up-front Service Release Premium and, if so, include a statement as to the minimum and/or maximum amounts your firm is willing to provide up front at each bond closing.

24. Include any other information that will be helpful to us in making a decision.

C SUBMISSION DIRECTIONS

Please submit 1 original and three (3) copies the proposals to the address below, **prior to 4:00 p.m. Central Standard Time, Austin, Texas, Wednesday, July 1, 2009**.

Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, Texas 78701
Attention: Eric Pike, Director
Texas Homeownership Division

D. RFP REVIEW

At a meeting of the full TDHCA governing Board, firms that have responded may be asked to make oral presentations. If so, those firms will be given not less than three (3) business days notice along with the date, time and place for the oral presentation. TDHCA staff will assist by preparing summary profiles of each proposal submitted. The Board will make the final selection based on a staff recommendation.

E. SELECTION CRITERIA

In accordance with law, TDHCA will make its selection based upon Service Release Premium, Up Front Service Release Premium, and Fees Charged per loan, Internet Services, Servicing Experience, Single Family MRB Experience, Down Payment Assistance Program and Other Experience. All things being equal, TDHCA will give first consideration to firms whose principal place of business is located in Texas. By this RFP, however, TDHCA has not committed itself to employ a Master Servicer for any or all of the above-described matters, nor does the suggested scope of services or term of the Agreement require that the Master Servicer be employed for any of those purposes. TDHCA reserves the right to make those decisions after receipt of responses to this RFP, and TDHCA's decision on these matters is final.

TDHCA reserves the right to negotiate all elements that comprise the proposal of the firm(s) to insure that the best possible consideration be afforded to all concerned. TDHCA reserves the right for any reason to reject any and all proposals and to re-solicit.

TDHCA reserves the right to select a firm(s) for specific purposes or for any combination of specific purposes and to defer the selection of any firm(s) to a time of TDHCA's choosing.

F. FURTHER INFORMATION

To obtain further information about TDHCA or this RFP, you may contact Eric Pike, Director, Texas Homeownership Division, at (512) 475-3356.

IV. ADMINISTRATIVE INFORMATION

A. COST INCURRED IN RESPONDING

All costs directly or indirectly related to preparation of a proposal or any oral presentation required to supplement and/or clarify a proposal which may be required by TDHCA shall be the sole responsibility of and shall be borne by the responding firms.

B. PROPOSAL ACCEPTANCE PERIOD

All proposals must include a statement that they are valid for a period of ninety (90) days subsequent to the closing date.

C. RELEASE OF PROPOSAL RESPONSE AND PROPRIETARY INFORMATION

If a responding firm submits proprietary information in the proposal, and does not want it to be disclosed, all proprietary information must be identified and submitted concurrently with submission of the proposal. If the responding firm fails to identify proprietary information, submission of the proposal shall cause all such data to be deemed non-proprietary and it will be made available upon public request pursuant to the Public Information Act after the review process has been completed.

D. REPORTING RESPONSIBILITIES

Master Servicer shall provide all status reports deemed necessary by TDHCA.

E. PERIOD OF PERFORMANCE

The period of performance will be subject to the term of the loans in the program.

F. INDEMNIFICATION

The Master Servicer agrees to indemnify, defend and hold harmless TDHCA, the State of Texas, its officers, agents and employees from any and all claims and losses accruing or resulting from Master Servicer's performance.

G. FEDERAL, STATE, LOCAL REQUIREMENTS

Master Servicer is responsible for both Federal and State Unemployment Insurance coverage and standard Workers' Compensation Insurance coverage. Master Servicer must comply with all Federal and State tax laws and withholding requirements. The TDHCA will not be liable to the Master Servicer or its employees for any Unemployment or Workers' Compensation coverage or Federal and State tax withholding requirements. Master Servicer shall indemnify TDHCA and pay to TDHCA any costs, penalties or loss whatsoever occasioned by Master Servicer's omission or breach of this section.

RESPONSES NOT RECEIVED BY *Wednesday, July 1, 2009, 4:00 P.M. CENTRAL STANDARD TIME* WILL NOT BE CONSIDERED!

HOME AND HOUSING TRUST FUND PROGRAMS DIVISION

BOARD ACTION REQUEST

May 21, 2009

Action Item

Presentation, Discussion and Possible Approval of Requests for Amendment(s) to HOME Investment Partnerships Program Contract(s) and/or Commitment(s):

1001106	Costa Mariposa	RHD

Requested Action

Approve, Deny or Approve with Conditions Requests for Amendment(s) to HOME Investment Partnerships Program Contract(s) and/or Commitment(s)

Background

The HOME rules, Title 10 of the Texas Administrative Code Section 53.74, provide that amendment requests can be approved by the Executive Director within a limited margin of materiality or by the Board if beyond that limit. Generally, awardees seeking an extension of more than six months or a change in the amount of the award of more than 25% or seeking significant change in the terms or service area of an award must have their amendment considered by the Board. There is no provision for penalties with regard to future applications; however, the Board does have authority to modify the award in any way consistent with State of Federal law or to terminate the award altogether.

The requests and pertinent facts about the affected developments are summarized below. The recommendation of staff is included at the end of each write-up.

Costa Mariposa

At the April 23, 2009 Board meeting, the Board approved Costa Mariposa, a tax exempt bond, 4% Housing Tax Credit and HOME funded development. The Department is the issuer for the bonds. This development is one of three developments sponsored by NRP Group that was approved at the April meeting. The subject development was not recommended by staff due to insufficient cashflow to repay the requested $3,000,000 in HOME funds. However, staff provided an alternative structure in which $654,837 of the $3,000,000 would be structured as a regular amortizing and repayable second lien mortgage and the remainder would be structured as a soft third lien repayable from available cashflow. Ultimately, the Board approved the transaction with the condition that the debt be structured as provided in the alternative proposed by staff and that the cashflow loan be structured such that the Department's regular payment receive priority to the deferred developer, asset management, incentive management and other lender/syndicator fees and a portion of any remaining cashflow after these fees would also accrue to the Department.

Staff has brought this transaction before the Board for a clarification of the underwriting report. The condition on the first page states, “An award of $3,000,000 in HOME funds with $654,837 structured as a fully amortized and repayable loan bearing interest at AFR and 35-year amortization, and the remaining $2,345,163 structured as a soft loan with payment subject to available cash flow.” The interest rate of AFR was included in this condition in error. The actual underwritten interest rate reflected in the analysis portion of the report is 0%. In accordance with the Department’s underwriting rules, Real Estate Analysis staff reduced the interest rate from AFR to 0% in order to maximum the amount of principal on the hard second lien piece of debt, thereby reducing the principal of the contingent cashflow component. If an interest rate of AFR were imposed and the principal amount of the hard second lien ($654,837) were held constant, the debt coverage ratio would fall below the Department’s minimum of 1.15 and the development could not be projected to be feasible. However, at the 0% interest rate, the DCR is equal to 1.15, exclusive of the cashflow loan, and within the Department’s criteria.

Recommendation

Staff recommends that the Board accept the previously approved HOME loan structure with the corrected interest rate of 0%.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
Real Estate Analysis Division
Underwriting Report

REPORT DATE: 04/15/09 PROGRAM: 4% HTC/ MRB/ HOME FILE NUMBER: **09604**

DEVELOPMENT

Costa Mariposa

Location: Palmer Highway Region: 6

City: Texas City County: Galveston Zip: 77591 ☐ QCT ☒ DDA

Key Attributes: New Construction, Multifamily, Urban, Family

ALLOCATION

	REQUEST			**RECOMMENDATION**		
TDHCA Program	Amount	Interest	Amort/Term	**Amount**	**Interest**	**Amort/Term**
Private Activity Mortgage Revenue Bonds	$15,000,000			**$0**		
HOME Activity Funds	$3,000,000	AFR	40 / 30	**$0**		
Housing Tax Credit (Annual)	$975,006			**$0**		

NOT RECOMMENDED DUE TO THE FOLLOWING:

- The requested amount of HOME funds is not projected to be repayable within an acceptable debt coverage ratio as required by the 2009 Real Estate Analysis Rules, 10 TAC 1.32(i)(5). In accordance with the HOME NOFA staff will not recommend to the Department's Governing Board any contingent payment loans except for applications with first lien debt that is insured by HUD or the Federal Housing Administration (FHA) or for applications with other lenders with which the Department has a Memorandum of Agreement permitting such contingent payment debt structures.

SHOULD THE BOARD APPROVE THIS AWARD, THE BOARD MUST WAIVE ITS RULES FOR THE ISSUES LISTED ABOVE, AND SUCH AN AWARD SHOULD BE CONDITIONED UPON THE FOLLOWING:

CONDITIONS

1. Issuance of up to $15,000,000 in tax exempt multifamily housing revenue bonds.
2. An allocation of tax credits not to exceed $975,006 per year for ten years.
3. An award of $3,000,000 in HOME funds with $654,837 structured as a fully amortized and repayable loan bearing interest at 0% and 35-year amortization, and the remaining $2,345,163 structured as a soft loan with payment subject to available cash flow.
4. Receipt, review, and acceptance, prior to closing on the bonds, of a tax attorney or CPA opinion determining that the proposed HOME financing can be considered to be a valid debt with the reasonable expectation that it will be repaid in full.
5. Receipt, review, and acceptance, by cost certification, of evidence that a noise study in accordance with HUD guidelines has been conducted, and that any resulting recommendations have been followed.

6 Receipt, review, and acceptance, prior to closing on the bonds , of an opinion from the Applicant's attorney stating that they have reviewed the Applicant's qualifications to meet Galveston County's requirements for the 50% property tax exemption. Additionally, documentation of the exemption, once received, to be provided at Cost Certification.

7 Receipt, review, and acceptance, before closing, of evidence of the execution of a partial release of the lien identified in Schedule C, Item 6 of the title commitment.

8 If the rates or terms of any of the financing change, the underwriting analysis should be re-evaluated, and an adjustment to the allocations may be warranted.

SALIENT ISSUES

TDHCA SET-ASIDES for HTC LURA		
Income Limit	Rent Limit	Number of Units
30% of AMI	30% of AMI	14
60% of AMI	60% of AMI	238

TDHCA SET-ASIDES for HOME LURA		
Income Limit	Rent Limit	Number of Units
30% of AMI	30%/Low HOME	14
60% of AMI	60%/High HOME	37

PROS

CONS

- The proforma analysis indicates it would take more than 20 years to repay the proposed HOME loan and the required deferred developer fee.
- The Applicant's projected operating expenses assumes a 50% property tax exemption for CHDO's, but the Department has determined that the Applicant does not qualify as a CHDO

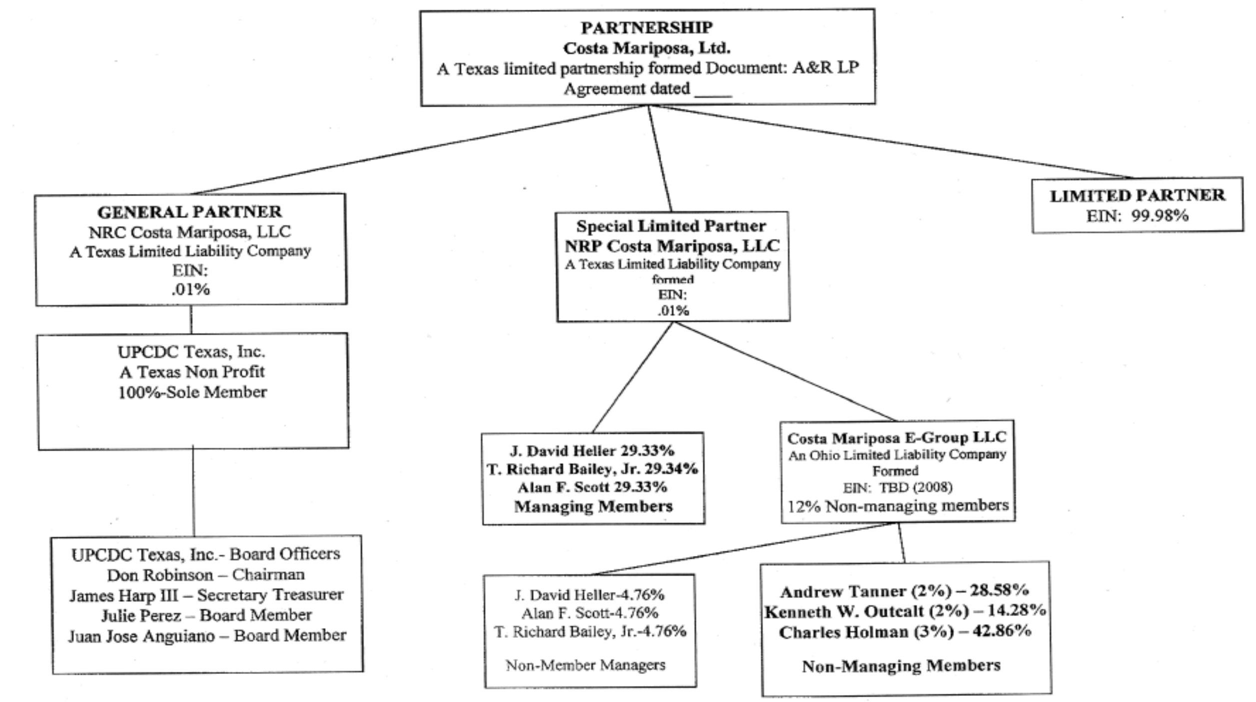
PREVIOUS UNDERWRITING REPORTS

none

DEVELOPMENT TEAM

OWNERSHIP STRUCTURE

Costa Mariposa



CONTACT

Contact: Valerie Garrity Phone: (216) 584-0674 Fax: (216) 584-2572

Email: vgarrity@nrpgroup.com

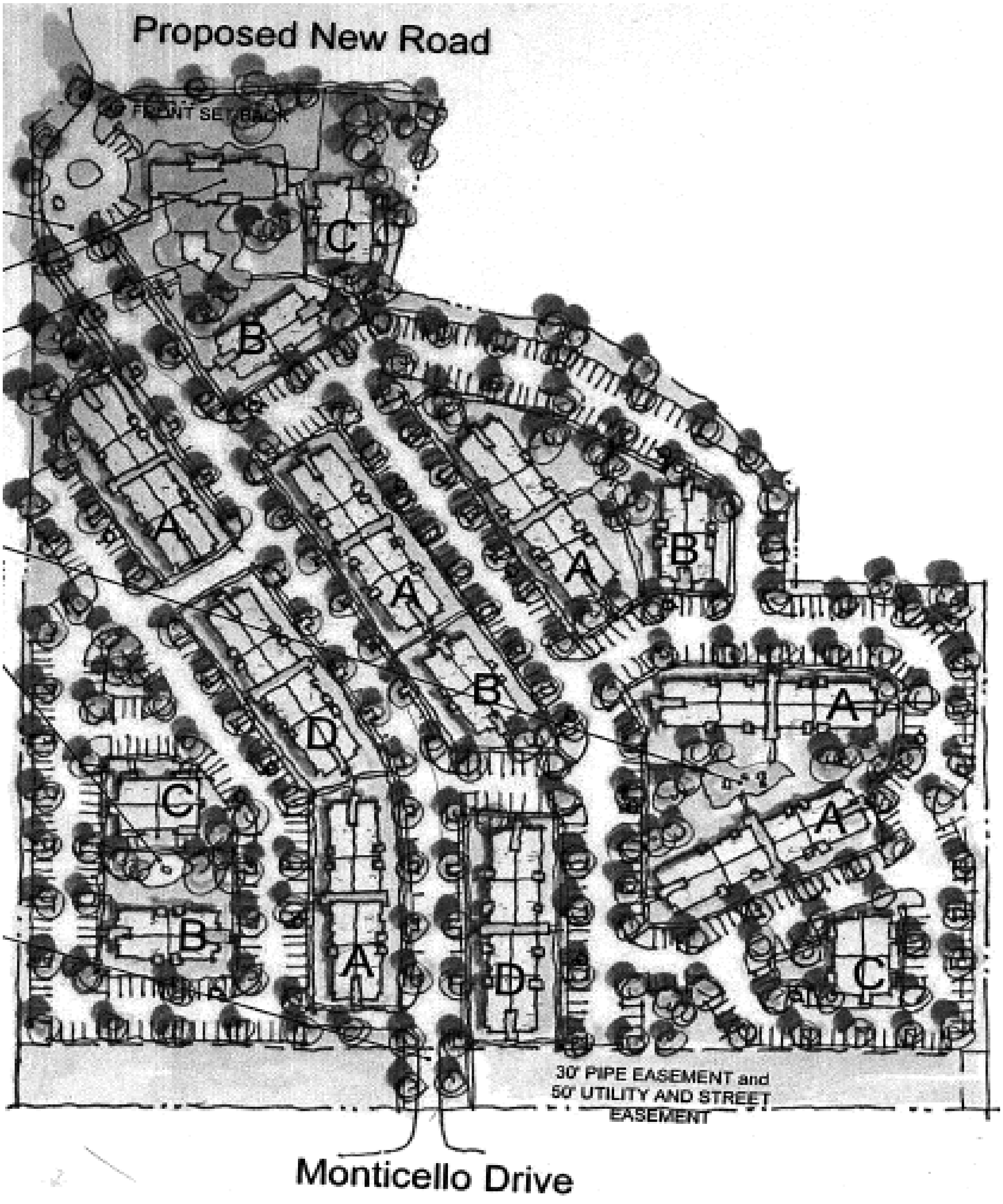
KEY PARTICIPANTS

Name	Financial Notes	# Completed Developments
Costa Mariposa, Ltd.	N/A	2
Urban Progress Community Development Corp.	N/A	0
NRP Holdings, LLC	N/A	15
NRP Contractors, LLC	N/A	15
NRP Properties, LLC		15

IDENTITIES of INTEREST

- The Applicant, Developer, General Contractor, and Property Manager are related entities. These are common relationships for HTC-funded developments.

PROPOSED SITE
SITE PLAN



BUILDING CONFIGURATION

Building Type	A	B	C	Ca	D						Total Buildings
Floors/Stories	3	3	2	2	3						
Number	6	4	2	1	2						**15**

BR/BA	SF	Units										Total Units	Total SF
1 / 1	722					6						12	8,664
2 / 2	936	12				6						84	78,624
2 / 2	930		12									48	44,640
3 / 2	1,112	12				12						96	106,752
4 / 2	1,561			4	3							11	17,171
4 / 2	1,685				1							1	1,685
Units per Building		24	12	4	4	24						**252**	**257,536**

SITE ISSUES

Total Size: 15.68 acres
Flood Zone: X
Zoning: PUD

Scattered site? ☐ Yes ☒ No
Within 100-yr floodplain? ☐ Yes ☒ No
Needs to be re-zoned? ☐ Yes ☒ No ☐ N/A

TDHCA SITE INSPECTION

Inspector: TDHCA Staff   Date: 11/20/2008

Overall Assessment:

☐ Excellent ☒ Acceptable ☐ Questionable ☐ Poor ☐ Unacceptable

Surrounding Uses:

North: vacant land   beyond: Palmer Highway
South: Monticello Drive   beyond: church, vacant land
East: vacant land   beyond: Mainland Medical Center
West: bayou   beyond: College of the Mainland

HIGHLIGHTS of ENVIRONMENTAL REPORTS

Provider: Arias & Associates   Date: 8/19/2008

Comments:

"It is our opinion that no recognized environmental conditions were identified involving the Site. Therefore, Arias has concluded that there is a low level of environmental risk associated with this property." (p. 1)

"Based on the Site's proximity to airports, railroads, and major highways, a noise study is recommended." (p. 2) Any funding recommendation will be subject to receipt, review, and acceptance, by cost certification, of evidence that a noise study in accordance with HUD guidelines has been conducted, and that any resulting recommendations have been followed.

MARKET HIGHLIGHTS

Provider: Apartment MarketData   Date: 9/25/2008
Contact: Darrell Jack   Phone: (210) 530-0040   Fax: (210) 340-5830
Number of Revisions: none   Date of Last Applicant Revision: N / A

Primary Market Area (PMA): 96.4 sq. miles   6 mile equivalent radius

"The boundaries of the primary market area follow those of the following census tracts:

481677209	481677210	481677219	481677220	481677221
481677222	481677223	481677224	481677225	481677226
481677227	481677228	481677229	481677230	481677231
481677232	481677233	481677238		

These boundaries approximately follow FM 517 to the north, Galveston Bay to the east, State Hwy 6 and Highland Bayou to the south, and FM 646 to the west." (p. 4)

Secondary Market Area (SMA):

The market study does not define a secondary market area.

PROPOSED, UNDER CONSTRUCTION & UNSTABILIZED COMPARABLE DEVELOPMENTS				
PMA				SMA
Name	File #	Total Units	Comp Units	
Village at Morningstar	04213	100	senior	
Morningstar Villas	07293	36	senior	
Cedar Drive Village	060034	36	senior	
Highland Manor	08198	141	senior	
Mansions at Moses Lake	08402	240	senior	
Heritage Square	08303	50	rehab	

INCOME LIMITS						
Galveston						
% AMI	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons
30	$12,850	$14,700	$16,500	$18,350	$19,800	$21,300
60	$25,680	$29,340	$33,000	$36,660	$39,600	$42,540

MARKET ANALYST'S PMA DEMAND by UNIT TYPE							
Unit Type	Turnover Demand	Growth Demand	Other Demand	Total Demand	Subject Units	Unstabilized Comparable (PMA)	Capture Rate
1 BR / 30% of AMI	148	0		148	3		2%
1 BR / 60% of AMI	252	0		252	9		4%
2 BR / 30% of AMI	76	-4		72	4		6%
2 BR / 60% of AMI	129	-1		128	128		100%
3 BR / 30% of AMI	59	-3		56	4		7%
3 BR / 60% of AMI	80	0		80	92		115%
4 BR / 30% of AMI	23	-1		22	3		14%
4 BR / 60% of AMI	24	0		24	9		38%

UNDERWRITING ANALYSIS of PMA DEMAND by UNIT TYPE							
Unit Type	Turnover Demand	Growth Demand	Other Demand	Total Demand	Subject Units	Unstabilized Comparable (PMA)	Capture Rate
1 BR / 30% of AMI	39	0		39	3		8%
1 BR / 60% of AMI	71	0		71	9		13%
2 BR / 30% of AMI	45	-2		42	4		9%
2 BR / 60% of AMI	95	-1		93	128		137%
3 BR / 30% of AMI	38	-2		36	4		11%
3 BR / 60% of AMI	59	1		60	92		154%
4 BR / 30% of AMI	197	-1		196	3		2%
4 BR / 60% of AMI	216	-26		189	9		5%

OVERALL DEMAND					
	Target Households	Household Size	Income Eligible	Tenure	Demand
PMA DEMAND from TURNOVER					
Market Analyst p. 56				4,638	44% 2,055
Underwriter	100% 28,097	95% 26,692	31% 8,366	45% 3,745	44% 1,659
PMA DEMAND from HOUSEHOLD GROWTH					
Market Analyst p. 56					14
Underwriter		95% 218	31% 65	45% 29	100% 29

INCLUSIVE CAPTURE RATE						
	Subject Units	Unstabilized Comparable (PMA)	Unstabilized Comparable (25% SMA)	Total Supply	Total Demand	Inclusive Capture Rate
Market Analyst p. 57	252	0	0	252	2,069	12%
Underwriter	252	0	0	252	1,688	15%

Supply and Demand Analysis:

A number of unstabilized properties exist within the PMA, but they all target seniors, so none are considered comparable and none will be included in the calculation of an inclusive capture rate. The Market Analyst identified demand for 2,055 units due to household turnover and demand for 14 units based on household growth, concluding an inclusive capture rate of 12%. The underwriting analysis, based on the demographic data presented in the market study, identified demand for 1,659 units due to household turnover and demand for 29 units based on household growth, concluding an inclusive capture rate of 15%. Both conclusions are well below the maximum capture rate of 25% for urban developments targeting families.

Primary Market Occupancy Rates:

"The current occupancy of the market area is 92.8% as a result of stable demand." (p. 10)

Absorption Projections:

Over the past 6 years, we see 641 new units built since 2000 have been absorbed. This fares well for Costa Mariposa." (p. 13)

RENT ANALYSIS (Tenant-Paid Net Rents)					
Unit Type (% AMI)	Proposed Rent	Program Maximum	Market Rent	Underwriting Rent	Savings Over Market
1 BR 722 SF 30%	$261	$261	$631	$261	$370
1 BR 722 SF 60%	$620	$617	$631	$617	$14
1 BR 722 SF 60%	$620	$620	$631	$620	$11
2 BR 930 SF 30%	$308	$311	$806	$311	$496
2 BR 930 SF 60%	$739	$741	$806	$741	$65
2 BR 930 SF 60%	$739	$741	$806	$741	$65
2 BR 936 SF 30%	$308	$311	$806	$311	$496
2 BR 936 SF 60%	$739	$741	$806	$741	$65
2 BR 936 SF 60%	$739	$741	$806	$741	$65
3 BR 1,112 SF 30%	$350	$352	$931	$352	$579
3 BR 1,112 SF 60%	$848	$849	$931	$849	$82
3 BR 1,112 SF 60%	$848	$849	$931	$849	$82
4 BR 1,561 SF 30%	$382	$384	$1,181	$384	$797
4 BR 1,561 SF 60%	$937	$939	$1,181	$939	$242
4 BR 1,561 SF 60%	$937	$939	$1,181	$939	$242
4 BR 1,685 SF 60%	$937	$939	$1,181	$939	$242

Market Impact:

"The proposed project is not likely to have a dramatically detrimental effect on the balance of supply and demand in this market. Affordable family projects are 98.5% occupied. This demonstrates that the demand for new affordable rental housing is high." (p. 14)

Comments:

The market study provides sufficient information on which to base a funding recommendation.

OPERATING PROFORMA ANALYSIS

Income: Number of Revisions: 4 Date of Last Applicant Revision: 3/27/2009

The Applicant has applied for HOME financing as well as tax credits; some units are therefore subject to multi-layered restrictions. When more than one program applies, the most restrictive rent restriction is used. The Applicant's projected income is based on program rents adjusted by utility allowances developed by an outside consultant. These utility allowances have been approved by Cirro Energy, the regional utility provider, as required under Department guidelines.

Estimates of secondary income and vacancy and collection loss are in line with Department guidelines. Overall, the Applicant's projected income is within 1% of the underwriting estimate.

Expense: Number of Revisions: 1 Date of Last Applicant Revision: 3/24/2009

The Applicant's projected annual operating expenses are $3,905 per unit; this is within 3% of the underwriting estimate of $4,045, based on the TDHCA database and third party sources. There are several line items that vary significantly: general & administrative (the Applicant's projection is lower by $28K); management ($12K lower); payroll & payroll tax ($21K lower); utilities ($26K lower); and property insurance ($63K higher).

The Applicant has indicated that the sole member of the General Partner is a Texas non profit, CHDO and 501c 3, and therefore, the partnership should be entitled to a 50% CHDO tax exemption under Sec. 11.1825 of the Texas Property Code. The Applicant's expense estimate for property taxes takes into account the anticipated 50% property tax exemption. The Underwriter's estimate also considers a 50% exemption; however, TDHCA has determined that the Applicant does not qualify as a CHDO for purposes of the application for HOME funding. This raises concern that the Applicant may not qualify for a property tax exemption as a CHDO. As a result, any award should be conditioned upon receipt, review and acceptance, by cost certification, of documentation reflecting that the property has received at least a 50% tax exemption.

Conclusion:

The Applicant's projected gross income, expenses, and net operating income (NOI) are each within 5% of the underwriting estimates; therefore, the Applicant's figures will be used to determine debt capacity and financial feasibility. The Applicant's NOI provides a debt coverage ratio (DCR) of 1.15 based on the debt service associated with the primary mortgage only. However, while the Applicant's requested terms for the HOME funds include a 40-year amortization and interest rate at AFR, the Applicant's proforma does not contemplate any debt service on the Department's HOME funds. If the debt service based on the requested terms for the TDHCA HOME funds is included the Applicant's DCR would fall to well below the Department's minimum guideline of 1.15.

It has been the Department's policy that TDHCA HOME funds be structured as repayable debt in order to ensure that these funds are returned to the Department and recycled for future activities. Additionally, in accordance with the HOME NOFA staff will not recommend to the Department's Governing Board any contingent payment loans except for applications with first lien debt that is insured by HUD or the Federal Housing Administration (FHA) or for applications with other lenders with which the Department has a Memorandum of Agreement permitting such contingent payment debt structures. Therefore, since these exceptions do not apply to this application the Underwriter's recommendation will attempt to structure the requested HOME funds as fully amortized debt. This will be discussed further later in the report.

Feasibility:

Insufficient debt coverage can sometimes be mitigated by a reduction in the debt amount, if the resulting gap can be filled by deferral of developer fees. However, as will be discussed later in this report, if the debt amount is reduced to achieve the minimum debt coverage ratio the deferred fees far exceed the available 15-year cash flow. The development must therefore be considered infeasible, and cannot be recommended for funding pursuant to 10 TAC 1.32(i)(2).

ACQUISITION INFORMATION

ASSESSED VALUE

Land Only:	21.6 acres	$137,660	Tax Year:	2007
prorata per acre:		$6,373	Valuation by:	
subject 15.68 acres:		$99,931	Tax Rate:	3.369661

EVIDENCE of PROPERTY CONTROL

Type: Agreement to Purchase Unimproved Real Estate, as Amended   Acreage: 15.68

Contract Expiration: 5/24/2009   Valid Through Board Date? [X] Yes [ ] No

Acquisition Cost: $2,550,000   Other:

Seller: Highway 66 Partners   Related to Development Team? [ ] Yes [X] No

Comments:

The original purchase contract submitted with the application indicated a sale price of $1,700,000. The most recent revised development cost schedule indicates an acquisition cost of $2,550,000. When asked about this change, the Applicant provided an executed, but undated, amendment to the contract, and the explanation: "When we originally put the site under contract, we were going to pay for the non-reimbursable offsite improvements. However, the seller has decided to put the offsite improvements in and has increased their purchase price. We are being delivered a site that has all infrastructure to the site."

TITLE

Comments:

Schedule C, Item 6 of the title commitment references a Deed of Trust dated December 4, 2007 securing payment of one note in the principal amount of $2,100,000. The item indicates that this lien encumbers additional property. Any recommended funding will be conditioned on receipt, review, and acceptance, before closing, of evidence of the execution of a partial release of this lien as it relates to the subject property.

CONSTRUCTION COST ESTIMATE EVALUATION

COST SCHEDULE   Number of Revisions: 2   Date of Last Applicant Revision: 3/24/2009

Acquisition Value:

The acquisition cost of $10K per unit is assumed to be reasonable as the purchase is an arm's length transaction.

Sitework Cost:

Sitework costs are equal to $9,000 per unit. This is the maximum permitted by the underwriting guidelines without substantiation by a third party engineer.

Direct Construction Cost:

The original development cost schedule submitted with the application indicated direct construction costs of $14.3 million, or $56 per sq. ft. During the underwriting process the Applicant submitted a revised cost schedule that reduced this cost by 17% to $11.9 million with the explanation that the development is receiving "cost advantages in the bidding process." The Applicant's most recent cost schedule has revised the direct construction cost again to $12.9 million. This final iteration is within 5% of the underwriting estimate of $13.6 million, derived from the Marshall & Swift Residential Cost Handbook. It should be noted that the Applicant currently has another pending application, the Woodmont Apartments in Fort Worth, with an identical development; the Applicant's projected direct construction cost for Woodmont is $13.1 million.

Contingency & Fees:

The Applicant included $100,000 of soft cost contingency under interim financing. Underwriting guidelines require this to be included under the limit for total contingency. The Applicant's figures have been adjusted accordingly.

Conclusion:

The Applicant's projected total development cost is $27.9 million. The underwriting estimate is $28.5 million. Since the Applicant's latest projection for total development cost is within 5% of the underwriting estimate, the Applicant's figures will be used to calculate eligible basis and to determine the need for permanent financing. The calculated eligible basis of $23,935,923 is increased by 30% because the site is located in a Qualified Census Tract. The adjusted basis of $29,816,700 supports a tax credit allocation of $1,025,694 per year over ten years. This amount will be compared to the Applicant's requested allocation, and the amount determined by the gap in financing, to determine any recommended allocation.

FINANCING STRUCTURE

SOURCES & USES Number of Revisions: 2 Date of Last Applicant Revision: 2/23/2009

Source: NRP Holdings, Inc. Type: **Interim Financing**

Principal: $275,000 Interest Rate: ☐ Fixed Term: months

Source: TDHCA HOME Type: **Permanent Financing**

Principal: $4,000,000 Interest Rate: AFR ☒ Fixed Amort: 420 months

Comments:

The application indicates a request for HOME funds amortized over 40 years at the Applicable Federal rate; however, the Applicant has not included any debt service associated with this funding. In accordance with the HOME NOFA, the requested HOME funds must be structured as a fully repayable debt and meet the minimum DCR requirements in the Real Estate Analysis Rules and Guidelines described in 10 TAC §1.32. As such staff has evaluated the requested amount amortized at AFR over the same period as the primary debt (35 years). It should also be noted that the original application requested $3 million in HOME funds; a revised application sought to increase this amount to $4 million under a CHDO allocation, but the Department's legal review determined that the Applicant did not qualify as a CHDO for purposes of this allocation.

Issuer: TDHCA

Source: MMA Financial Type: **Interim to Permanent Bond Financing**

Tax-Exempt: $13,680,000 Interest Rate: 6.475% ☐ Fixed Amort: 420 months

Comments:

Bank of America will provide a Construction Letter of Credit in the principal amount of $15,000,000. The Underwriter estimated the interest on the construction loan based upon the following: 2% base rate, 2% cushion, 0.33% fees, 2% LC.

The forward commitment from MMA reflects a 17 year cap with a base rate not to exceed 6%. The rate stack includes: bond trustee and issuer fees of 0.33%; credit enhancement fees of 1.85% and servicing spread of 0.40%. The lender utilized an underwriting rate of 6.39% (includes 3.86% base rate + 2.53% in fees).

Source: Bank of America | Type: **Syndication**

Proceeds: $8,432,116 | Syndication Rate: 86.5% | Anticipated HTC: $ 975,006

Comments:

The Equity Letter of Interest dated March 30, 2009 indicates a syndication price of $0.865 per tax credit dollar.

Amount: $345,333 | Type: **GIC Income**

Comments:

The Applicant's most recent sources and uses indicates $345,333 in interest income to be derived from the investment of bond proceeds in a Guaranteed Investment Contract. Underwriting guidelines do not include GIC income as a source of funds. These funds are considered to be at the Developer's risk, and are therefore added to any deferred developer fee and must be repayable from cash flow.

Amount: $1,410,197 | Type: **Deferred Developer Fees**

Comments:

The Applicant's most recent sources and uses indicates $1,410,197 in deferred developer fees.

CONCLUSIONS

Recommended Financing Structure:

As stated above, the Applicant's proforma, including the TDHCA HOME funds amortized over the requested 40 years at AFR, results in a debt coverage ratio well below the Department's minimum guideline of 1.15. The underwriting analysis indicates that in order to achieve the minimum 1.15 DCR, the maximum amortized HOME loan possible is $654,837 at 0% for 35 years (the amortization period of the primary debt). This adjustment would require the remaining $2,345,163 to be structured as soft financing payable only out of available cashflow. Therefore, the requested amount of HOME funds is not projected to be repayable within an acceptable debt coverage ratio as required by the 2009 Real Estate Analysis Rules, 10 TAC 1.32(i)(5). In accordance with the HOME NOFA staff will not recommend to the Department's Governing Board any contingent payment loans and, therefore, this development cannot be recommended for funding.

Should the Board choose to waive its rules for the issues listed above, the requested HOME funds would require a structure as follows in order to fall within the Department's Real Estate Analysis Rules: a HOME award of $654,837 structured as a fully amortized and repayable loan at 0% interest and 35-year amortization, and the remaining $2,345,163 structured as soft financing payable out of available cash flow.

If the Board approves this structure, the Applicant's projected total development cost less the permanent debt of $16,680,000 indicates the need for $11,187,646 in gap funds. Based on the submitted syndication terms, a tax credit allocation of $1,293,628 annually would be required to fill this gap in financing. The underwriting guidelines consider three possible tax credit allocation amounts:

Credit amount determined by eligible basis:	$1,025,694
Credit amount requested by the Applicant:	$975,006
Credit amount determined by the gap in financing:	$1,293,628

Of these amounts, the allocation requested by the Applicant would be recommended as it is the least of the three options. This financing structure would require $2,755,530 in additional permanent funds is required. This amounts to 92% of the developer fee available. Moreover, this amount represents 75% of the available cash flow through 15 years of stabilized operation. This structure would therefore provide $2,345,163 of Federal HOME funds with repayment subject to available cash flow, and no expectation of available cash flow for more than 10 years. The proforma analysis indicates it would take more than 20 years to repay the deferred developer fee and the proposed $3,000,000 HOME loan.

If Federal financing is provided without the reasonable expectation that it will be repaid in full, it should be considered a grant. IRC§42 requires that a federal grant be excluded from eligible basis for Housing Tax Credits. Such treatment would reduce the equity proceeds and further undermine the feasibility of the property. Therefore, should the Board approve the alternative structure whereby $2.3M of the requested HOME funds are structured as soft financing, such an award should conditioned upon receipt, review and acceptance of, prior to closing on the bonds, of a tax attorney or CPA opinion determining that the proposed HOME financing can be considered to be a valid debt with the reasonable expectation that it will be repaid in full.

Even if the Department were to grant the $3,000,000 in HOME funds to the Applicant, there would still be a signficant shortfall in cashflow over the 15 year period to repay the gap in funds remaining.

Underwriter:	*Thomas Cavanagh*	Date:	April 15, 2009
Manager of Real Estate Analysis:	*Raquel Morales*	Date:	April 15, 2009
Director of Real Estate Analysis:	*Brent Stewart*	Date:	April 15, 2009

MULTIFAMILY COMPARATIVE ANALYSIS- HOME FUNDS FULLY REPAYABLE

Costa Mariposa, Texas City, 4% HTC/ MRB/ HOME #09604

Type of Unit	Other	Number	Bedrooms	No. of Baths	Size in SF	Gross Rent Lmt.	Rent Collected	Rent per Month	Rent per SF	Tnt-Pd Util	Trash
TC 30%	LH	3	1	1	722	$358	$261	$783	$0.36	$97.00	$12.00
TC 60%	HH	3	1	1	722	$717	$617	$1,851	$0.85	$97.00	$12.00
TC 60%		6	1	1	722	$717	$620	$3,720	$0.86	$97.00	$12.00
TC 30%	LH	1	2	2	930	$431	$311	$311	$0.33	$120.00	$12.00
TC 60%	HH	9	2	2	930	$861	$741	$6,669	$0.80	$120.00	$12.00
TC 60%		38	2	2	930	$861	$741	$28,158	$0.80	$120.00	$12.00
TC 30%	LH	3	2	2	936	$431	$311	$932	$0.33	$120.00	$12.00
TC 60%	HH	10	2	2	936	$861	$741	$7,410	$0.79	$120.00	$12.00
TC 60%		71	2	2	936	$861	$741	$52,611	$0.79	$120.00	$12.00
TC 30%	LH	4	3	2	1,112	$498	$352	$1,408	$0.32	$146.00	$12.00
TC 60%	HH	12	3	2	1,112	$995	$849	$10,188	$0.76	$146.00	$12.00
TC 60%		80	3	2	1,112	$995	$849	$67,920	$0.76	$146.00	$12.00
TC 30%	LH	3	4	2	1,561	$555	$384	$1,152	$0.25	$171.00	$12.00
TC 60%	HH	3	4	2	1,561	$1,110	$939	$2,817	$0.60	$171.00	$12.00
TC 60%		5	4	2	1,561	$1,110	$939	$4,695	$0.60	$171.00	$12.00
TC 60%		1	4	2	1,685	$1,110	$939	$939	$0.56	$171.00	$12.00
TOTAL:		252		**AVERAGE:**	1,022		$760	$191,563	$0.74	$131.24	$12.00

INCOME	Total Net Rentable Sq Ft:	257,536		TDHCA	APPLICANT	COUNTY	IREM REGION	COMPT. REGION
POTENTIAL GROSS RENT				$2,298,756	$2,294,184	Galveston	Houston	6
Secondary Income		Per Unit Per Month:	$7.50	22,680	22,680	$7.50	Per Unit Per Month	
Other Support Income:				0		$0.00	Per Unit Per Month	
POTENTIAL GROSS INCOME				$2,321,436	$2,316,864			
Vacancy & Collection Loss		% of Potential Gross Income:	-7.50%	(174,108)	(173,760)	-7.50%	of Potential Gross Income	
Employee or Other Non-Rental Units or Concessions				0				
EFFECTIVE GROSS INCOME				$2,147,328	$2,143,104			

EXPENSES		% OF EGI	PER UNIT	PER SQ FT	TDHCA	APPLICANT	PER SQ FT	PER UNIT	% OF EGI
General & Administrative		4.11%	$350	0.34	$88,208	$65,520	$0.25	$260	3.06%
Management		5.00%	426	0.42	107,366	85,724	0.33	340	4.00%
Payroll & Payroll Tax		11.45%	976	0.95	245,928	239,400	0.93	950	11.17%
Repairs & Maintenance		6.37%	543	0.53	136,856	126,000	0.49	500	5.88%
Utilities		3.45%	294	0.29	74,160	48,400	0.19	192	2.26%
Water, Sewer, & Trash		2.86%	243	0.24	61,344	65,000	0.25	258	3.03%
Property Insurance		4.31%	367	0.36	92,497	155,484	0.60	617	7.26%
Property Tax	3.37	5.93%	505	0.49	127,373	112,802	0.44	448	5.26%
Reserve for Replacements		2.93%	250	0.24	63,000	63,000	0.24	250	2.94%
TDHCA Compliance Fees		0.47%	40	0.04	10,080	10,080	0.04	40	0.47%
Other: supportive services		0.59%	50	0.05	12,600	12,600	0.05	50	0.59%
TOTAL EXPENSES		47.47%	$4,045	$3.96	$1,019,413	$984,010	$3.82	$3,905	45.92%
NET OPERATING INC		52.53%	$4,476	$4.38	$1,127,915	$1,159,094	$4.50	$4,600	54.08%
DEBT SERVICE									
MMA Financial		46.06%	$3,924	$3.84	$988,962	$1,007,284	$3.91	$3,997	47.00%
TDHCA HOME		6.89%	$587	$0.57	147,952		$0.00	$0	0.00%
Additional Financing		0.00%	$0	$0.00	0		$0.00	$0	0.00%
NET CASH FLOW		-0.42%	(36)	(0)	(8,998)	$151,810	$0.59	$602	7.08%
AGGREGATE DEBT COVERAGE RATIO					0.99	1.15			
RECOMMENDED DEBT COVERAGE RATIO						1.17			

CONSTRUCTION COST

Description	Factor	% of TOTAL	PER UNIT	PER SQ FT	TDHCA	APPLICANT	PER SQ FT	PER UNIT	% of TOTAL
Acquisition Cost (site or bldg)		8.95%	$10,119	$9.90	$2,550,000	$2,550,000	$9.90	$10,119	9.15%
Off-Sites		0.00%	0	0.00	0	0	0.00	0	0.00%
Sitework		7.96%	9,000	8.81	2,268,000	2,268,000	8.81	9,000	8.14%
Direct Construction		47.64%	53,857	52.70	13,572,021	12,949,079	50.28	51,385	46.47%
Contingency	3.92%	2.18%	2,462	2.41	620,424	620,424	2.41	2,462	2.23%
Contractor's Fees	13.45%	7.48%	8,454	8.27	2,130,392	2,130,392	8.27	8,454	7.64%
Indirect Construction		3.27%	3,693	3.61	930,563	930,563	3.61	3,693	3.34%
Ineligible Costs		7.03%	7,951	7.78	2,003,722	2,003,722	7.78	7,951	7.19%
Developer's Fees	14.54%	10.50%	11,869	11.61	2,991,000	2,991,000	11.61	11,869	10.73%
Interim Financing		3.67%	4,153	4.06	1,046,466	1,046,466	4.06	4,153	3.76%
Reserves		1.33%	1,500	1.47	378,000	378,000	1.47	1,500	1.36%
TOTAL COST		100.00%	$113,058	$110.63	$28,490,588	$27,867,646	$108.21	$110,586	100.00%
Construction Cost Recap		*65.25%*	***$73,773***	***$72.19***	***$18,590,837***	***$17,967,895***	***$69.77***	***$71,301***	*64.48%*

SOURCES OF FUNDS	%	PER UNIT	PER SQ FT	TDHCA	APPLICANT	RECOMMENDED	
MMA Financial	48.02%	$54,286	$53.12	$13,680,000	$13,680,000	$13,680,000	Developer Fee Available
TDHCA HOME	10.53%	$11,905	$11.65	3,000,000	3,000,000	3,000,000	$2,991,000
Bank of America- HTC Proceeds	29.60%	$33,461	$32.74	8,432,116	8,432,116	8,432,116	% of Dev. Fee Deferred
GIC Income					345,333		
Deferred Developer Fees	4.95%	$5,596	$5.48	1,410,197	1,410,197	2,755,530	92%
Additional (Excess) Funds Req'd	6.91%	$7,811	$7.64	1,968,275	1,000,000	0	15-Yr Cumulative Cash Flow
TOTAL SOURCES				$28,490,588	$27,867,646	$27,867,646	$1,746,974

MULTIFAMILY COMPARATIVE ANALYSIS (continued)

Costa Mariposa, Texas City, 4% HTC/ MRB/ HOME #09604

DIRECT CONSTRUCTION COST ESTIMATE

Marshall & Swift Residential Cost Handbook

Average Quality Multiple Residence Basis

CATEGORY	FACTOR	UNITS/SQ FT	PER SF	AMOUNT
Base Cost			$54.94	$14,149,864
Adjustments				
Exterior Wall Finish	0.00%		$0.00	$0
Elderly	0.00%		0.00	0
9-Ft. Ceilings	3.00%		1.65	424,496
Roofing			0.00	0
Subfloor			(1)	(212,943)
Floor Cover			2.38	612,936
Breezeways/Balconies	$22.95	20,541	1.83	471,413
Plumbing Fixtures	$835	720	2.33	601,200
Rough-ins	$410	504	0.80	206,640
Built-In Appliances	$1,800	252	1.76	453,600
Exterior Stairs	$1,875	80	0.58	150,000
Interior Stairs	$1,575	12	0.07	18,900
Heating/Cooling			1.83	471,291
Garages/Carports			0.00	0
Comm &/or Aux Bldgs	$72.88	3,582	1.01	261,038
Other: fire sprinkler	$2.15	257,536	2.15	553,702
SUBTOTAL			70.52	18,162,138
Current Cost Multiplier	1.01		0.71	181,621
Local Multiplier	0.91		(6)	(1,634,592)
TOTAL DIRECT CONSTRUCTION COSTS			$64.88	$16,709,167
Plans, specs, survy, bld prmts	3.90%		(3)	(651,658)
Interim Construction Interest	3.38%		(2)	(563,934)
Contractor's OH & Profit	11.50%		(7)	(1,921,554)
NET DIRECT CONSTRUCTION COSTS			$52.70	$13,572,021

PAYMENT COMPUTATION

Primary	$13,680,000	Amort	420
Int Rate	6.48%	DCR	1.14
Secondary	$3,000,000	Amort	420
Int Rate	3.46%	Subtotal DCR	0.99
Additional	$0	Amort	
Int Rate		Aggregate DCR	0.99

RECOMMENDED FINANCING STRUCTURE APPLICAN

Primary Debt Service	$988,962
Secondary Debt Service	0
Additional Debt Service	0
NET CASH FLOW	$170,132

Primary	$13,680,000	Amort	420
Int Rate	6.48%	DCR	1.17
Secondary	$3,000,000	Amort	0
Int Rate	0.00%	Subtotal DCR	1.17
Additional	$0	Amort	0
Int Rate	0.00%	Aggregate DCR	1.17

OPERATING INCOME & EXPENSE PROFORMA: RECOMMENDED FINANCING STRUCTURE (APPLICANT'S NOI)

INCOME at 2.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
POTENTIAL GROSS RENT	$2,294,184	$2,340,068	$2,386,869	$2,434,606	$2,483,299	$2,741,762	$3,027,127	$3,342,193	$4,074,114
Secondary Income	22,680	23,134	23,596	24,068	24,550	27,105	29,926	33,040	40,276
Other Support Income:	0	0	0	0	0	0	0	0	0
POTENTIAL GROSS INCOME	2,316,864	2,363,201	2,410,465	2,458,675	2,507,848	2,768,867	3,057,053	3,375,233	4,114,391
Vacancy & Collection Loss	(173,760)	(177,240)	(180,785)	(184,401)	(188,089)	(207,665)	(229,279)	(253,143)	(308,579)
Employee or Other Non-Rental Units or Cc	0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME	$2,143,104	$2,185,961	$2,229,680	$2,274,274	$2,319,759	$2,561,202	$2,827,774	$3,122,091	$3,805,811
EXPENSES at 3.00%									
General & Administrative	$65,520	$67,486	$69,510	$71,595	$73,743	$85,489	$99,105	$114,890	$154,402
Management	85,724	87,438	89,187	90,971	92,790	102,448	113,111	124,883	152,232
Payroll & Payroll Tax	239,400	246,582	253,979	261,599	269,447	312,363	362,114	419,789	564,162
Repairs & Maintenance	126,000	129,780	133,673	137,684	141,814	164,401	190,586	220,942	296,927
Utilities	48,400	49,852	51,348	52,888	54,475	63,151	73,209	84,870	114,058
Water, Sewer & Trash	65,000	66,950	68,959	71,027	73,158	84,810	98,318	113,978	153,177
Insurance	155,484	160,149	164,953	169,902	174,999	202,871	235,184	272,642	366,408
Property Tax	112,802	116,186	119,672	123,262	126,960	147,181	170,623	197,799	265,825
Reserve for Replacements	63,000	64,890	66,837	68,842	70,907	82,201	95,293	110,471	148,464
Other	22,680	23,360	24,061	24,783	25,527	29,592	34,306	39,770	53,447
TOTAL EXPENSES	$984,010	$1,012,673	$1,042,179	$1,072,552	$1,103,819	$1,274,507	$1,471,849	$1,700,033	$2,269,102
NET OPERATING INCOME	$1,159,094	$1,173,288	$1,187,502	$1,201,722	$1,215,940	$1,286,695	$1,355,925	$1,422,058	$1,536,709
DEBT SERVICE									
First Lien Financing	$988,962	$988,962	$988,962	$988,962	$988,962	$988,962	$988,962	$988,962	$988,962
Second Lien	147,952	147,952	147,952	147,952	147,952	147,952	147,952	147,952	147,952
Other Financing	0	0	0	0	0	0	0	0	0
NET CASH FLOW	$22,180	$36,374	$50,588	$64,808	$79,027	$149,781	$219,011	$285,144	$399,795
DEBT COVERAGE RATIO	1.02	1.03	1.04	1.06	1.07	1.13	1.19	1.25	1.35

MULTIFAMILY COMPARATIVE ANALYSIS- HOME FUNDS NOT FULLY REPAYABLE

Costa Mariposa, Texas City, 4% HTC/ MRB/ HOME #09604

Type of Unit	Other	Number	Bedrooms	No. of Baths	Size in SF	Gross Rent Lmt.	Rent Collected	Rent per Month	Rent per SF	Tnt-Pd Util	Trash
TC 30%	LH	3	1	1	722	$358	$261	$783	$0.36	$97.00	$12.00
TC 60%	HH	3	1	1	722	$717	$617	$1,851	$0.85	$97.00	$12.00
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TC 60%	HH	3	4	2	1,561	$1,110	$939	$2,817	$0.60	$171.00	$12.00
TC 60%		5	4	2	1,561	$1,110	$939	$4,695	$0.60	$171.00	$12.00
TC 60%		1	4	2	1,685	$1,110	$939	$939	$0.56	$171.00	$12.00
TOTAL:		252		**AVERAGE:**	1,022		$760	$191,563	$0.74	$131.24	$12.00

INCOME	Total Net Rentable Sq Ft:	257,536	TDHCA	APPLICANT	COUNTY	IREM REGION	COMPT. REGION
POTENTIAL GROSS RENT			$2,298,756	$2,294,184	Galveston	Houston	6
Secondary Income	Per Unit Per Month:	$7.50	22,680	22,680	$7.50	Per Unit Per Month	
Other Support Income:			0		$0.00	Per Unit Per Month	
POTENTIAL GROSS INCOME			$2,321,436	$2,316,864			
Vacancy & Collection Loss	% of Potential Gross Income:	-7.50%	(174,108)	(173,760)	-7.50%	of Potential Gross Income	
Employee or Other Non-Rental Units or Concessions			0				
EFFECTIVE GROSS INCOME			$2,147,328	$2,143,104			

EXPENSES		% OF EGI	PER UNIT	PER SQ FT	TDHCA	APPLICANT	PER SQ FT	PER UNIT	% OF EGI
General & Administrative		4.11%	$350	0.34	$88,208	$65,520	$0.25	$260	3.06%
Management		5.00%	426	0.42	107,366	85,724	0.33	340	4.00%
Payroll & Payroll Tax		11.45%	976	0.95	245,928	239,400	0.93	950	11.17%
Repairs & Maintenance		6.37%	543	0.53	136,856	126,000	0.49	500	5.88%
Utilities		3.45%	294	0.29	74,160	48,400	0.19	192	2.26%
Water, Sewer, & Trash		2.86%	243	0.24	61,344	65,000	0.25	258	3.03%
Property Insurance		4.31%	367	0.36	92,497	155,484	0.60	617	7.26%
Property Tax	3.37	5.93%	505	0.49	127,373	112,802	0.44	448	5.26%
Reserve for Replacements		2.93%	250	0.24	63,000	63,000	0.24	250	2.94%
TDHCA Compliance Fees		0.47%	40	0.04	10,080	10,080	0.04	40	0.47%
Other: supportive services		0.59%	50	0.05	12,600	12,600	0.05	50	0.59%
TOTAL EXPENSES		47.47%	$4,045	$3.96	$1,019,413	$984,010	$3.82	$3,905	45.92%
NET OPERATING INC		52.53%	$4,476	$4.38	$1,127,915	$1,159,094	$4.50	$4,600	54.08%
DEBT SERVICE									
MMA Financial		46.06%	$3,924	$3.84	$988,962	$1,007,284	$3.91	$3,997	47.00%
TDHCA HOME- repayable		6.89%	$587	$0.57	147,952		$0.00	$0	0.00%
Additional Financing		0.00%	$0	$0.00	0		$0.00	$0	0.00%
NET CASH FLOW		-0.42%	(35.71)	(0.03)	-8,998	$151,810	$0.59	$602	7.08%
AGGREGATE DEBT COVERAGE RATIO					0.99	1.15			
RECOMMENDED DEBT COVERAGE RATIO						1.15			

CONSTRUCTION COST

Description	Factor	% of TOTAL	PER UNIT	PER SQ FT	TDHCA	APPLICANT	PER SQ FT	PER UNIT	% of TOTAL
Acquisition Cost (site or bldg)		8.95%	$10,119	$9.90	$2,550,000	$2,550,000	$9.90	$10,119	9.15%
Off-Sites		0.00%	0	0.00	0	0	0.00	0	0.00%
Sitework		7.96%	9,000	8.81	2,268,000	2,268,000	8.81	9,000	8.14%
Direct Construction		47.64%	53,857	52.70	13,572,021	12,949,079	50.28	51,385	46.47%
Contingency	3.92%	2.18%	2,462	2.41	620,424	620,424	2.41	2,462	2.23%
Contractor's Fees	13.45%	7.48%	8,454	8.27	2,130,392	2,130,392	8.27	8,454	7.64%
Indirect Construction		3.27%	3,693	3.61	930,563	930,563	3.61	3,693	3.34%
Ineligible Costs		7.03%	7,951	7.78	2,003,722	2,003,722	7.78	7,951	7.19%
Developer's Fees	14.54%	10.50%	11,869	11.61	2,991,000	2,991,000	11.61	11,869	10.73%
Interim Financing		3.67%	4,153	4.06	1,046,466	1,046,466	4.06	4,153	3.76%
Reserves		1.33%	1,500	1.47	378,000	378,000	1.47	1,500	1.36%
TOTAL COST		100.00%	$113,058	$110.63	$28,490,588	$27,867,646	$108.21	$110,586	100.00%
Construction Cost Recap		*65.25%*	***$73,773***	***$72.19***	***$18,590,837***	***$17,967,895***	***$69.77***	***$71,301***	*64.48%*

SOURCES OF FUNDS						RECOMMENDED	
MMA Financial	48.02%	$54,286	$53.12	$13,680,000	$13,680,000	$13,680,000	Developer Fee Available
TDHCA HOME- repayable	10.53%	$11,905	$11.65	3,000,000	3,000,000	654,837	$2,991,000
TDHCA HOME- deferred, forgiveable						2,345,163	
Bank of America- HTC Proceeds	29.60%	$33,461	$32.74	8,432,116	8,432,116	8,432,116	% of Dev. Fee Deferred
GIC Income					345,333		
Deferred Developer Fees	4.95%	$5,596	$5.48	1,410,197	1,410,197	2,755,530	92%
Additional (Excess) Funds Req'd	6.91%	$7,811	$7.64	1,968,275	1,000,000	0	15-Yr Cumulative Cash Flow
TOTAL SOURCES				$28,490,588	$27,867,646	$27,867,646	$3,685,602

MULTIFAMILY COMPARATIVE ANALYSIS (continued)

Costa Mariposa, Texas City, 4% HTC/ MRB/ HOME #09604

DIRECT CONSTRUCTION COST ESTIMATE

Marshall & Swift Residential Cost Handbook

Average Quality Multiple Residence Basis

CATEGORY	FACTOR	UNITS/SQ FT	PER SF	AMOUNT
Base Cost			$54.94	$14,149,864
Adjustments				
Exterior Wall Finish	0.00%		$0.00	$0
Elderly	0.00%		0.00	0
9-Ft. Ceilings	3.00%		1.65	424,496
Roofing			0.00	0
Subfloor			(1)	(212,943)
Floor Cover			2.38	612,936
Breezeways/Balconies	$22.95	20,541	1.83	471,413
Plumbing Fixtures	$835	720	2.33	601,200
Rough-ins	$410	504	0.80	206,640
Built-In Appliances	$1,800	252	1.76	453,600
Exterior Stairs	$1,875	80	0.58	150,000
Interior Stairs	$1,575	12	0.07	18,900
Heating/Cooling			1.83	471,291
Garages/Carports			0.00	0
Comm &/or Aux Bldgs	$72.88	3,582	1.01	261,038
Other: fire sprinkler	$2.15	257,536	2.15	553,702
SUBTOTAL			70.52	18,162,138
Current Cost Multiplier	1.01		0.71	181,621
Local Multiplier	0.91		(6)	(1,634,592)
TOTAL DIRECT CONSTRUCTION COSTS			$64.88	$16,709,167
Plans, specs, survy, bld prmts	3.90%		(3)	(651,658)
Interim Construction Interest	3.38%		(2)	(563,934)
Contractor's OH & Profit	11.50%		(7)	(1,921,554)
NET DIRECT CONSTRUCTION COSTS			$52.70	$13,572,021

PAYMENT COMPUTATION

Primary	$13,680,000	Amort	420
Int Rate	6.48%	DCR	1.14
Secondary	$3,000,000	Amort	420
Int Rate	3.46%	Subtotal DCR	0.99
Additional	$0	Amort	
Int Rate		Aggregate DCR	0.99

RECOMMENDED FINANCING STRUCTURE APPLICAN

Primary Debt Service	$988,962
Secondary Debt Service	18,710
Additional Debt Service	0
NET CASH FLOW	$151,422

Primary	$13,680,000	Amort	420
Int Rate	6.48%	DCR	1.17
Secondary	$654,837	Amort	420
Int Rate	0.00%	Subtotal DCR	1.15
Additional	$2,345,163	Amort	0
Int Rate	0.00%	Aggregate DCR	1.15

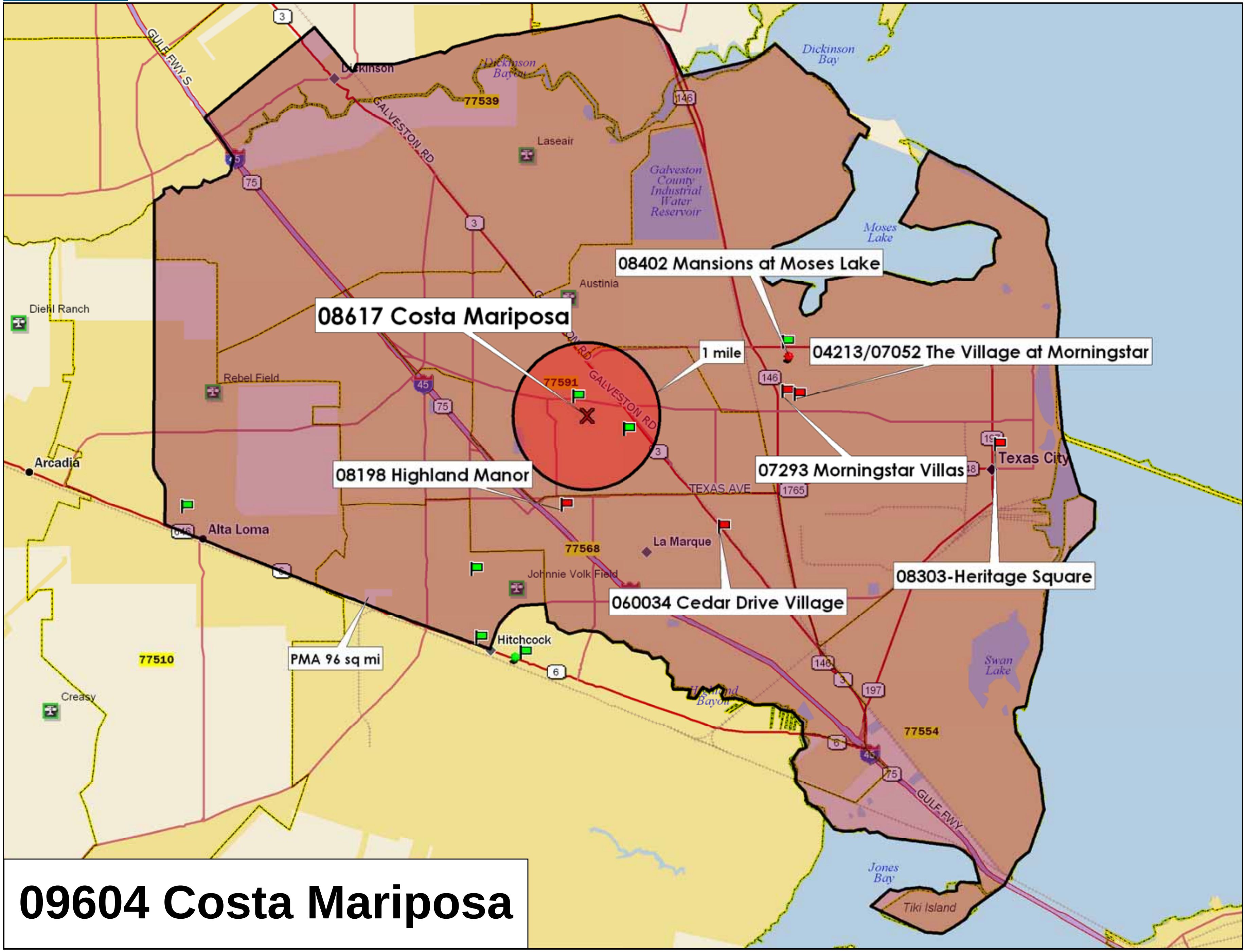
OPERATING INCOME & EXPENSE PROFORMA: RECOMMENDED FINANCING STRUCTURE (APPLICANT'S NOI)

INCOME at 2.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
POTENTIAL GROSS RENT	$2,294,184	$2,340,068	$2,386,869	$2,434,606	$2,483,299	$2,741,762	$3,027,127	$3,342,193	$4,074,114
Secondary Income	22,680	23,134	23,596	24,068	24,550	27,105	29,926	33,040	40,276
Other Support Income:	0	0	0	0	0	0	0	0	0
POTENTIAL GROSS INCOME	2,316,864	2,363,201	2,410,465	2,458,675	2,507,848	2,768,867	3,057,053	3,375,233	4,114,391
Vacancy & Collection Loss	(173,760)	(177,240)	(180,785)	(184,401)	(188,089)	(207,665)	(229,279)	(253,143)	(308,579)
Employee or Other Non-Rental Units or Cc	0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME	$2,143,104	$2,185,961	$2,229,680	$2,274,274	$2,319,759	$2,561,202	$2,827,774	$3,122,091	$3,805,811
EXPENSES at 3.00%									
General & Administrative	$65,520	$67,486	$69,510	$71,595	$73,743	$85,489	$99,105	$114,890	$154,402
Management	85,724	87,438	89,187	90,971	92,790	102,448	113,111	124,883	152,232
Payroll & Payroll Tax	239,400	246,582	253,979	261,599	269,447	312,363	362,114	419,789	564,162
Repairs & Maintenance	126,000	129,780	133,673	137,684	141,814	164,401	190,586	220,942	296,927
Utilities	48,400	49,852	51,348	52,888	54,475	63,151	73,209	84,870	114,058
Water, Sewer & Trash	65,000	66,950	68,959	71,027	73,158	84,810	98,318	113,978	153,177
Insurance	155,484	160,149	164,953	169,902	174,999	202,871	235,184	272,642	366,408
Property Tax	112,802	116,186	119,672	123,262	126,960	147,181	170,623	197,799	265,825
Reserve for Replacements	63,000	64,890	66,837	68,842	70,907	82,201	95,293	110,471	148,464
Other	22,680	23,360	24,061	24,783	25,527	29,592	34,306	39,770	53,447
TOTAL EXPENSES	$984,010	$1,012,673	$1,042,179	$1,072,552	$1,103,819	$1,274,507	$1,471,849	$1,700,033	$2,269,102
NET OPERATING INCOME	$1,159,094	$1,173,288	$1,187,502	$1,201,722	$1,215,940	$1,286,695	$1,355,925	$1,422,058	$1,536,709
DEBT SERVICE									
First Lien Financing	$988,962	$988,962	$988,962	$988,962	$988,962	$988,962	$988,962	$988,962	$988,962
Second Lien	18,710	18,710	18,710	18,710	18,710	18,710	18,710	18,710	18,710
Other Financing	0	0	0	0	0	0	0	0	0
NET CASH FLOW	$151,422	$165,616	$179,830	$194,050	$208,268	$279,023	$348,253	$414,385	$529,037
DEBT COVERAGE RATIO	1.15	1.16	1.18	1.19	1.21	1.28	1.35	1.41	1.53

HTC ALLOCATION ANALYSIS -Costa Mariposa, Texas City, 4% HTC/ MRB/ HOME #09604

CATEGORY	APPLICANT'S TOTAL AMOUNTS	TDHCA TOTAL AMOUNTS	APPLICANT'S REHAB/NEW ELIGIBLE BASIS	TDHCA REHAB/NEW ELIGIBLE BASIS
Acquisition Cost				
Purchase of land	$2,550,000	$2,550,000		
Purchase of buildings				
Off-Site Improvements				
Sitework	$2,268,000	$2,268,000	$2,268,000	$2,268,000
Construction Hard Costs	$12,949,079	$13,572,021	$12,949,079	$13,572,021
Contractor Fees	$2,130,392	$2,130,392	$2,130,391	$2,130,392
Contingencies	$620,424	$620,424	$620,424	$620,424
Eligible Indirect Fees	$930,563	$930,563	$930,563	$930,563
Eligible Financing Fees	$1,046,466	$1,046,466	$1,046,466	$1,046,466
All Ineligible Costs	$2,003,722	$2,003,722		
Developer Fees				
Developer Fees	$2,991,000	$2,991,000	$2,991,000	$2,991,000
Development Reserves	$378,000	$378,000		
TOTAL DEVELOPMENT COSTS	$27,867,646	$28,490,588	$22,935,923	$23,558,866

Deduct from Basis:			
All grant proceeds used to finance costs in eligible basis			
B.M.R. loans used to finance cost in eligible basis			
Non-qualified non-recourse financing			
Non-qualified portion of higher quality units [42(d)(3)]			
Historic Credits (on residential portion only)			
TOTAL ELIGIBLE BASIS		$22,935,923	$23,558,866
High Cost Area Adjustment		130%	130%
TOTAL ADJUSTED BASIS		$29,816,700	$30,626,526
Applicable Fraction		100%	100%
TOTAL QUALIFIED BASIS		$29,816,700	$30,626,526
Applicable Percentage		3.44%	3.44%
TOTAL AMOUNT OF TAX CREDITS		$1,025,694	$1,053,552
Syndication Proceeds	**0.8648**	**$8,870,484**	**$9,111,407**
Total Tax Credits (Eligible Basis Method)		**$1,025,694**	**$1,053,552**
Syndication Proceeds		**$8,870,484**	**$9,111,407**
Requested Tax Credits		**$975,006**	
Syndication Proceeds		**$8,432,116**	
Gap of Syndication Proceeds Needed		**$11,187,646**	**$11,810,588**
Total Tax Credits (Gap Method)		**$1,293,628**	**$1,365,659**



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MULTIFAMILY FINANCE PRODUCTION DIVISION
BOARD ACTION REQUEST
May 21, 2009

Action Items

Presentation, Discussion and Possible Approval for Housing Tax Credit Extensions.

Required Action

Approve, Amend, or deny the requests for extensions related to one (1) 2006 Housing Tax Credit allocations.

Background

Pertinent facts about the request for extension are given below. The requests were accompanied by a mandatory $2,500 extension request fee.

HTC No. 07094, Mesquite Terrace
(Commencement of Substantial Construction)

Summary of Request: Pursuant to §50.14(c) of the 2006 Qualified Allocation Plan, "The Development Owner must submit evidence of having commenced and continued substantial construction activities. The evidence must be submitted not later than December 1 of the year after the execution of the Carryover Allocation Document with a possibility of an extension…" The owner missed the December 1, 2008 deadline to submit commencement of substantial construction for the above referenced development. The owner submitted the full commencement of substantial construction documentation on February 26, 2009 and the Compliance Division is currently reviewing the documentation for completeness. The owner's extension request included all documentation necessary to comply with the requirement.

Owner:	Mesquite Terrace, Ltd
General Partner:	Mesquite Terrace GP, LLC
Developer:	Pharr HDC and Tekoa Interests, LLC
Principals/Interested Parties:	James D Walker, Gene S Walker, Jr., J. Patrick Walker, Kathleen Walker Leyendecker, William J Lee, William C Skeen, Donna Schubkegel and Howard Tellepsen
City/County:	Pharr/Hidalgo
Set-Aside:	Nonprofit
Type of Area:	Urban/Exurban
Type of Development:	New Construction
Population Served:	Elderly
Units:	106 HTC units
2006 Allocation:	$594,048
Allocation per HTC Unit:	$5,604
Extension Request Fee Paid:	$2,500
Current Deadline:	December 1, 2008
New Deadline Requested:	February 26, 2009
New Deadline Recommended:	**February** 26, 2009
Previous Extensions:	N/A
Staff Recommendation:	**Approve the extension as requested.**

Rec'd TDHCA 5/4/2009 11:46 AM

MESQUITE TERRACE APARTMENTS
PHARR, TEXAS

May 4, 2009

Kent Bedell
Texas Department of Housing and Community Affairs
P.O. Box 13941, Capitol Station
Austin, Texas 78711-3941

Re: Mesquite Terrace TDHCA 06-0117 Request for extension for Evidence of Substantial Construction

Dear Kent:

The managing entity, Mesquite Terrace G.P., LLC controlled by the City of Pharr Housing Authority is requesting an extension of the submittal date for Evidence of Substantial Construction until February 26, 2009, when the information was actually submitted along with the $2,500 extension fee.

The late delivery was a result of an oversight of the original deadline.

Please call and let me know if you have any further questions.

William J. Lee
Asset Manager

1717 West 6th Street, Suite 410
Austin, Texas 78703
512-328-0487
512-328-0491 Fax

OFFICE OF ARRA ACCOUNTABILITY AND OVERSIGHT

BOARD ACTION REQUEST
May 21, 2009

Action Item

Presentation and Discussion on a Status Report on the Implementation of the American Recovery and Reinvestment Act of 2009 (ARRA).

Required Action

None required.

Background

This item provides an update since the previous Board meeting on the status of the Department's activity relating to overall ARRA activities as well as on each of the ARRA programs.

All ARRA Programs/Department Wide:

Since the last Board update the following tasks have occurred relating to the Recovery Act programs:

- Budget development and staffing structure, including number of positions and position titles, created and confirmed by Financial Administration and program staff for Weatherization Assistance Program (WAP) and Homelessness Prevention and Rapid Re-Housing Program (HPRP). Development of job descriptions underway. Concurrence that no staffing changes will be made for Community Services Block Grant (CSBG) or for the Homebuyer Tax Credit programs.
- Focused analysis and review of initial estimates of staffing needs for each activity, with associated staffing plans, including development of job descriptions, budgetary needs for Tax Credit Assistance Program (TCAP), Tax Credit Exchange Program and Neighborhood Stabilization Plan being solidified. Three NSP positions posted.
- Space options have been reviewed by Executive and possible solutions are being discussed. It is estimated that a solution to the Department's space needs may occur by mid to late summer.
- Program and IS staff have begun detailed analyses of data needs. Staff has identified three primary IS development needs as follows and the Information Systems Division has begun development work on all three components.
    - The development of a new Consolidated Recovery Act Reporting System which will provide current information in readily reportable formats to the Board, legislators and stakeholders. This system is intended to serve as a tool in providing accurate comprehensive data on specific key data points including: funds obligated and expended, households and/or units served, trainings provided and number of persons trained, and jobs created and/or retained.
    - The development and implementation of a Recovery Act Job Reporting Tool which will provide a web based platform for subrecipients of any Recovery Act funds to periodically (monthly or quarterly) provide the Department with the number of jobs

created or retained based on definitions defined by the Department and consistent with federal guidance.

  - Modifications to existing systems to ensure comprehensive tools are in place for the Department's management of each of the Recovery Act programs. In several cases only minimal modifications are needed to gather household level data when not already being gathered and/or to gather any new additional federal data requirements (WAP, CSBG, TCAP, Tax Credit Exchange, Homebuyer Tax Credit loan programs). More significant modifications are needed in other areas (HPRP, NSP). Systems will also be adjusted to ensure that long term oversight of draw, loan servicing, and compliance functions allow for any unique Recovery Act tracking.

- Several Requests for Proposals are in development including requests for real estate transaction closing services, property inspections and possibly several other activities.
- Program specific timelines have been generated for CSBG, WAP, HPRP and NSP.

ARRA Program Specific Updates are provided on the attached table.

Office of Recovery Act Accountability and Oversight

May 21, 2009 Status Report

Program / Amount	Status	Allocation of Funds	Obligations/ Expenditures	Perform. Measures	Contracts	Board Action	Applicant Next Steps
Homelessness Prevention (HPRP) $41,472,772	A HUD Con Plan Amendment and Notice of Funding Availability (NOFA) were approved by the Board on April 23. The Plan Amendment is being submitted to HUD by May 18. HUD approval is not anticipated until July. The application workshop was held May 7; applications are due to TDHCA May 29.	▪ 5% for Administration (2 ½ for TDHCA and 2 ½ for recipients) ▪ 5% Set Aside for Statewide Pilot ▪ 5% for Data and Evaluation ▪ Balance of funds regionally allocated to 13 service regions based on poverty and unemployment data.	Not yet applicable	Not yet applicable	Recipients will be required to expend all funds within a two year contract period.	July / August - Approval of awards.	NOFA has been released; applications due May 29.
Weatherization (WAP) $326,975,732	The WAP Plan, as approved by the Board, was submitted to DOE on May 1. A NOFA is being routed and is expected to be released May 20. Workshops will occur in late May or early June and applications will be due June 12. The Training and Technical Assistance Training Academy Request for Proposals is expected to be released no later than late June.	▪ 5% for State Administration ▪ 6.5% for Training and Technical Assistance ▪ Balance of funds for Subrecipient administration (5%), direct services, and health and safety improvements (up to 10%). ▪ These numbers are estimates at the time of this report. Actual amount requested must be supported by detailed schedules, as required by DOE. ▪ Subrecipient Allocation ($289,373,523) to be apportioned between the existing WAP network (approximately $180 million), cities with populations exceeding 75,000 (approximately $100 million; cities with allocations less than $1 million will have their funds administered by the local weatherization provider), and small cities, nonprofits and units of local government ($7,500,000).	Not yet applicable	Not yet applicable	Recipients will be required to expend all funds within a two year contract period.	July / August - Approval of awards.	NOFA to be released in mid-May. Applications due June 12.
Community Services Block Grant (CSBG) $48,148,071	The CSBG Plan is being released for public comment and was posted to the Department's web site on May 12. The plan will be submitted to HHS by May 29.	The existing CSBG formula will be utilized and 99% of funds will be allocated to the existing Community Action Network. The remaining 1% of funds will be used for coordination activities to facilitate client enrollment for various benefit programs. Guidance confirms that there will be no administrative funds and no discretionary funds. Up to 1% will be allowed for benefits enrollment activity.	Not yet applicable	Not yet applicable	Recipients will be required to expend all funds within a one year contract period.	No action needed. Will report on contract executions.	Contracts to be executed with current Community Action Network in June upon HHS Plan approval.

Disclaimer: Information on this report is based on an initial analysis of ARRA and does not necessarily take into account federal rules which may have a direct bearing on the amount of funds made available to TDHCA and Texas. The Department believes that adjustments will be made that will have either positive or negative impact on the final funding amounts. Information in this report is subject to greater detail in specific Board action items.

Program / Amount	Status	Allocation of Funds	Obligations/ Expenditures	Perform. Measures	Contracts	Board Action	Applicant Next Steps
Tax Credit Assistance Program (TCAP) $148,354,769	Guidance was provided on May 4. The statute includes an express recapture requirement. A funding request must be submitted to HUD by approximately June 3. Board action is requested at this meeting of May 21.	Eligible for 2007, 2008 and 2009 Housing Tax Credits awards. Administrative funds will not be available. Allocation methodology to be determined.	Not yet applicable	Not yet applicable	Recipients will be required by TDHCA to expend all funds within a two year contract period. May correlate with placement in service.	May Board action.	May Board action.
HTC Exchange (HTCEX) $314,000,000*	Guidance was provided on May 4. Board action will not be requested at this Board meeting, while legislative action impacting this program is pending. Guidance indicates that the assistance must be in the form of a grant to the development. *Could increase based upon IRS guidance and additional returns of prior year credit later this year.	Eligible only for 2009 Housing Tax Credit applicants per current state law and QAP deadlines (pending possible legislative change). No administrative funds permitted. Allocation methodology to be determined.	Not yet applicable	Not yet applicable	To Be Determined. Unused funds to be returned by January 2011.	May Board action.	May Board action.
Homebuyer Tax Credit $8,000 per household	The Board approved the program design for a down payment assistance program in conjunction with the Department's MCC and bond programs that provides a tax credit advance loan for up to $6,000. At the May meeting, a statewide stand alone down payment assistance program will be presented for approval providing up to $7,000 per household.	Approximately $1.7 million was designated for the first portion of this program scheduled to be released in June. $5 million is available for the stand alone down payment program being presented to the Board in May. Contracts are with participating lenders; the program is first come-first serve for households within that network of lenders. Loan repayments will be recycled for use to eligible households. Tax credit advance loan to MCC & MRB borrower's is interest free for the initial 120 days; thereafter, 5 years at 7% interest. For stand alone DPA program, 90 days interest free; thereafter, 5 years at 10% interest.	Not yet applicable	Not yet applicable		No further action needed. Will report on program utilization.	NA
Neighborhood Stabilization Program (NSP) I HERA $102,000,000	Applications from Select Pool and Direct Pool applicants were due April 27. A submission log has been posted. The program is oversubscribed with applications requesting a total of $148 million. Applications under review. Awards are expected to be made in June.	▪ Direct Allocation (up to 25 counties): $50,692,337 ▪ Select Pool (up to 76 counties): $31,104,826 ▪ Land Banking: 10,000,000 ▪ Administration: $10,196,685 (a portion for state and a portion for subs) Amounts may vary based on funds requested and capacity.	Not yet applicable	Not yet applicable	Contracts will require all funds be obligated within 6-8 months	June Approval of awards.	Implementation Workshops will occur the week of July 13.

Disclaimer: Information on this report is based on an initial analysis of ARRA and does not necessarily take into account federal rules which may have a direct bearing on the amount of funds made available to TDHCA and Texas. The Department believes that adjustments will be made that will have either positive or negative impact on the final funding amounts. Information in this report is subject to greater detail in specific Board action items.

Program / Amount	Status	Allocation of Funds	Obligations/ Expenditures	Perform. Measures	Contracts	Board Action	Applicant Next Steps
Neighborhood Stabilization Program (NSP2) ARRA Amount for Texas Not Known**	HUD has released a NOFA for ARRA NSP which has two components: a second round of NSP funds called NSP2 and a round of NSP TA Applications to HUD for NSP2 are due to HUD by July 17. Applications for NSP2 will be competitive on a national basis. Selections will be made by HUD in December. Public comment will be required. Applications for the NSP2-TA ($50 million nationally) are due June 8, but appear to be focused on local governments.	For NSP2, $1.93B is available nationally and is open to states, local governments and nonprofits (including consortia and nonprofit/for profit partnerships). The minimum request amount per submission is $5 million and requests must have a minimum impact on 100 foreclosed or abandoned homes. Capacity must be evidenced by applicants through evidence of unit completion within the same activity type as proposed. No amounts are specified in the NOFA per state or entity however HUD is going to release two needs score criteria; the neighborhood or community proposed to be served must have at least a needs score of 18 or greater on one of the two criteria (on a scale of 1 to 20). They are foreclosure related – the first is a calculation of the number and percent of foreclosures in the tract and the second is a combination of the estimated foreclosure rate with the vacancy rate. Until these indicators are released by HUD we are unable to determine what approach to take in preparing a submission. If, for instance, those 18 point tracts are primarily urban, it is likely that those urban areas will want to apply on their own. However, if some of the 18 point tracts are dispersed in less urban areas that can't support the minimum request for $5 million and at least 100 units, the Department may want to apply on their behalf, or possibly coordinate a consortium of those smaller communities to get to a greater economy of scale and number of units.	Not yet applicable	Not yet applicable	Not yet determined.	June – Approval of application to HUD	Provide input in May/June on ARRA portion of funds.

Disclaimer: Information on this report is based on an initial analysis of ARRA and does not necessarily take into account federal rules which may have a direct bearing on the amount of funds made available to TDHCA and Texas. The Department believes that adjustments will be made that will have either positive or negative impact on the final funding amounts. Information in this report is subject to greater detail in specific Board action items.

To Be Posted
Friday, May 15, 2009

To Be Posted
three days
prior to the meeting

To Be Posted
three days
prior to the meeting

DISASTER RECOVERY DIVISION

BOARD ACTION REQUEST
May 21, 2009

Action Item

Presentation and Discussion of the Disaster Recovery Division's Status Report on CDBG and FEMA AHPP Contracts Administered by TDHCA

Requested Action

Presentation and Discussion of the Disaster Recovery Division's Status Report on CDBG and FEMA AHPP Contracts Administered by TDHCA

Background

This Board Action Request summarizes the activities of the Disaster Recovery Division which has oversight responsibility for Community Development Block Grant (CDBG) Disaster Recovery Programs for Round I and Round II funding administered by TDHCA, as well as the FEMA Alternative Housing Pilot Program (AHPP).

Public Law 109-148 – 1st Supplemental ($74.5 Million)

Under the **1st Supplemental CDBG Disaster Recovery Program (referred to as Round I),** there are three Councils of Governments (COGs) responsible for administering housing contracts to help restore and rebuild in areas of the State most directly impacted by Hurricane Rita. Of the $74.5 million, the total funding allocation administered by the COGs is $40,259,276 broken down as follows:

- Deep East Texas Council Of Governments (DETCOG) - $6,745,034
- Houston-Galveston Area Council (H-GAC) - $7,015,70
- South East Texas Regional Planning Commission (SETRPC) - $26,348,536
  - SETRPC - $15,520,536
  - Beaumont - $5,232,000
  - Port Arthur - $5,596,000

As detailed below, the Deep East Texas Council of Governments completed their contract activities in April. The Houston-Galveston Area Council and the South East Texas Regional Planning Commission are contractually required to complete activities by the fall; however each has committed to completing activities by the end of the summer. H-GAC is completing assistance to five beneficiaries located in the floodplain that will be receiving assistance in the form of a loan, and SETRPC is processing at least twenty-five (25) additional as a result of cost savings from their bidding process. Cumulatively, the COGs have completed assistance to four hundred sixty-three (463) households, have another twenty-four (24) homes under construction, and have thirty-two (32) more homes under contract pending the onset of construction activities. Cumulatively, there are five hundred twenty (520) homes either under bid award, under construction, or completed as of May 13, 2009 which represents one hundred twenty percent (120%) of the contracted number of households to be served. Program efficiencies have allowed for a greater number to be served than was originally anticipated.

The COGs have committed $708,698 of HTF dollars to assist with gap financing needs, and $482,829 of that has been drawn. More of these HTF dollars are anticipated to be obligated to address the gap financing needs of the additional homeowners being served under this program.

Financial Summary

	Current Budget	Admin $ Drawn To Date	Project $ Drawn To Date	Total Drawn	% of Funds Disbursed
DETCOG	**$6,745,034.00**	**$672,868.01**	**$5,426,937.17**	**$6,099,805.18**	**90.43%**
H-GAC	**$7,015,706.00**	**$859,871.81**	**$4,431,071.27**	**$5,290,943.08**	**75.42%**
SETRPC	**$26,348,536.00**	**$2,252,152.68**	**$13,615,121.54**	**$15,867,274.22**	**60.22%**
SETRPC	$15,520,536.00	$1,886,784.84	$8,249,513.39	$10,136,298.23	65.31%
Beaumont	$5,232,000.00	$327,806.71	$2,811,288.81	$3,139,095.52	60.00%
Port Arthur	$5,596,000.00	$37,561.13	$2,554,319.34	$2,591,880.47	46.32%
Totals	**$40,109,276.00**	**$3,784,892.50**	**$23,473,129.98**	**$27,258,022.48**	**67.96%**

Project Summary

	* No. to be Served per Contract	No. out for Bid	** Units Under Contract	No. Site-built Under Construction	Total Rehabilitated /Reconstructed	No. of MHUs Delivered	Total No. Constructed/ Delivered
DETCOG	**96**	**0**	**0**	**0**	**13**	**115**	**128**
H-GAC	**103**	**1**	**4**	**5**	**21**	**72**	**93**
SETRPC	**229**	**0**	**28**	**19**	**189**	**53**	**242**
SETRPC	127	0	16	11	98	53	151
Beaumont	56	0	6	4	45	0	45
Port Arthur	46	0	6	4	46	0	46
Total	**430**	**1**	**32**	**24**	**223**	**240**	**463**

** Based on the contractual number of households that the COGs are required to serve with the funding allocation*
*** Total of MHUs ordered but not yet delivered and construction contracts signed for site-built units*

Public Law 109-234 – Round II ($428 Million)

The **2nd Supplemental CDBG Disaster Recovery Funding (referred to Round II)** is the second of two awards in CDBG funding to help restore and rebuild in areas of the State most directly impacted by hurricane Rita, but it also addresses needs arising from hurricane Katrina evacuees. The total funding allocation is $428,671,849, broken down as follows:

2nd Supplemental CDBG Disaster Recovery Activity	Available Funding	Amount Contracted per Activity	Cumulative Expenditures	% of Expenditures Disbursed	Balance Remaining
Rental Housing Stock Restoration Program ("Rental")	$82,866,984	$82,779,333	$27,078,426.86	**32.71%**	$55,700,906.14
ORCA's Restoration of Critical Infrastructure Program (Infrastructure)	$42,000,000	$42,000,000	$10,571,869.10	**25.17%**	$31,428,130.90
City of Houston and Harris County Public Service and CDP ("Houston/Harris")	$60,000,000	$60,000,000	$29,757,999.19	**49.60%**	$30,242,000.81
Homeowner Assistance Program ("HAP")	$210,371,273	$210,371,273	$17,339,523.89	**8.24%**	$193,031,749.11
Sabine Pass Restoration Program ("SPRP")	$12,000,000	$12,000,000	$2,567,666.66	**21.40%**	$9,432,233.34
State Administration Funds (Used to Administer Funding)	$21,433,592	$21,433,592	$5,926,673.01	**27.65%**	15,506,918.99
Total CDBG Round 2 Funding	**$428,671,849**	**$426,952,198**	**$93,242,158.71**	**21.76%**	**335,342,039.29**

CDBG Round 2 City of Houston and Harris County Public Service and Community Development Program

City of Houston

Funding of $20 million was allocated to the Houston Police Department for establishment of the Housing Safety Component, composed of civilian and officer personnel. Civilian personnel consist of administrative staff that supports the officer personnel and the entry of the overtime incurred by officers on behalf of the hurricane evacuee population. Funding of $20 million was also allocated to carry out rehabilitation of existing multi-family housing stock through the existing Apartment to Standards Program. These funds will provide rehabilitation of multi-family housing to the evacuee population.

The City of Houston has a $2,000,000 administrative budget with only $14.31 expended to date. The City of Houston will be submitting approval for the re-allocation of approximately $1,500,000 of administrative funds to the Housing Safety Program to extend the serviced provided by the Houston Police Department.

The City of Houston's Housing Safety Component has expended $19,674,375.35 (98.37%) of their $20,000,000 allocation Housing Safety and Apartment to Standards program has expended $7,518,032.67 (37.59%) of their $20,000,000 allocation for multifamily housing with a separate administrative allocation of $2,000,000. Administrative expenditures have yet to be submitted for reimbursement.

The Apartment to Standards program has allocated funds for two rehabilitation projects. Expenditures represent funds incurred on behalf of the Fondren Court project, expected to be completed in July 2008. Groundbreaking on the Regency/Sandpiper project commenced in May 2009 and is fully underway.

Harris County

Funding of $20 million was allocated to provide services to the residents of Harris County among five different program components: Expanded Services to Hurricane Evacuees (Harris County Sheriff's Dept.), Evacuee Medical Services (Harris County Hospital District), Katrina Crisis Counseling Program (Mental Health and Mental Retardation Authority), Youth Offenders Services (Harris County Sheriff's Dept.) and the Disaster Housing Assistance Program Component (Harris County).

Harris County has expended approximately 15.75% of its $20,000,000 allocation along with a separate administrative allocation of $1,000,000. Administrative expenditures equal from the previous month. Expenditures incurred among the five different programs are $2,032,288.87 (10.16%).

Harris County expended $437,575.24 (43.76%) of its $2,000,000 administrative allocation. Expenditures incurred among the five different programs are $2,870,837.25 (16.89%).

Amendment 7 related to Harris County's portion of the City of Houston and Harris County Public Service and Community Development Program to allow Harris County to reprogram funds have been approved by HUD. As a result, program budget line items among the five programs have changed (total allocation remains the same) and an additional activity, a multifamily component, has been added. The multifamily component will consist of a new construction project and a rehabilitation project; contracts are expected to be executed within 30 to 45 days.

CDBG Round 2 Multifamily Rental Housing Stock Restoration Program

On September 13, 2007, the TDHCA Board awarded $81.1 million to repair or rebuild seven Golden Triangle-area affordable multifamily rental properties damaged or destroyed by Hurricane Rita. The construction work, once completed, will restore rental unit housing to 813 low-income individuals and families. Award-specific status is outlined in the table below:

Loan Number	Development Name	City	Total Units	Type of Activity	CDBG Loan Amount	Funds Drawn/ Expended	Loan Closing Date
7060007	Orange Navy Homes	Orange	115	Recon.	$15,821,439	$3,118,706.60	10/15/2008
7060010	Brittany Place II Single Family	Port Arthur	100	Recon.	$13,077,366	$1,202,874.20	12/04/08

7060006	Pointe North	Beaumont	158	Recon.	$13,778,332	$1,379,834.01	8/31/2008
7060011	Gulfbreeze Plaza I	Port Arthur	86	Recon.	$9,067,577	$1,020,277.27	12/17/2008
7060012	Gulfbreeze Plaza II	Port Arthur	148	Recon.	$13,280,250	$8,509,107.25	6/11/2008
7060008	Virginia Estates	Beaumont	110	Rehab	$6,707,534	$3,210,891.88	5/26/2008
7060009	Brittany Place I Multifamily	Port Arthur	96	Recon.	$11,046,835	$7,682,940.85	4/9/2008
		Totals:	**813**		**$82,779,333**	$15,141,245.92	

CDBG Round 2 Homeowner Assistance Program and Sabine Pass Restoration Program Update from ACS State & Local Solutions, Inc.

Reflected in the chart below are the number of applicants that have moved through the Homeowners Assistance and Sabine Pass Restoration Programs (HAP and SPRP) as of May 12th. Changes in the total of key metrics from those reported in the April Board Meeting include:

Completed applications increased by 302 from 2,295 to 2,596

An additional 221 applicants have been declared eligible

Completed inspections now total 1,518, an increase of 215 over the last reporting period

A total of 834 homes have been assigned to contractors, an increase of 124

The total number of Benefit selection meetings held increased by 168. An additional 165 meetings were being scheduled as of 5/12/09

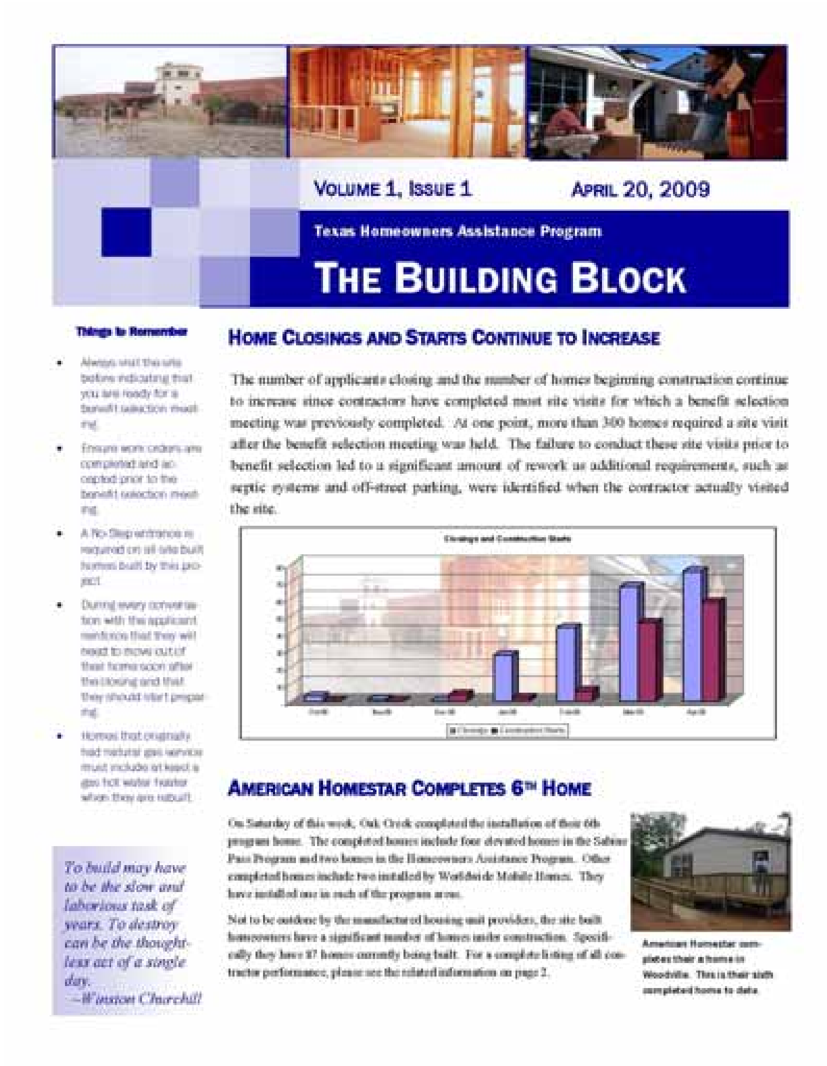
Closings have increased by 248 to a total of 369

Not reflected below is that as of 5/12/09, 1,029 Environmental Work Orders have been submitted to, and approved by, TDHCA

AS OF 5/12/09	**HAP**	**SPRP**	**Total**
Completed Applications	2,494	102	2,596
Eligibility Determined	1,620	95	1,715
Inspections Complete	1,414	104	1,518
Projects Assigned to Contractors	832	64	896
Benefit Selection Meetings Held	832	64	896
Closings	317	52	369
Construction Starts	194	37	231

Increased training and real-time interface with contractors resulting from “embedding” program specialists with contractors as reflected in the last report have yielded significant movement in construction. Notwithstanding some delay experienced due to weather in Southeast Texas, 23 homes have been completed and construction has begun on 231 more; 37 in SPRP and 194 in HAP. This reflects 171 additional starts since the last Board meeting. Applications for construction permits have more than doubled from 248 on 4/2/09 to 532 on 5/12/09. Approval has been received on 435 of the 532 and we expect the remainder to be approved within the next 10-14 days.

This month also saw the publication of *The Building Block*, a periodic newsletter designed to inform and enthuse the contractors building homes for the program. Page 1 of Volume 1, Issue 1 is pictured below.



VOLUME 1, ISSUE 1 APRIL 20, 2009

Texas Homeowners Assistance Program

THE BUILDING BLOCK

Things to Remember

- Always visit the site before indicating that you are ready for a benefit selection meeting.
- Ensure work orders are completed and accepted prior to the benefit selection meeting.
- A No-Step entrance is required on all site built homes built by this project.
- During every conversation with the applicant reinforce that they will need to move out of their home soon after the closing and that they should start preparing.
- Homes that originally had natural gas service must include at least a gas hot water heater when they are rebuilt.

To build may have to be the slow and laborious task of years. To destroy can be the thoughtless act of a single day.
—Winston Churchill

HOME CLOSINGS AND STARTS CONTINUE TO INCREASE

The number of applicants closing and the number of homes beginning construction continue to increase since contractors have completed most site visits for which a benefit selection meeting was previously completed. At one point, more than 300 homes required a site visit after the benefit selection meeting was held. The failure to conduct these site visits prior to benefit selection led to a significant amount of rework as additional requirements, such as septic systems and off-street parking, were identified when the contractor actually visited the site.

AMERICAN HOMESTAR COMPLETES 6TH HOME

On Saturday of this week, Oak Creek completed the installation of their 6th program home. The completed homes include four elevated homes in the Sabine Pass Program and two homes in the Homeowners Assistance Program. Other completed homes include two installed by Worldwide Mobile Homes. They have installed one in each of the program areas.

Not to be outdone by the manufactured housing unit providers, the site built homeowners have a significant number of homes under construction. Specifically they have 87 homes currently being built. For a complete listing of all contractor performance, please see the related information on page 2.

American Homestar completes their a home in Woodville. This is their sixth completed home to date.

One of the 23 homes completed to date belongs to Ms. Lisa Gilley of Call, TX. Ms. Gilley is shown here receiving the keys to her new home from Belinda Humphries of American Homestar/Oak Creek Homes.

Ms. Gilley sent the following email to Randy Wilson of Oak Creek Homes:

From: Lisa Gilley [mailto:lisaggilley46@yahoo.com]
Sent: Monday, April 27, 2009 12:29 PM
To: randyw@hstr.com
Subject: My New Home

Dear Randy,

There are those days in your life that you will never forget. For example, the day you get married, the birth of your children and the day you get a new home. Today is one of those days!

Today I received the keys for my beautiful new mobile home built by Oak Creek. The home is my first "new" home and I feel blessed. It has been a long 2 1/2 years but just decorating my new home with all of personal belongings is exhilarating. I can't wait to have my family and friends over to share my happiness.

Oak Creek is a very hands on company. I have met many of your company employees and contractors and all have been friendly and professional. They didn't even complain about me taking their photos for my scrapbook. I am blessed that your company was the one chosen to build my home. The first time we met you at the office in Jasper, you were friendly and made us feel very comfortable all the while keeping us on task with choosing our colors and flooring.

I do love my beautiful home and I will pray for your company every night as you are striving to fulfill people's dreams. Many have given up on ever getting a home. It has been such a long time since the homes were destroyed and the process is very time consuming and repetitive. But dreams do come true!

Thanks again for everything.

Sincerely,

Lisa G. Gilley

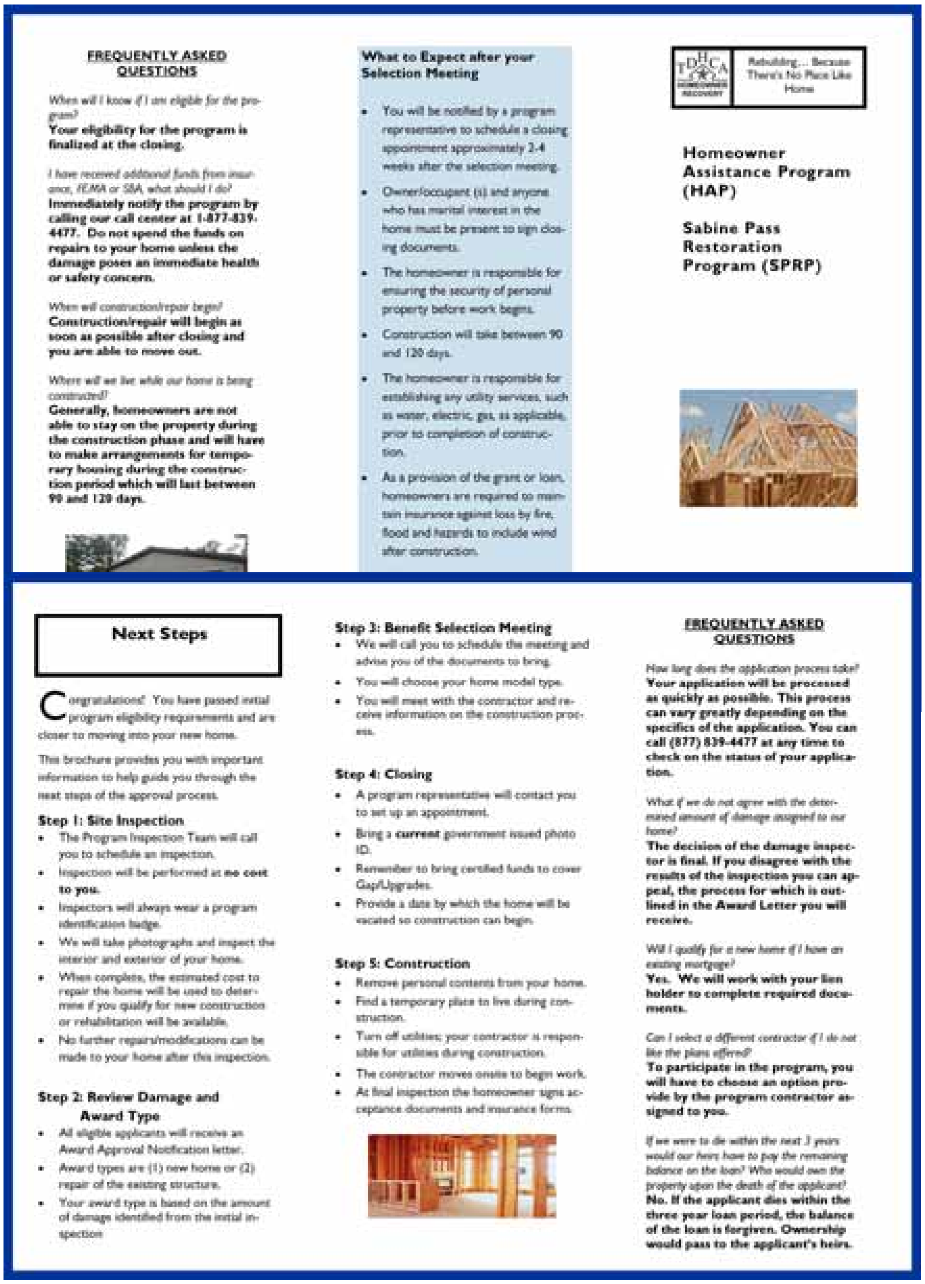
The initiative to address the remaining 1,522 applicants from whom no response has been received since the mailing of the original Supplemental Applications has been completed. The last 386 individuals on the Wait List were mailed applications on 4/17/09. Results of this mailing are indicated below:

AS OF 4/27/09	**Results**
Withdrawn	156
*Applications Returned	490
Pending Eligibility	227

*Distribution of returned applications by county: Jefferson – 260; Newton – 64; Jasper – 53; Orange – 36; Hardin – 22; Chambers – 14; Liberty – 13; 7 other counties - 28

The response rate on wait list applications mailed is higher than that experienced during the initial mailing as is their rate of progress through the system. The first Wait List applicant closed on his home on 4/10/09. His application was received on 2/17/09. As reported last month, the Call Center continues to follow-up by phone on applications that have not yet been returned.

As mentioned in our last report, ensuring that homeowners are ready to vacate their property when construction is to begin can be somewhat challenging. In an effort to prepare homeowners for this eventuality and in keeping with our commitment to "over communicate," with applicants, a *Next Steps Brochure* was crafted and is being distributed. The tri-fold pamphlet outlines what the homeowner can expect subsequent to being declared eligible for the program and provides answers to some frequently asked questions.



FREQUENTLY ASKED QUESTIONS

When will I know if I am eligible for the program?
Your eligibility for the program is finalized at the closing.

I have received additional funds from insurance, FEMA or SBA, what should I do?
Immediately notify the program by calling our call center at 1-877-839-4477. Do not spend the funds on repairs to your home unless the damage poses an immediate health or safety concern.

When will construction/repair begin?
Construction/repair will begin as soon as possible after closing and you are able to move out.

Where will we live while our home is being constructed?
Generally, homeowners are not able to stay on the property during the construction phase and will have to make arrangements for temporary housing during the construction period which will last between 90 and 120 days.

What to Expect after your Selection Meeting

- You will be notified by a program representative to schedule a closing appointment approximately 2-4 weeks after the selection meeting.
- Owner/occupant (s) and anyone who has marital interest in the home must be present to sign closing documents.
- The homeowner is responsible for ensuring the security of personal property before work begins.
- Construction will take between 90 and 120 days.
- The homeowner is responsible for establishing any utility services, such as water, electric, gas, as applicable, prior to completion of construction.
- As a provision of the grant or loan, homeowners are required to maintain insurance against loss by fire, flood and hazards to include wind after construction.

TDHCA Homeowner Recovery — Rebuilding... Because There's No Place Like Home

Homeowner Assistance Program (HAP)

Sabine Pass Restoration Program (SPRP)

Next Steps

Congratulations! You have passed initial program eligibility requirements and are closer to moving into your new home.

This brochure provides you with important information to help guide you through the next steps of the approval process.

Step 1: Site Inspection
- The Program Inspection Team will call you to schedule an inspection.
- Inspection will be performed at **no cost to you.**
- Inspectors will always wear a program identification badge.
- We will take photographs and inspect the interior and exterior of your home.
- When complete, the estimated cost to repair the home will be used to determine if you qualify for new construction or rehabilitation will be available.
- No further repairs/modifications can be made to your home after this inspection.

Step 2: Review Damage and Award Type
- All eligible applicants will receive an Award Approval Notification letter.
- Award types are (1) new home or (2) repair of the existing structure.
- Your award type is based on the amount of damage identified from the initial inspection

Step 3: Benefit Selection Meeting
- We will call you to schedule the meeting and advise you of the documents to bring.
- You will choose your home model type.
- You will meet with the contractor and receive information on the construction process.

Step 4: Closing
- A program representative will contact you to set up an appointment.
- Bring a **current** government issued photo ID.
- Remember to bring certified funds to cover Gap/Upgrades.
- Provide a date by which the home will be vacated so construction can begin.

Step 5: Construction
- Remove personal contents from your home.
- Find a temporary place to live during construction.
- Turn off utilities; your contractor is responsible for utilities during construction.
- The contractor moves onsite to begin work.
- At final inspection the homeowner signs acceptance documents and insurance forms.

FREQUENTLY ASKED QUESTIONS

How long does the application process take?
Your application will be processed as quickly as possible. This process can vary greatly depending on the specifics of the application. You can call (877) 839-4477 at any time to check on the status of your application.

What if we do not agree with the determined amount of damage assigned to our home?
The decision of the damage inspector is final. If you disagree with the results of the inspection you can appeal, the process for which is outlined in the Award Letter you will receive.

Will I qualify for a new home if I have an existing mortgage?
Yes. We will work with your lien holder to complete required documents.

Can I select a different contractor if I do not like the plans offered?
To participate in the program, you will have to choose an option provide by the program contractor assigned to you.

If we were to die within the next 3 years would our heirs have to pay the remaining balance on the loan? Who would own the property upon the death of the applicant?
No. If the applicant dies within the three year loan period, the balance of the loan is forgiven. Ownership would pass to the applicant's heirs.

Progress in the last month has been notable and efforts continue to build home at an ever increasing rate.

FEMA Affordable Housing Pilot Program

The Disaster Recovery Division is also responsible for administration of the Federal Emergency Management Agency (FEMA) award of $16,471,725 for the Affordable Housing Pilot Program (AHPP). The purpose of the AHPP is to demonstrate an alternative housing solution to the FEMA trailer in the areas affected by the 2005 Hurricanes.

On January 7, 2008, the Federal Emergency Management Agency (FEMA) announced that TDHCA was awarded $16,471,725 for the Affordable Housing Pilot Program (AHPP). The purpose of the AHPP is to demonstrate an alternative housing solution to the FEMA trailer in the areas affected by the 2005 Hurricanes for a time period of twenty-four months. A one-time exemption to the Stafford Act, AHPP permits the use of FEMA funding to study alternatives to the FEMA trailer by examining cost-effective solutions that meet a variety of housing needs. Pursuant to FEMA requirements, the pre-fabricated units must be awarded within the 22 counties affected by the 2005 Hurricanes.

The Heston Group was selected to pilot a pre-fabricated, panelized solution which can be deployed quickly and built to accommodate a diverse population.

The Department has been working diligently with the Heston Group to identify and manage activities to be performed in preparation of the construction of 17 homes in East Texas and up to 60 homes in the City of Houston.

There are currently 17 eligible and interested families in East Texas with 22 sites having been submitted to FEMA for Environmental Clearance. FEMA has given Environmental Clearance for 14 sites to date. Two homes are now completed and occupied.

TDHCA staff is working closely with the city of Houston on the planning for a 40-50 unit group site that will address the renter population that relocated from East Texas due to Hurricane Rita.

DISASTER RECOVERY DIVISION

BOARD ACTION REQUEST
May 21, 2009

Action Item

Report and Discussion on the Hurricane Ike and Dolly Action Plan.

Requested Action

Review report and discussion on the Hurricane Ike and Dolly Action Plan.

Background

On March 31, 2009, the Office of Rural and Community Affairs ("ORCA") executed a grant agreement with the US Department of Housing and Urban Development ("HUD"), accepting for the State of Texas $1,394,990,193 in CDBG emergency funds. This represents the first portion of funds appropriated for Hurricanes Ike and Dolly, and of this amount, it is anticipated that approximately $650,000,000 will be made available to the Texas Department of Housing and Community Affairs ("TDHCA") to administer housing programs. ORCA and TDHCA have executed a memorandum of understanding, and this will enable TDHCA to access funds, including funds for administration of the grant. A staffing plan for additional staff required to oversee this program is being developed.

The administration of housing programs will be as follows: A formula to allocate the funds among disaster impacted regions was developed utilizing Federal Emergency Management Administration ("FEMA") data on the damage estimates in impacted counties as of December 1, 2008. The councils of governments ("COGs") for the impacted counties were assigned the responsibility of determining how funds would be allocated through a Method of Distribution ("MOD") process. The primary intent of the MOD process is to identify the recipients of the CDBG funds, determine the allocation amounts to each based on objective and verifiable data, and to determine the allocation between housing (TDHCA-administered) and non-housing (ORCA-administered) activities. ORCA is responsible for the receipt of these MODs and coordination of the review and approval process. Although methods of distribution were due on February 20, 2009, the deadline was extended to June 29th for all regions. TDHCA anticipates that six of the eleven effected COG regions will have subrecipients that receive housing allocations, and that there will be approximately 20 subrecipients. To date, only H-GAC has received conditional approval of their MOD that allows the cities of Houston and Galveston to apply for and be awarded funding for housing programs. The City of Houston has submitted its application, which staff has reviewed. It is being presented to the Board for award under a separate item. No other COG requesting housing allocations has received full or conditional MOD approval. Each COG is still in the process of receiving final approval of their MOD or they are in the second stage of the MOD process that identifies the local subrecipients and the housing programs (by type and dollar amount) to be administered at the county level. Once the MODs are approved to that level, the designated local subrecipients will proceed with applications to the Department. The applications require subrecipients to demonstrate capacity and identify benchmarks.

A second major element of the housing component is the establishment of a $58 million set-aside for affordable rental housing. This set-aside, established from 15% of the total grant amount that was available for planning purposes, will be distributed under a competitive notice of funds availability ("NOFA"). Based on input received in public roundtables, the NOFA provides for a greatly simplified application process, targeting smaller multifamily developments (36 units or less), to be awarded on a first come first served basis within the regions. The revised NOFA, reflecting changes to address public input, is being presented to the Board under a separate item.

Several requests for waivers of regulations generally applicable to CDBG disaster recovery funds have been submitted to ORCA for submittal to HUD. Included is a request to allow compensation or incentive programs. Although the Action Plan for this program provides for compensation or incentive programs, the approval of this waiver from HUD will be a requirement to any such award for this housing activity.

DISASTER RECOVERY DIVISION

BOARD ACTION REQUEST
May 21, 2009

Action Item

Presentation and Possible Discussion Regarding a request for proposal for Temporary Housing for Rapid Deployment in Response to Disasters Contingency Contract.

Requested Action

Review summary on Temporary Housing Deployment.

Background

The magnitude and scope of the devastation caused by disasters presents unprecedented challenges by destroying wide swaths of housing, infrastructure, and businesses, while displacing people. Effective post disaster housing is a critical step on the road to recovery. The rapid replacement of housing is vital to rebuilding communities devastated by disasters. Historically, rental properties close to the disaster affected area have been the first choice in housing displaced residents. However, if those units are not available or run out, alternatives must be provided.

To respond to that need, the Governor requested the Texas Department of Housing and Community Affairs (TDHCA) to develop a temporary housing program for rapid deployment in response to disasters. TDHCA envisions providing temporary housing units to satisfy the short-term housing needs of residents whose homes were damaged or destroyed as a result of a disaster. TDHCA would accomplish this task in conjunction with the Governor’s Division of Emergency Management, Municipal and County leadership. The temporary homes would include travel trailers and manufactured homes that could be deployed at regional staging areas, on private property sites, or at group sites.

TDHCA has issued a RFP for manufactured housing units. Staff is currently in the process of reviewing the responses. The second phase focuses on travel trailers. Discussions are underway with the Governor’s Division of Emergency Management to incorporate victim relocation services and a hotel/motel program. This goal is to select potential providers and enter into contracts (subject to funds being made available under the state disaster contingency fund) this summer.

DISASTER RECOVERY DIVISION

BOARD ACTION REQUEST
May 21, 2009

Action Item

Presentation, Discussion, and Possible Approval of CDBG Disaster Recovery Program Award Recommendation

09-0001 City of Houston

Requested Action

Approve, Deny, or Approve with Amendments to the city of Houston's CDBG DR Program Conditional Award Recommendation

Background

On March 31, 2009, the Office of Rural and Community Affairs ("ORCA") executed a grant agreement with the US Department of Housing and Urban Development ("HUD"), accepting for the State of Texas $1,394,990,193 in CDBG disaster recovery funds. This represents the first portion of funds appropriated for Hurricanes Ike and Dolly, and of this amount, it is anticipated that approximately $620,000,000 will be made available to the Texas Department of Housing and Community Affairs ("TDHCA") to administer housing programs.

For housing activities, the Councils of Government (COGs) affected by hurricanes Ike and Dolly are required to identify the entities that are eligible to apply for housing funds. Those entities are identified through a Method of Distribution (MOD) process subject to ORCA approval. Of the eleven COGs affected by the hurricanes, only six regions requested housing funds for an identified sixteen (16) Subrecipients according to the following estimated amounts:

Anticipated Housing Subrecipients, Allocations, and date of MOD Approval as of May 14, 2009		
Subrecipient	**Amount**	**MOD Approval Date**
BVCOG	**$0**	**4/30/2009**
Brazos Valley Affordable Housing Corporation (BVAHC)	$948,929	4/30/2009
DETCOG	**$5,931,070**	**5/1/2009**
ETCOG	**$415,117**	**Pending**
H-GAC	**$11,077,719**	**3/5/2009 (conditional)**
Galveston	$160,432,233	3/5/2009
Galveston County	$99,503,498	Pending
Harris County	$56,277,229	Pending
Houston	$87,256,565	3/5/2009
Chambers County	$20,921,582	4/30/2009
Liberty County	$13,139,263	Pending
Fort Bend County	$1,582,106	Pending
Montgomery County	$6,909,237	Pending
LRGVDC	**$0**	**5/4/2009 (conditional)**
Brownsville	$1,635,318	Pending
Cameron County	$3,093,750	Pending

Mission	$209,638	Pending
Hidalgo County	$2,000,000	Pending
Raymondville	$128,787	Pending
Willacy County	$412,500	Pending
SETRPC	**$95,000,000**	**4/8/2009**
TOTAL	**$566,874,541**	

TDHCA must ensure that housing applicants have the ability to manage complex Community Development Block Grant (CDBG) Disaster Recovery programs efficiently as a Subrecipient of the State. As a result, TDHCA requires applicants to demonstrate capacity through their application submission and encourages "consortiums" to limit the number of Subrecipients and gain economies of scale from larger awards. TDHCA developed an Application Checklist and Capacity Evaluation Form for CDBG Disaster Recovery Fund Housing Applications that meets these purposes through a scoring methodology that weights capacity areas and the size of an application more heavily than other items in the application. TDHCA set a capacity threshold score of 92 for the 2008 Supplemental CDBG Disaster Recovery Funding related to hurricanes Dolly and Ike. All applicants will be required to meet this minimum score before an award will be offered; applicants that do not meet threshold will have an opportunity to submit additional documentation that will be reviewed and may result in a score increase.

On March 16, 2009, TDHCA released the application for housing contracts with an application deadline of May 29, 2009. The deadline was subsequently extended to June 30, 2009 since approval of several MODs remains outstanding. Applicants that are unable to submit applications by June 30, 2009 must request an extension from TDHCA in writing. Subrecipients were notified that they could submit applications to administer housing activities at any time; however TDHCA would not recommend awards until after the applicable COG MOD had received approval by ORCA. On May 8, 2009, the city of Houston submitted an application for housing activities totaling $87,256,565 as follows:

City of Houston – Proposed Hurricane Ike Housing Funds

Administrative and Project Delivery	$4,362,828	5%
Multifamily	$62,170,303	71%
Single family	$20,723,434	24%
	$87,256,565	100%

Staff have reviewed the application and determined that the application sufficiently demonstrated Houston's capacity to administer the award based on the information provided. The award is subject to the following conditions being satisfied prior to the execution of a contract:

- resolution of all administrative deficiencies; and
- clearance of findings related to previous monitoring reviews.

Recommendation

Staff is recommending that the Board conditionally award funds to Houston as described above pending a complete previous participation review as required under 10 TAC Chapter 60 application review and due diligence. Staff also recommends that the Executive Director have authority to grant amendments to this contract to ensure expedited use of funds.

DISASTER RECOVERY DIVISION

BOARD ACTION REQUEST
May 21, 2009

Action Item

Presentation, discussion and possible approval of a policy for homes exceeding the established rehabilitation cap due to historic designation concerns.

Requested Action

Approve, deny or approve with modification the recommended policy for homes exceeding the rehabilitation cap due to historic designation concerns and review and provide guidance on nine applications where the homes were determined to have historical significance that require funds exceeding the established rehabilitation cap

Summary

Nine applications received under the CDBG Rita Round 2 HAP program thus far are for homes that have been determined by the Texas Historical Commission to have historical significance. A summary of these homes along with their initial estimate of cost damage will likely exceed the established program cap for rehabilitation once historical rehabilitation costs have been considered in the estimate. The application identification numbers are 310, 733, 2669, 2884, 2909, 2981, 3290, 4420, 4575, 4945, and 5532. Attached to this write up are the specifics on those applications.

Recommendation

Staff recommends that homes exceeding the established rehabilitation cap due to historic designation will be provided funds not to exceed the current rehabilitation cap. In order to restore the homes to the historical standard, the applicant will need to fund the balance themselves or find alternative funding. Applicants unable to obtain the additional restoration funds will be offered replacement housing within the established caps.

TX Homeowner Assistance Program - Properties Determined Historic

App ID	Address	City	Zip	County	App State	THC Letter	Historic Determination	Initial ECD	Revised ECD	Key Historic Preservation Replacements Features	Comments
310	1850 Broadway St	Beaumont	77701	Jefferson	Awaiting Bid	4/1/2009	contributing to Oaks HD	$76,872		windows, ext door, porch, shingles,	
733	308 W Harris St	Kirbyville	75956	Jasper	Benefit Selection Completed	3/19/2009	individually eligible	$36,009		siding, windows, ext doors, shingles	Given ECD can likey get No Adv Effect Determination
2669	615 5th Ave	Port Arthur	77642	Jefferson	Benefit Selection Completed	4/24/2009	contributing to potential district	$99,874		brickwork, chimney cap, windows, door, shingles, fascia,	
2884	3704 5th St	Port Arthur	77642	Jefferson	Benefit Selection	4/24/2009	contributing to potential district	$93,132		siding, window, ext door, shingles, fascia,	brickwork appears damaged but not listed in inspection?
2909	803 6th St	Orange	77630	Orange	Hold	4/1/2009	individually eligible, and in Old Orange HD	$74,180		window	Leslie Barras local interested party. $12k ceiling insulation, $17k level house.
2981	620 Redwood St	Kountze	77625	Hardin	Awaiting Bid	4/24/2009	individually eligible	$30,734		vinyl siding, windows, ext door,	Wheelchair ramp new? Vinyl siding already present. Given ECD can likey get No Adv Effect Determination
3290	1101 9th St	Orange	77630	Orange	Benefit Selection Completed	4/1/2009	contributing to Old Orange HD	$66,158		brickwork, siding, porch beams, windows, ext door	Owner wants repair vs rebuild. Leslie Barras local interested party.
4420	1095 CENTER ST	Beaumont	77701	Jefferson	Hold	4/1/2009	individually eligible	$52,394		chimney masonry, siding, windows, ext door, guard rail, fascia,	Owner concerned about high rehab costs
4575	3131 7th St	Port Arthur	77642	Jefferson	Benefit Selection Completed	4/24/2009	contributing to potential district	$85,993		window, ext door, shingles,	$55k in drywall work.
4945	1615 Victoria St	Beaumont	77701	Jefferson	Benefit Selection Completed	4/24/2009	contributing to potential district	$50,406		windows, shingles	
5532	605 3rd Street	Orange	77630	Orange	Hold	4/1/2009	contributing to Old Orange HD	$163,236		siding, windows, ext doors	Very large Queen Ann home. Leslie Barras local interested party. Owner wants to keep home.

TEXAS HISTORICAL COMMISSION

The State Agency for Historic Preservation

RICK PERRY, GOVERNOR

JOHN L. NAU, III, CHAIRMAN

F. LAWERENCE OAKS, EXECUTIVE DIRECTOR

April 1, 2009

Jason Buntz
Environmental Compliance Program Manager
Hicks & Company
1504 West 5th St.
Austin, TX 78703

Re: *Project review under Section 106 of the National Historic Preservation Act of 1966, Proposed demolition of 1850 Broadway St., Beaumont, Jefferson County, Texas (HUD/CDBG/106)*

#310
ECD=$76,872

Dear Mr. Buntz,

Thank you for your correspondence describing the above referenced project. This letter serves as comment on the proposed undertaking from the State Historic Preservation Officer (SHPO), the Executive Director of the Texas Historical Commission.

The review staff, led by Charles Peveto and Elizabeth Butman, has completed its review of the information submitted for this project, received on March 5, 2009. The house at 1850 Broadway St. is located within the locally designated Oaks Historic District, and it is **ELIGIBLE** for listing in the National Register of Historic Places under Criterion C for Architecture as a contributing member of a potential historic district. The carriage house behind the dwelling is a rare surviving example of its type and also contributes to the historic district. The proposed demolition of the house and carriage house would have an **ADVERSE EFFECT** on these resources and the integrity of the district. Furthermore, the proposed infill construction on the lot would have a visual effect on the district requiring further review.

Section 106 regulations at 36 CFR 800.6 require that the Texas Department of Housing and Community Affairs (TDHCA) consult with the SHPO and the public to develop and evaluate alternatives to avoid, minimize, or mitigate adverse effects to historic resources. Based on the photographs provided, this house appears to be salvageable, and we suggest the use of TDHCA's Homeowner Assistance Program funds for rehabilitation rather than demolition. Rehabilitation of the house in compliance with the *Secretary of the Interior's Standards for Rehabilitation* and stabilization of the carriage house would be considered to have no adverse effect on historic properties.

If TDHCA does not consider rehabilitation viable, please submit specific documentation of the hurricane damage present at this property. Detailed photographs of structural problems or other hazards should be included. Please keep in mind that, if demolition is pursued, we would need to enter into a Memorandum of Agreement (MOA). Additionally, TDHCA would need to notify the Advisory Council on Historic Preservation (ACHP) of the adverse effect and invite them to participate in consultation. For more information on the Section 106 consultation process, you may refer to the ACHP website at http://achp.gov.

We look forward to further consultation with your office and hope to maintain a partnership that will foster effective historic preservation. Thank you for your cooperation in this federal review process, and for your efforts to preserve the irreplaceable heritage of Texas. **If you have any questions concerning our review or if we can be of further assistance, please contact Elizabeth Butman at 512/463-7687.**

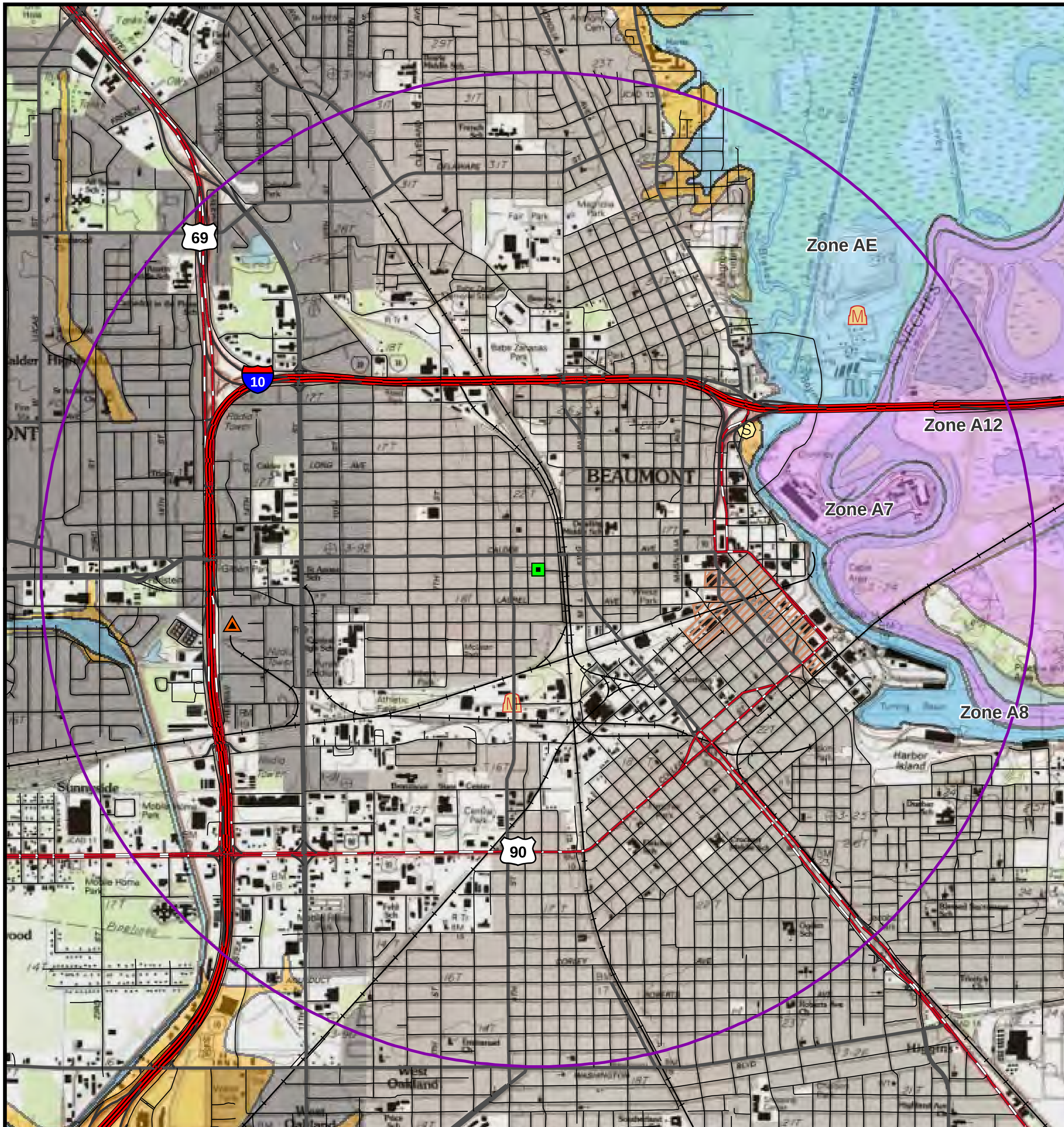
Sincerely,

A. Elizabeth Butman

A. Elizabeth Butman, Forest Region Project Reviewer
For: F. Lawerence Oaks, State Historic Preservation Officer

FLO/eb

Cc: Ron Ellington, Chair, Jefferson County Historical Commission
Stephen C. Richardson, Planning Manager, City of Beaumont



Applicant Location
2-Mile Radius of Applicant Location
Airport without Jet Service
Airport with Jet Service
Industrial/Hazardous Waste Location
Municipal Landfill

Natural Gas Facilities

Production Plant
Compressor Station

Oil Facilities

Refinery
Tank Farm
Superfund Site
Railroad
Historical District
Coastal Barrier Resources System Designated Area

100-Year Floodplain (FEMA)

Zone Designation

A
A1 - A30
AE
AH
ANI
AO
V
V1 - V30
VE
500-Year Floodplain (FEMA)

0 1,000 2,000 3,000 Feet
1:36,000
1 in = 3,000 feet

REFERENCE:
Texas Commission on Environmental Quality, 20070418, Municipal Solid Waste Sites/ Landfills [MSW_sites.shp]; Texas Commission on Environmental Quality, 19960830, TCEQ Permitted Industrial & Hazardous Waste Sites [pihw.shp]; Texas Commission on Environmental Quality, 20071018, TCEQ Superfund Sites [Superfund_Sites.shp]; US Environmental Protection Agency, Oil Facilities [us_oil.shp]; US Environmental Protection Agency, Natural Gas Facilities [us_nat_gas.shp]; TNRIS, 20070525, 1-Percent Flood Risk Zones (FEMA) [1-Percent Flood Risk Zones (FEMA)_ JEFFERSON.shp] and [1-Percent Flood Risk Zones (FEMA)_ORANGE.shp]; Federal Emergency Management Agency (FEMA), 1998, Q3 Flood Data [FEMA_Q3_245.shp]

Shaw

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

FIGURE 1

ENVIRONMENTAL POINTS OF INTEREST

APPLICANT NO. 310
1850 BROADWAY ST, BEAUMONT, TX 77701
HOMEOWNER ASSISTANCE PROGRAM - JEFFERSON COUNTY

HOU - B Muske - 02/11/09

TEXAS HISTORICAL COMMISSION
The State Agency for Historic Preservation

RICK PERRY, GOVERNOR
JOHN L. NAU, III, CHAIRMAN
F. LAWERENCE OAKS, EXECUTIVE DIRECTOR

March 19, 2009

Science Kilner
Shaw Environmental
8501 North Mopac, Suite 320
Austin, Texas 78759

Re: Project review under Section 106 of the National Historic Preservation Act of 1966
Proposed Demolition of 308 W. Harris Street, Kirbyville, Jasper Co., Texas, N20

Dear Ms. Kilner:

Thank you for your correspondence describing the above referenced project. This letter serves as comment on the proposed undertaking from the State Historic Preservation Officer, the Executive Director of the Texas Historical Commission.

The review staff, led by Charles M. Peveto has completed a review based on the submittal of information provided of the following property by applying state and federal criteria for historical designation:

- 308 W. Harris Street

This property is **eligible** for listing on the National Register of Historic Places under Criterion C for Architecture. Please contact Elizabeth Butman, with the Architecture Division (512/463.7687) for a determination of effect. She may request architectural drawings, specifications, work write-ups, and a complete set of photographs (including historic) showing all the areas that the proposed work may affect. Photographs should be labeled and keyed to the existing report affected by this project.

It is possible, however, that buried cultural materials may be present in the project area. If such materials are encountered during construction or disturbance activities, work should cease in the immediate area; work can continue in the project area where no cultural materials are present. Please contact the SHPO's Archeology Division (512/463-6167) to consult on further actions that may be necessary to protect the cultural remains.

We look forward to further consultation with your office and hope to maintain a partnership that will foster effective historic preservation. Thank you for your cooperation in this federal review process, and for your efforts to preserve the irreplaceable heritage of Texas. If you have any questions concerning our review or if we can be of further assistance, please contact Charles M. Peveto at 512/463-6008.

Sincerely,

Charles M. Peveto, Historian
for F. Lawerence Oaks, SHPO

cc: Elizabeth Butman, Architecture Division
Linda Primrose, Jasper County Historical Chair

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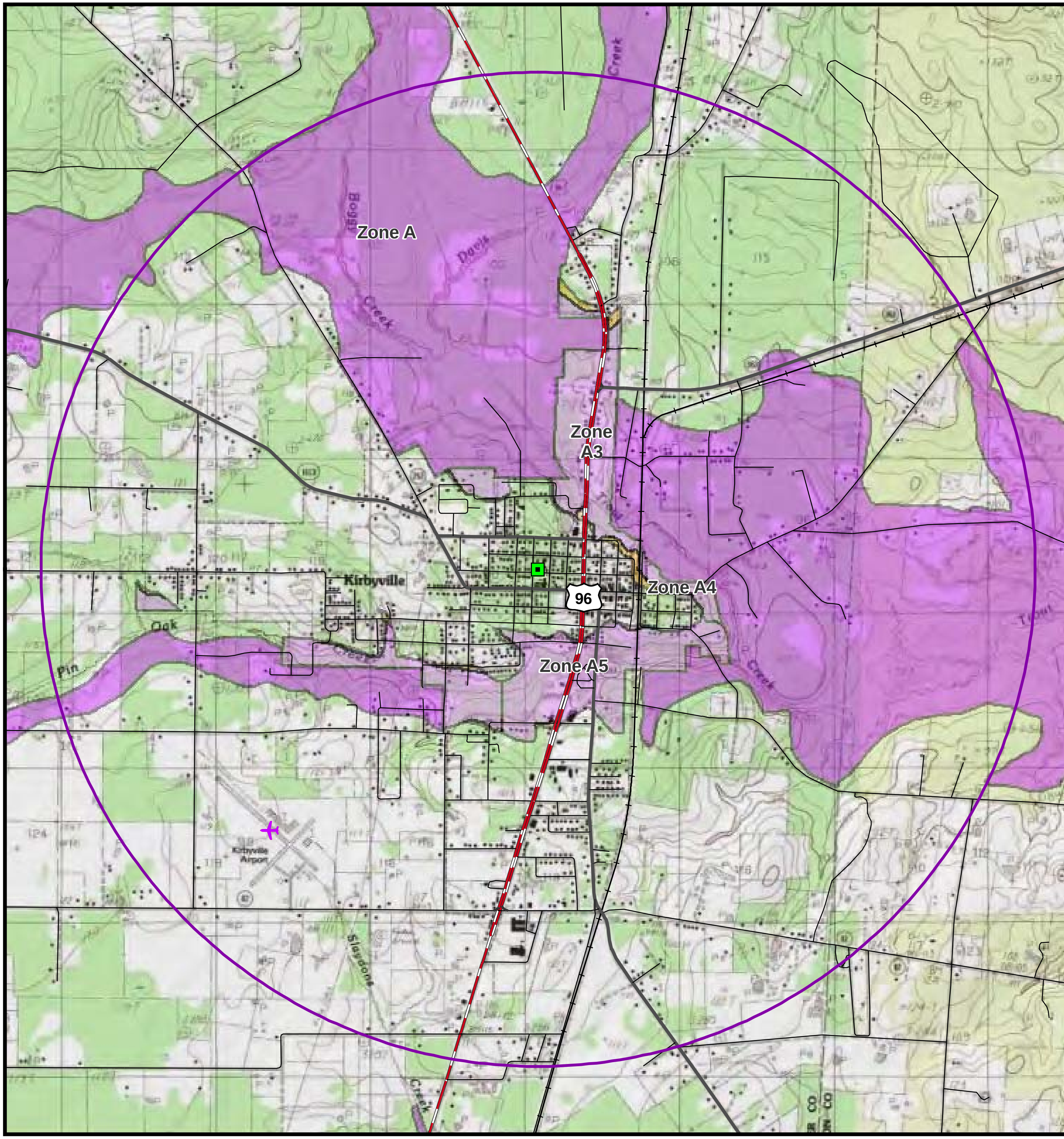
Photographic Documentation

Client:	TDHCA
Applicant #:	733
Date:	12/24/2008
Location:	308 W. Harris Street, Kirbyville, TX
Description:	Lot with existing structure
Photographer:	Geoff Iles



Applicant Location
2-Mile Radius of Applicant Location
Airport without Jet Service
Airport with Jet Service
Industrial/Hazardous Waste Location
Municipal Landfill

Natural Gas Facilities

Production Plant
Compressor Station

Oil Facilities

Refinery
Tank Farm
Superfund Site
Railroad
Historical District
Potential Historic District Under Evaluation
Coastal Barrier Resources System Designated Area

100-Year Floodplain (FEMA)

Zone Designation

- A
- A1 - A30
- AE
- AH
- ANI
- AO
- V
- V1 - V30
- VE
- 500-Year Floodplain (FEMA)

0 1,000 2,000 3,000 Feet
1:36,000
1 in = 3,000 feet

REFERENCE:
Texas Commission on Environmental Quality, 20070418, Municipal Solid Waste Sites/ Landfills [MSW_sites.shp]; Texas Commission on Environmental Quality, 19960830, TCEQ Permitted Industrial & Hazardous Waste Sites [pihw.shp]; Texas Commission on Environmental Quality, 20071018, TCEQ Superfund Sites [Superfund_Sites.shp]; US Environmental Protection Agency, Oil Facilities [us_oil.shp]; US Environmental Protection Agency, Natural Gas Facilities [us_nat_gas.shp]; TNRIS, 20070525, 1-Percent Flood Risk Zones (FEMA) [1-Percent Flood Risk Zones (FEMA)_ JEFFERSON.shp] and [1-Percent Flood Risk Zones (FEMA)_ORANGE.shp]; Federal Emergency Management Agency (FEMA), 1998, Q3 Flood Data [FEMA_Q3_245.shp]

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TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

FIGURE 1

ENVIRONMENTAL POINTS OF INTEREST

APPLICANT NO. 733
308 W. HARRIS STREET, KIRBYVILLE, TX 75956
HOMEOWNER ASSISTANCE PROGRAM - JASPER COUNTY

MXD:G:\IS130323_THAP\Doc\Mxd\Applicants\dhca_130323_app_2mi

HOU - B Muske - 03/17/09

TEXAS HISTORICAL COMMISSION
real places telling real stories

April 24, 2009

Jason Buntz
Environmental Compliance Program
Hicks & Company
1504 West 5th Street
Austin, Texas 78703

Re: Project review under Section 106 of the National Historic Preservation Act of 1966
Proposed rehabilitation/demolition of 615 5th Avenue, Port Arthur, Jefferson Co., Texas, N20

Dear Mr. Buntz:

Thank you for your correspondence describing the above referenced project. This letter serves as comment on the proposed undertaking from the State Historic Preservation Officer, the Executive Director of the Texas Historical Commission.

The review staff, led by Charles M. Peveto has completed a review based on the submittal of information provided of the following property by applying state and federal criteria for historical designation:

- 615 5th Avenue

This property is **eligible** for listing on the National Register of Historic Places under for Criterion C for Architecture as a contributing member to a potential historic district. Please contact Elizabeth Butman, with the Architecture Division (512/463.7687) for a determination of effect. She may request architectural drawings, specifications, work write-ups, and a complete set of photographs (including historic) showing all the areas that the proposed work may affect. Photographs should be labeled and keyed to the existing report affected by this project.

It is possible, however, that buried cultural materials may be present in the project area. If such materials are encountered during construction or disturbance activities, work should cease in the immediate area; work can continue in the project area where no cultural materials are present. Please contact the SHPO's Archeology Division (512/463-6167) to consult on further actions that may be necessary to protect the cultural remains.

We look forward to further consultation with your office and hope to maintain a partnership that will foster effective historic preservation. Thank you for your cooperation in this federal review process, and for your efforts to preserve the irreplaceable heritage of Texas. If you have any questions concerning our review or if we can be of further assistance, please contact Charles M. Peveto at 512/463-6008.

Sincerely,

Chl M. Pel

Charles M. Peveto, Historian
for F. Lawerence Oaks, SHPO

cc: Elizabeth Butman, Architecture Division
Ron Ellington, Jefferson County Historical Chair

Shaw Environmental, Inc.

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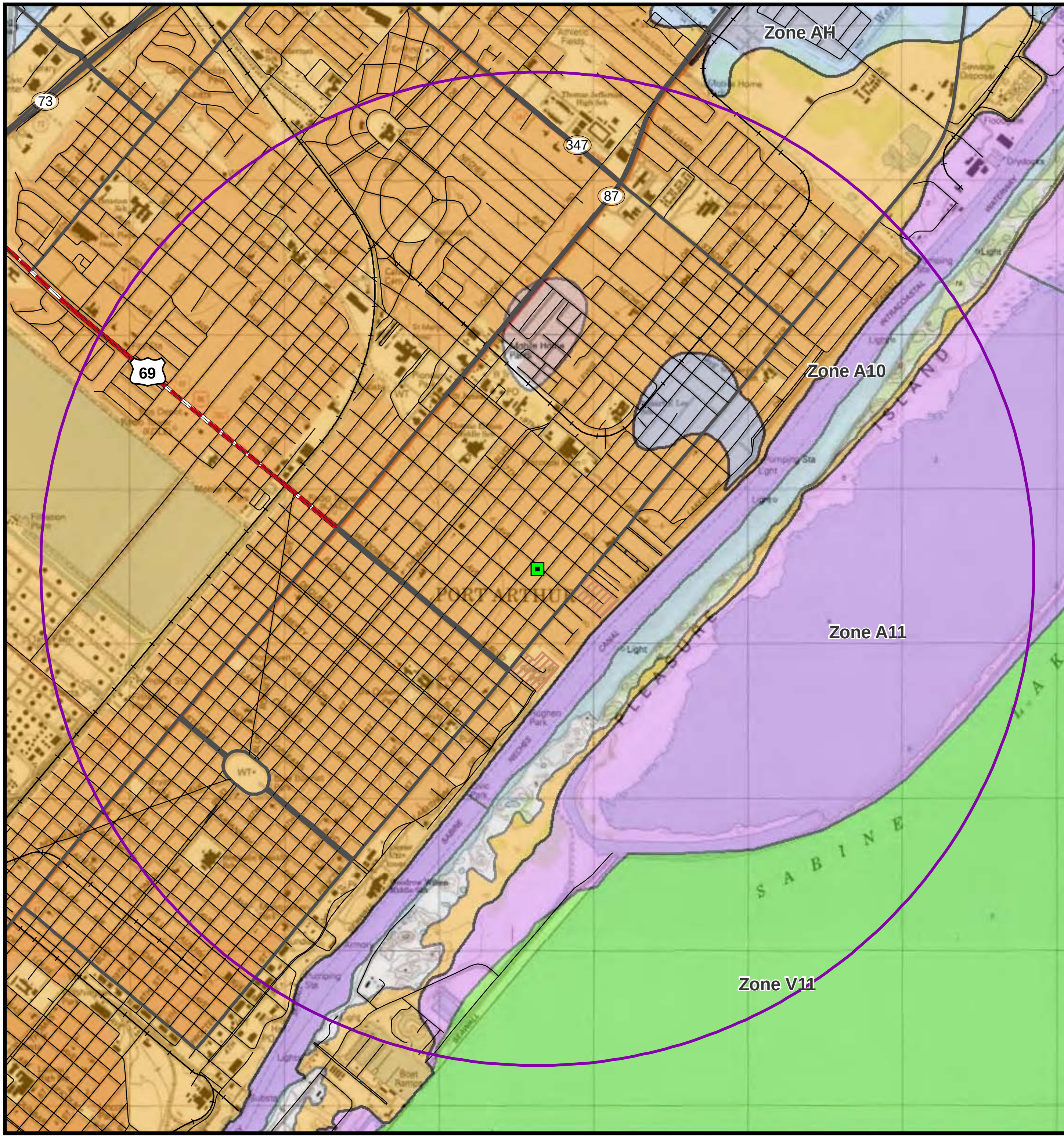
Photographic Documentation

Client: TDHCA
Applicant No: 2669
Date: 12.24.08
Location: 615 5th Avenue, Port Arthur TX
Description: Lot with existing structure
Photographer: Brian Flauss

MXD: app2669_tdhca_130323_jeffapps_559



- Applicant Location
- 2-Mile Radius of Applicant Location
- Airport without Jet Service
- Airport with Jet Service
- Industrial/Hazardous Waste Location
- Municipal Landfill

Natural Gas Facilities

- Production Plant
- Compressor Station

Oil Facilities

- Refinery
- Tank Farm
- Superfund Site
- Railroad
- Historical District
- Coastal Barrier Resources System Designated Area

100-Year Floodplain (FEMA)

Zone Designation

- A
- A1 - A30
- AE
- AH
- ANI
- AO
- V
- V1 - V30
- VE
- 500-Year Floodplain (FEMA)

0 1,000 2,000 3,000 Feet

1:36,000
1 in = 3,000 ft

REFERENCE:
Texas Commission on Environmental Quality, 20070418, Municipal Solid Waste Sites/ Landfills [MSW_sites.shp]; Texas Commission on Environmental Quality, 19960830, TCEQ Permitted Industrial & Hazardous Waste Sites [pihw.shp]; Texas Commission on Environmental Quality, 20071018, TCEQ Superfund Sites [Superfund_Sites.shp]; US Environmental Protection Agency, Oil Facilities [us_oil.shp]; US Environmental Protection Agency, Natural Gas Facilities [us_nat_gas.shp]; TNRIS, 20070525, 1-Percent Flood Risk Zones (FEMA) [1-Percent Flood Risk Zones (FEMA)_ JEFFERSON.shp] and [1-Percent Flood Risk Zones (FEMA)_ORANGE.shp]; Federal Emergency Management Agency (FEMA), 1998, Q3 Flood Data [FEMA_Q3_245.shp]

Shaw

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

FIGURE 1

ENVIRONMENTAL POINTS OF INTEREST

APPLICANT NO. 2669
615 5TH AVE, PORT ARTHUR, TEXAS 77642
HOMEOWNER ASSISTANCE PROGRAM - JEFFERSON COUNTY

HOU - B Muske - 02/01/09

TEXAS HISTORICAL COMMISSION

real places telling real stories

April 24, 2009

Jason Buntz
Environmental Compliance Program
Hicks & Company
1504 West 5th Street
Austin, Texas 78703

Re: Project review under Section 106 of the National Historic Preservation Act of 1966
Proposed rehabilitation/demolition of 3704 5th Street, Port Arthur, Jefferson Co., Texas, N20

Dear Mr. Buntz:

Thank you for your correspondence describing the above referenced project. This letter serves as comment on the proposed undertaking from the State Historic Preservation Officer, the Executive Director of the Texas Historical Commission.

The review staff, led by Charles M. Peveto has completed a review based on the submittal of information provided of the following property by applying state and federal criteria for historical designation:

- 3704 5th Street

This property is **eligible** for listing on the National Register of Historic Places under for Criterion C for Architecture as a contributing member to a potential historic district. Please contact Elizabeth Butman, with the Architecture Division (512/463.7687) for a determination of effect. She may request architectural drawings, specifications, work write-ups, and a complete set of photographs (including historic) showing all the areas that the proposed work may affect. Photographs should be labeled and keyed to the existing report affected by this project.

It is possible, however, that buried cultural materials may be present in the project area. If such materials are encountered during construction or disturbance activities, work should cease in the immediate area; work can continue in the project area where no cultural materials are present. Please contact the SHPO's Archeology Division (512/463-6167) to consult on further actions that may be necessary to protect the cultural remains.

We look forward to further consultation with your office and hope to maintain a partnership that will foster effective historic preservation. Thank you for your cooperation in this federal review process, and for your efforts to preserve the irreplaceable heritage of Texas. If you have any questions concerning our review or if we can be of further assistance, please contact Charles M. Peveto at 512/463-6008.

Sincerely,

Chl M. Pl

Charles M. Peveto, Historian
for F. Lawerence Oaks, SHPO

cc: Elizabeth Butman, Architecture Division
Ron Ellington, Jefferson County Historical Chair

Shaw® Shaw Environmental, Inc.

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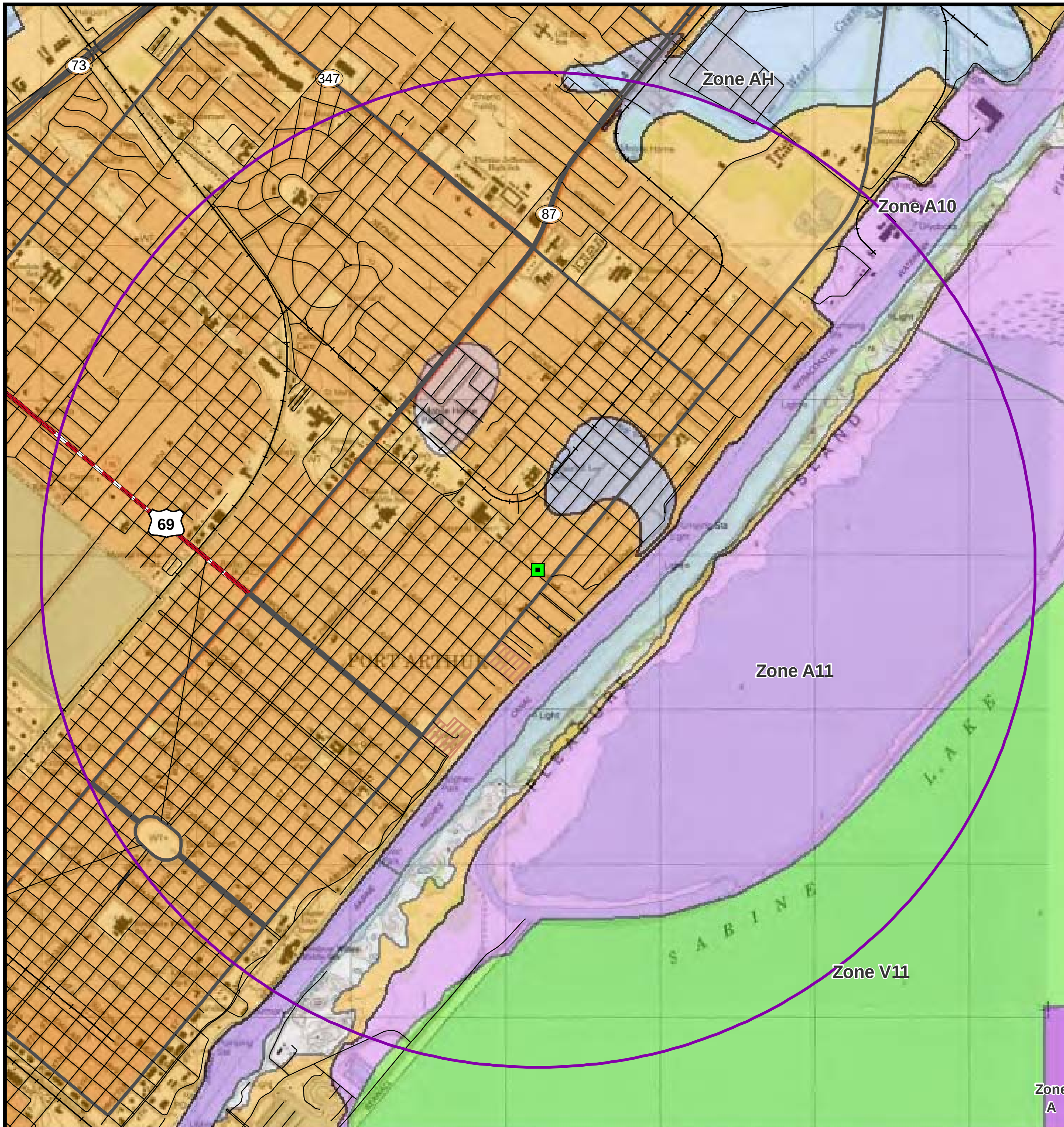
Photographic Documentation

Client: TDHCA
Applicant No: 2884
Date: 2.24.09
Location: 3704 5th Street, Port Arthur TX
Description: Lot with existing structure
Photographer: John Lewis Parker



Applicant Location
2-Mile Radius of Applicant Location
Airport without Jet Service
Airport with Jet Service
Industrial/Hazardous Waste Location
Municipal Landfill

Natural Gas Facilities

Production Plant
Compressor Station

Oil Facilities

Refinery
Tank Farm
Superfund Site
Railroad
Historical District
Potential Historic District Under Evaluation
Coastal Barrier Resources System Designated Area

100-Year Floodplain (FEMA)

Zone Designation

A
A1 - A30
AE
AH
ANI
AO
V
V1 - V30
VE
500-Year Floodplain (FEMA)

0 1,000 2,000 3,000 Feet
1:36,000
1 in = 3,000 feet

REFERENCE:
Texas Commission on Environmental Quality, 20070418, Municipal Solid Waste Sites/ Landfills [MSW_sites.shp]; Texas Commission on Environmental Quality, 19960830, TCEQ Permitted Industrial & Hazardous Waste Sites [pihw.shp]; Texas Commission on Environmental Quality, 20071018, TCEQ Superfund Sites [Superfund_Sites.shp]; US Environmental Protection Agency, Oil Facilities [us_oil.shp]; US Environmental Protection Agency, Natural Gas Facilities [us_nat_gas.shp]; TNRIS, 20070525, 1-Percent Flood Risk Zones (FEMA) [1-Percent Flood Risk Zones (FEMA)_JEFFERSON.shp] and [1-Percent Flood Risk Zones (FEMA)_ORANGE.shp]; Federal Emergency Management Agency (FEMA), 1998, Q3 Flood Data [FEMA_Q3_245.shp]

Shaw

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

FIGURE 1

ENVIRONMENTAL POINTS OF INTEREST

APPLICANT NO. 2884
3704 5TH ST, PORT ARTHUR, TX 77642
HOMEOWNER ASSISTANCE PROGRAM - JEFFERSON COUNTY

HOU - B Muske - 03/03/09

TEXAS
HISTORICAL
COMMISSION

The State Agency for Historic Preservation

RICK PERRY, GOVERNOR
JOHN L. NAU, III, CHAIRMAN
F. LAWERENCE OAKS, EXECUTIVE DIRECTOR

April 1, 2009

Jason Buntz
Environmental Compliance Program Manager
Hicks & Company
1504 West 5th St.
Austin, TX 78703

Re: *Project review under Section 106 of the National Historic Preservation Act of 1966,* #2909
Proposed demolition of 803 6th St., Orange, Orange County, Texas (HUD/CDBG/106) ECD $74k in FP

Dear Mr. Buntz,

Thank you for your correspondence describing the above referenced project. This letter serves as comment on the proposed undertaking from the State Historic Preservation Officer (SHPO), the Executive Director of the Texas Historical Commission.

The review staff, led by Charles Peveto and Elizabeth Butman, has completed its review of the information submitted for this project, received on March 26, 2009. The house at 803 6th St. is **INDIVIDUALLY ELIGIBLE** for listing in the National Register of Historic Places under Criterion C for Architecture, and it contributes to the locally designated Old Orange Historic District. The proposed demolition would have an **ADVERSE EFFECT** on this resource and the integrity of the eligible historic district. Furthermore, the proposed infill construction on the lot would have a visual effect on the district requiring further review.

Section 106 regulations at 36 CFR 800.6 require that the Texas Department of Housing and Community Affairs (TDHCA) consult with the SHPO and the public to develop and evaluate alternatives to avoid, minimize, or mitigate adverse effects to historic resources. Based on the photographs provided, this house appears to be in excellent condition, and we suggest the use of TDHCA's Homeowner Assistance Program funds for rehabilitation rather than demolition. Rehabilitation of the house in compliance with the *Secretary of the Interior's Standards for Rehabilitation* would be considered to have no adverse effect on historic properties.

If TDHCA does not consider rehabilitation viable, please submit specific documentation of the hurricane damage present at this property. Detailed photographs of structural problems or other hazards should be included. Please keep in mind that, if demolition is pursued, we would need to enter into a Memorandum of Agreement (MOA). Additionally, TDHCA would need to notify the Advisory Council on Historic Preservation (ACHP) of the adverse effect and invite them to participate in consultation. For more information on the Section 106 consultation process, you may refer to the ACHP website at http://achp.gov.

We look forward to further consultation with your office and hope to maintain a partnership that will foster effective historic preservation. Thank you for your cooperation in this federal review process, and for your efforts to preserve the irreplaceable heritage of Texas. **If you have any**

questions concerning our review or if we can be of further assistance, please contact Elizabeth Butman at 512/463-7687.

Sincerely,

A. Elizabeth Butman

A. Elizabeth Butman, Forest Region Project Reviewer
For: F. Lawerence Oaks, State Historic Preservation Officer

FLO/eb

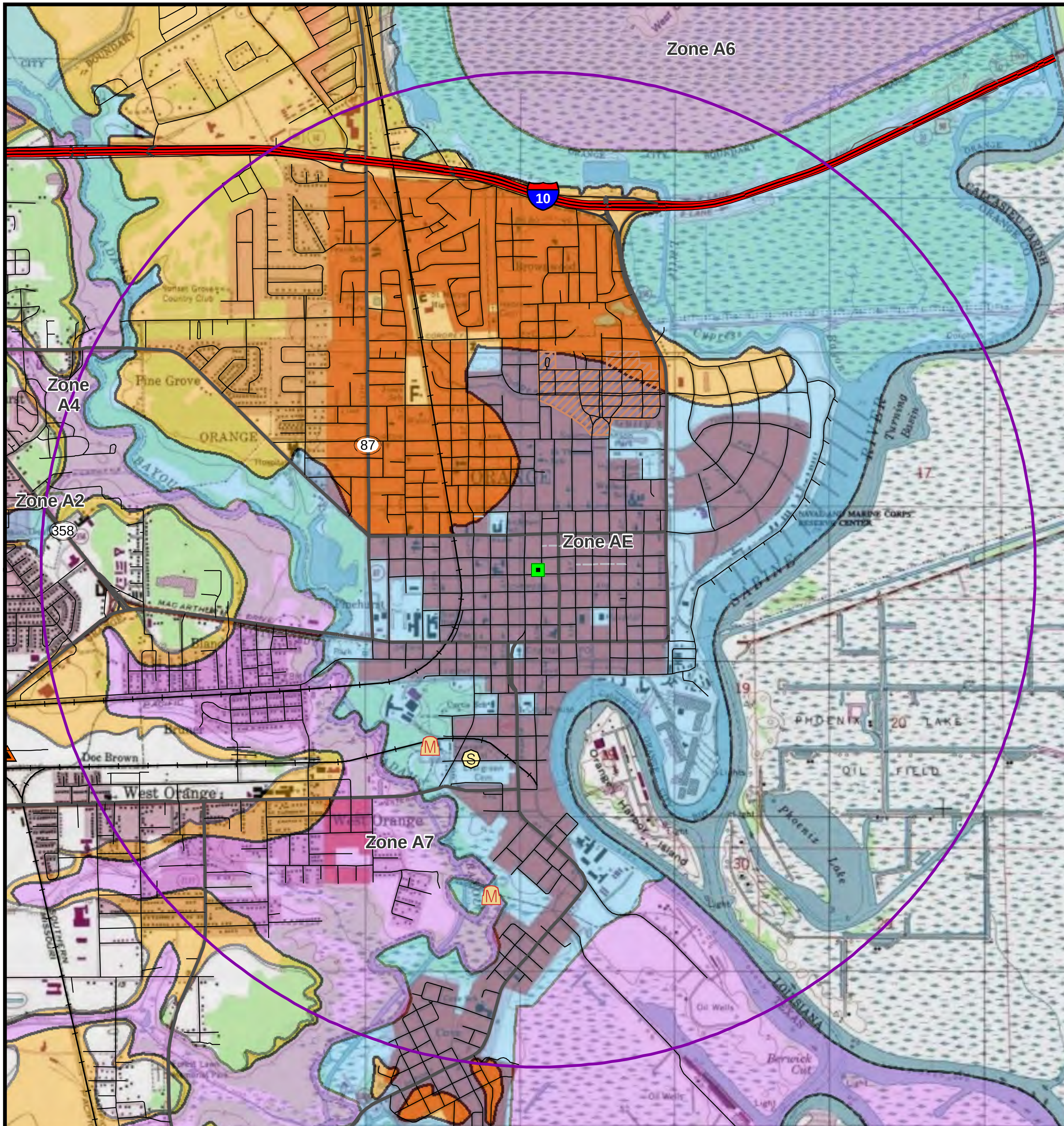
Cc: Dr. Howard C. Williams, Chair, Orange County Historical Commission

Shaw Environmental, Inc.

A World of Solutions™

Photographic Documentation

Client:	TDHCA
Applicant #:	2909
Date:	12/23/2008
Location:	803 6th Street, Orange, TX
Description:	Lot with existing structure
Photographer:	Geoff Iles



Applicant Location
2-Mile Radius of Applicant Location
Airport without Jet Service
Airport with Jet Service
Industrial/Hazardous Waste Location
Municipal Landfill

Natural Gas Facilities

Production Plant
Compressor Station

Oil Facilities

Refinery
Tank Farm
Superfund Site
Railroad
Historical District
Coastal Barrier Resources System Designated Area

100-Year Floodplain (FEMA)

Zone Designation

A
A1 - A30
AE
AH
ANI
AO
V
V1 - V30
VE
500-Year Floodplain (FEMA)

0 1,000 2,000 3,000 Feet
1:36,000
1 in = 3,000 ft

REFERENCE:
Texas Commission on Environmental Quality, 20070418, Municipal Solid Waste Sites/ Landfills [MSW_sites.shp]; Texas Commission on Environmental Quality, 19960830, TCEQ Permitted Industrial & Hazardous Waste Sites [pihw.shp]; Texas Commission on Environmental Quality, 20071018, TCEQ Superfund Sites [Superfund_Sites.shp]; US Environmental Protection Agency, Oil Facilities [us_oil.shp]; US Environmental Protection Agency, Natural Gas Facilities [us_nat_gas.shp]; TNRIS, 20070525, 1-Percent Flood Risk Zones (FEMA) [1-Percent Flood Risk Zones (FEMA)_ JEFFERSON.shp] and [1-Percent Flood Risk Zones (FEMA)_ORANGE.shp]; Federal Emergency Management Agency (FEMA), 1998, Q3 Flood Data [FEMA_Q3_245.shp]

Shaw

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

FIGURE 1

ENVIRONMENTAL POINTS OF INTEREST

APPLICANT NO. 2909
803 6TH ST, ORANGE, TEXAS 77630
HOMEOWNER ASSISTANCE PROGRAM - ORANGE COUNTY

MXD: app2909_tdhca_130323_oranapps_0029
HOU - B Muske - 01/30/09

TEXAS HISTORICAL COMMISSION

real places telling real stories

April 24, 2009

Jason Buntz
Environmental Compliance Program
Hicks & Company
1504 West 5th Street
Austin, Texas 78703

Re: Project review under Section 106 of the National Historic Preservation Act of 1966
Proposed rehabilitation/demolition of 620 S. Redwood, Kountze, Hardin Co., Texas, N20

Dear Mr. Buntz:

Thank you for your correspondence describing the above referenced project. This letter serves as comment on the proposed undertaking from the State Historic Preservation Officer, the Executive Director of the Texas Historical Commission.

The review staff, led by Charles M. Peveto has completed a review based on the submittal of information provided of the following property by applying state and federal criteria for historical designation:

- 620 S. Redwood

This property is individually **eligible** for listing on the National Register of Historic Places under for Criterion C for Architecture. Please contact Elizabeth Butman, with the Architecture Division (512/463.7687) for a determination of effect. She may request architectural drawings, specifications, work write-ups, and a complete set of photographs (including historic) showing all the areas that the proposed work may affect. Photographs should be labeled and keyed to the existing report affected by this project.

It is possible, however, that buried cultural materials may be present in the project area. If such materials are encountered during construction or disturbance activities, work should cease in the immediate area; work can continue in the project area where no cultural materials are present. Please contact the SHPO's Archeology Division (512/463-6167) to consult on further actions that may be necessary to protect the cultural remains.

We look forward to further consultation with your office and hope to maintain a partnership that will foster effective historic preservation. Thank you for your cooperation in this federal review process, and for your efforts to preserve the irreplaceable heritage of Texas. If you have any questions concerning our review or if we can be of further assistance, please contact Charles M. Peveto at 512/463-6008.

Sincerely,

Charles M. Peveto, Historian
for F. Lawerence Oaks, SHPO

cc: Elizabeth Butman, Architecture Division
J. A. McKimm, III County Historical Chair

P.O. BOX 12276 • AUSTIN, TEXAS • 78711-2276 • P 512.463.6100 • F 512.475.4872 • TDD 1.800.735.2989 • www.thc.state.tx.us

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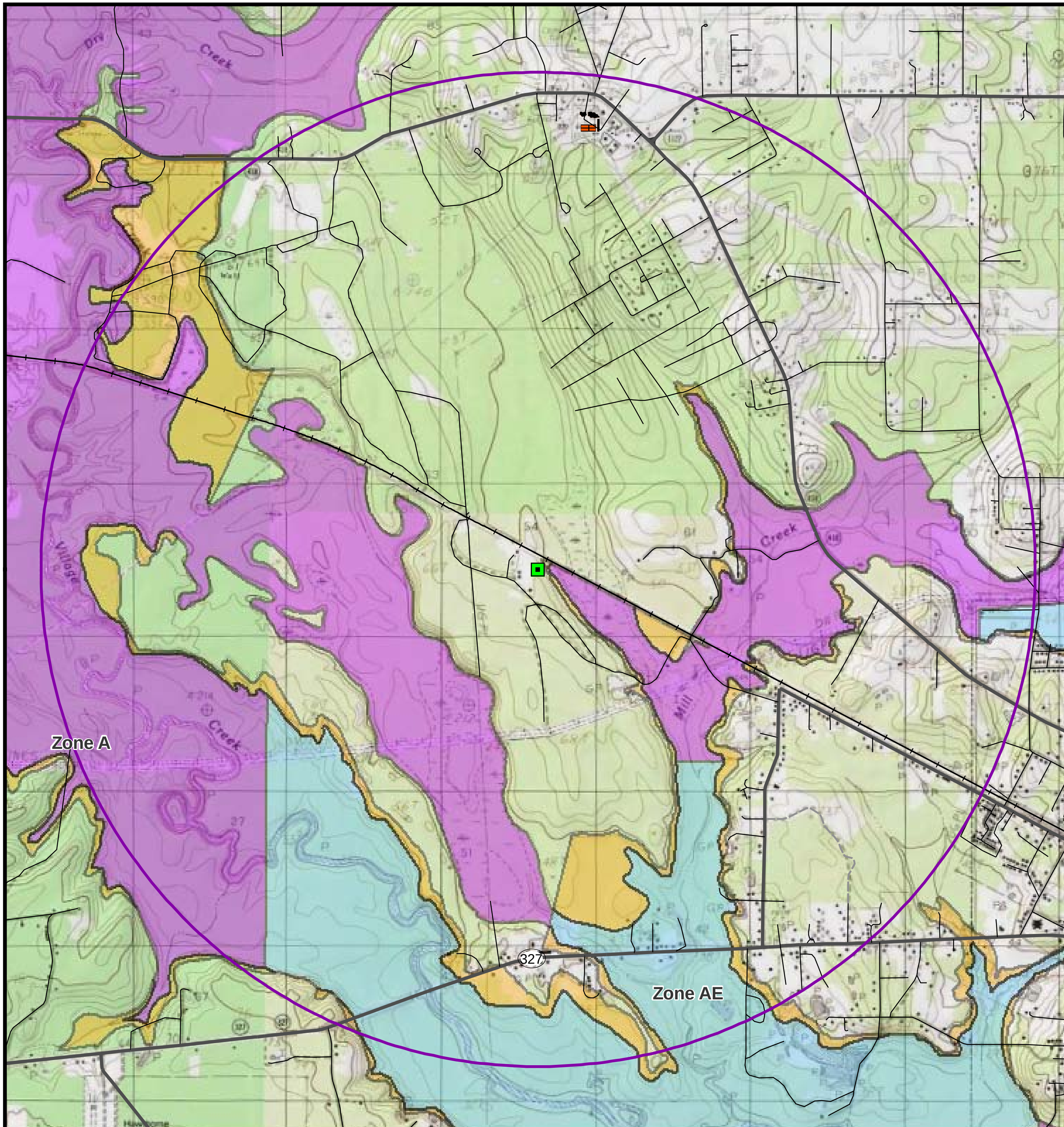
Photographic Documentation

Client: TDHCA
Applicant No: 2981
Date: 1/15/09
Location: 620 S. Redwood St, Kountze TX
Description: Lot with existing structure
Photographer: Geoff Iles

MXD:THAP\Drafting\TX_Road_Home\130323\ArcView\GIS_Documents\Project_Maps\MXD\Applicant_Maps\tdhca_130323_app_2mi



- Applicant Location
- 2-Mile Radius of Applicant Location
- Airport without Jet Service
- Airport with Jet Service
- Industrial/Hazardous Waste Location
- Municipal Landfill

Natural Gas Facilities

- Production Plant
- Compressor Station

Oil Facilities

- Refinery
- Tank Farm
- Superfund Site
- Railroad
- Historical District
- Potential Historic District Under Evaluation
- Coastal Barrier Resources System Designated Area

100-Year Floodplain (FEMA)

Zone Designation

- A
- A1 - A30
- AE
- AH
- ANI
- AO
- V
- V1 - V30
- VE
- 500-Year Floodplain (FEMA)

0 1,000 2,000 3,000 Feet

1:36,000
1 in = 3,000 feet

REFERENCE:
Texas Commission on Environmental Quality, 20070418, Municipal Solid Waste Sites/ Landfills [MSW_sites.shp]; Texas Commission on Environmental Quality, 19960830, TCEQ Permitted Industrial & Hazardous Waste Sites [pihw.shp]; Texas Commission on Environmental Quality, 20071018, TCEQ Superfund Sites [Superfund_Sites.shp]; US Environmental Protection Agency, Oil Facilities [us_oil.shp]; US Environmental Protection Agency, Natural Gas Facilities [us_nat_gas.shp]; TNRIS, 20070525, 1-Percent Flood Risk Zones (FEMA) [1-Percent Flood Risk Zones (FEMA)_ JEFFERSON.shp] and [1-Percent Flood Risk Zones (FEMA)_ORANGE.shp]; Federal Emergency Management Agency (FEMA), 1998, Q3 Flood Data [FEMA_Q3_245.shp]

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TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

FIGURE 1

ENVIRONMENTAL POINTS OF INTEREST

APPLICANT NO. 2981
620 REDWOOD ST, KOUNTZE, TX 77625
HOMEOWNER ASSISTANCE PROGRAM - HARDIN COUNTY

HOU - B Muske - 03/10/09

TEXAS
HISTORICAL
COMMISSION

The State Agency for Historic Preservation

RICK PERRY, GOVERNOR

JOHN L. NAU, III, CHAIRMAN

F. LAWERENCE OAKS, EXECUTIVE DIRECTOR

April 1, 2009

Jason Buntz
Environmental Compliance Program Manager
Hicks & Company
1504 West 5th St.
Austin, TX 78703

Re: Project review under Section 106 of the National Historic Preservation Act of 1966, #3290
Proposed demolition of 1101 9th St., Orange, Orange County, Texas (HUD/CDBG/106) ECD $66K

Dear Mr. Buntz,

Thank you for your correspondence describing the above referenced project. This letter serves as comment on the proposed undertaking from the State Historic Preservation Officer (SHPO), the Executive Director of the Texas Historical Commission.

The review staff, led by Charles Peveto and Elizabeth Butman, has completed its review of the information submitted for this project, received on March 5, 2009. The house at 1101 9th St. is adjacent to the locally designated Old Orange Historic District, and the house and associated garage apartment are **ELIGIBLE** for listing in the National Register of Historic Places under Criterion C for Architecture as a contributing members of a potential historic district. The proposed demolition would have an **ADVERSE EFFECT** on these resources and the integrity of the eligible district. Furthermore, the proposed infill construction on the lot would have a visual effect on the district requiring further review.

Section 106 regulations at 36 CFR 800.6 require that the Texas Department of Housing and Community Affairs (TDHCA) consult with the SHPO and the public to develop and evaluate alternatives to avoid, minimize, or mitigate adverse effects to historic resources. Based on the photographs provided, this house appears to be salvageable, and we suggest the use of TDHCA's Homeowner Assistance Program funds for rehabilitation rather than demolition. Rehabilitation of the house and garage apartment in compliance with the *Secretary of the Interior's Standards for Rehabilitation* would be considered to have no adverse effect on historic properties.

If TDHCA does not consider rehabilitation viable, please submit specific documentation of the hurricane damage present at this property. Detailed photographs of structural problems or other hazards should be included. Please keep in mind that, if demolition is pursued, we would need to enter into a Memorandum of Agreement (MOA). Additionally, TDHCA would need to notify the Advisory Council on Historic Preservation (ACHP) of the adverse effect and invite them to participate in consultation. For more information on the Section 106 consultation process, you may refer to the ACHP website at http://achp.gov.

We look forward to further consultation with your office and hope to maintain a partnership that will foster effective historic preservation. Thank you for your cooperation in this federal review process, and for your efforts to preserve the irreplaceable heritage of Texas. **If you have any questions concerning our review or if we can be of further assistance, please contact Elizabeth Butman at 512/463-7687.**

Sincerely,

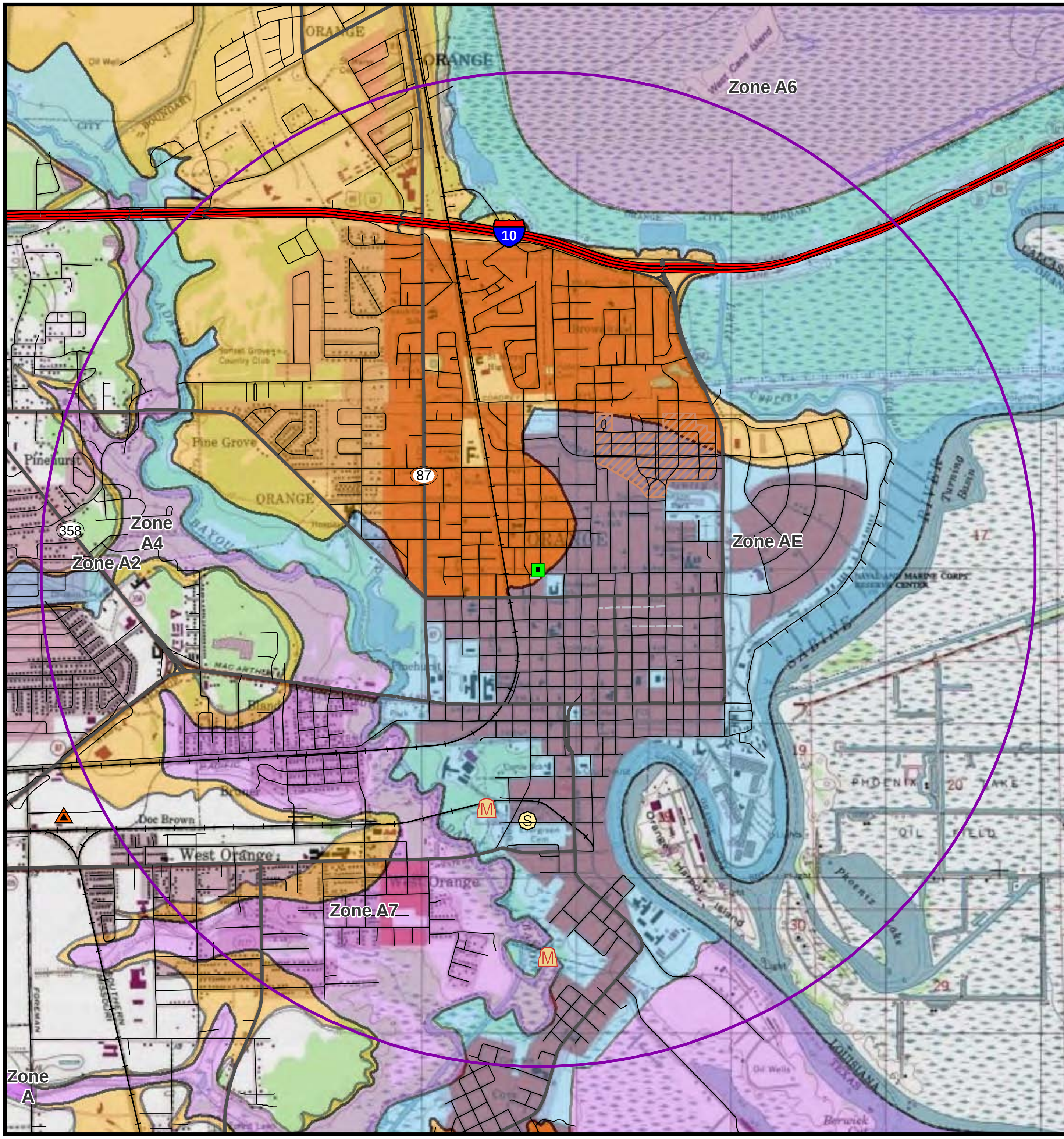
A. Elizabeth Butman

A. Elizabeth Butman, Forest Region Project Reviewer
For: F. Lawerence Oaks, State Historic Preservation Officer

FLO/eb

Cc: Dr. Howard C. Williams, Chair, Orange County Historical Commission

MXD: app3290_tdhca_130223_oranapps_0027



HOU - B Muske - 01/30/09

Applicant Location

2-Mile Radius of Applicant Location

Airport without Jet Service

Airport with Jet Service

Industrial/Hazardous Waste Location

Municipal Landfill

Natural Gas Facilities

Production Plant

Compressor Station

Oil Facilities

Refinery

Tank Farm

Superfund Site

Railroad

Historical District

Coastal Barrier Resources System Designated Area

100-Year Floodplain (FEMA)

Zone Designation

A

A1 - A30

AE

AH

ANI

AO

V

V1 - V30

VE

500-Year Floodplain (FEMA)

0 1,000 2,000 3,000 Feet

1:36,000

1 in = 3,000 ft

REFERENCE:
Texas Commission on Environmental Quality, 20070418, Municipal Solid Waste Sites/ Landfills [MSW_sites.shp]; Texas Commission on Environmental Quality, 19960830, TCEQ Permitted Industrial & Hazardous Waste Sites [pihw.shp]; Texas Commission on Environmental Quality, 20071018, TCEQ Superfund Sites [Superfund_Sites.shp]; US Environmental Protection Agency, Oil Facilities [us_oil.shp]; US Environmental Protection Agency, Natural Gas Facilities [us_nat_gas.shp]; TNRIS, 20070525, 1-Percent Flood Risk Zones (FEMA) [1-Percent Flood Risk Zones (FEMA)_ JEFFERSON.shp] and [1-Percent Flood Risk Zones (FEMA)_ORANGE.shp]; Federal Emergency Management Agency (FEMA), 1998, Q3 Flood Data [FEMA_Q3_245.shp]

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TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

FIGURE 1

ENVIRONMENTAL POINTS OF INTEREST

APPLICANT NO. 3290

1101 9TH ST, ORANGE, TEXAS 77630

HOMEOWNER ASSISTANCE PROGRAM - ORANGE COUNTY

TEXAS HISTORICAL COMMISSION

The State Agency for Historic Preservation

RICK PERRY, GOVERNOR

JOHN L. NAU, III, CHAIRMAN

F. LAWERENCE OAKS, EXECUTIVE DIRECTOR

April 1, 2009

Jason Buntz
Environmental Compliance Program Manager
Hicks & Company
1504 West 5th St.
Austin, TX 78703

Re: Project review under Section 106 of the National Historic Preservation Act of 1966, Proposed demolition of 1095 Center St., Beaumont, Jefferson County, Texas (HUD/CDBG/106) #4420
ECD = $52k

Dear Mr. Buntz,

Thank you for your correspondence describing the above referenced project. This letter serves as comment on the proposed undertaking from the State Historic Preservation Officer (SHPO), the Executive Director of the Texas Historical Commission.

The review staff, led by Charles Peveto and Elizabeth Butman, has completed its review of the information submitted for this project, received on March 26, 2009. The house at 1095 Center St. is **INDIVIDUALLY ELIGIBLE** for listing in the National Register of Historic Places under Criterion C for Architecture. The proposed demolition would have an **ADVERSE EFFECT** on this resource.

Section 106 regulations at 36 CFR 800.6 require that the Texas Department of Housing and Community Affairs (TDHCA) consult with the SHPO and the public to develop and evaluate alternatives to avoid, minimize, or mitigate adverse effects to historic resources. Based on the photographs provided, this house appears to be salvageable, and we suggest the use of TDHCA's Homeowner Assistance Program funds for rehabilitation rather than demolition. Rehabilitation of the house in compliance with the *Secretary of the Interior's Standards for Rehabilitation* would be considered to have no adverse effect on this historic property.

If TDHCA does not consider rehabilitation viable, please submit specific documentation of the hurricane damage present at this property. Detailed photographs of structural problems or other hazards should be included. Please keep in mind that, if demolition is pursued, we would need to enter into a Memorandum of Agreement (MOA). Additionally, TDHCA would need to notify the Advisory Council on Historic Preservation (ACHP) of the adverse effect and invite them to participate in consultation. For more information on the Section 106 consultation process, you may refer to the ACHP website at http://achp.gov.

We look forward to further consultation with your office and hope to maintain a partnership that will foster effective historic preservation. Thank you for your cooperation in this federal review process, and for your efforts to preserve the irreplaceable heritage of Texas. **If you have any**

questions concerning our review or if we can be of further assistance, please contact Elizabeth Butman at 512/463-7687.

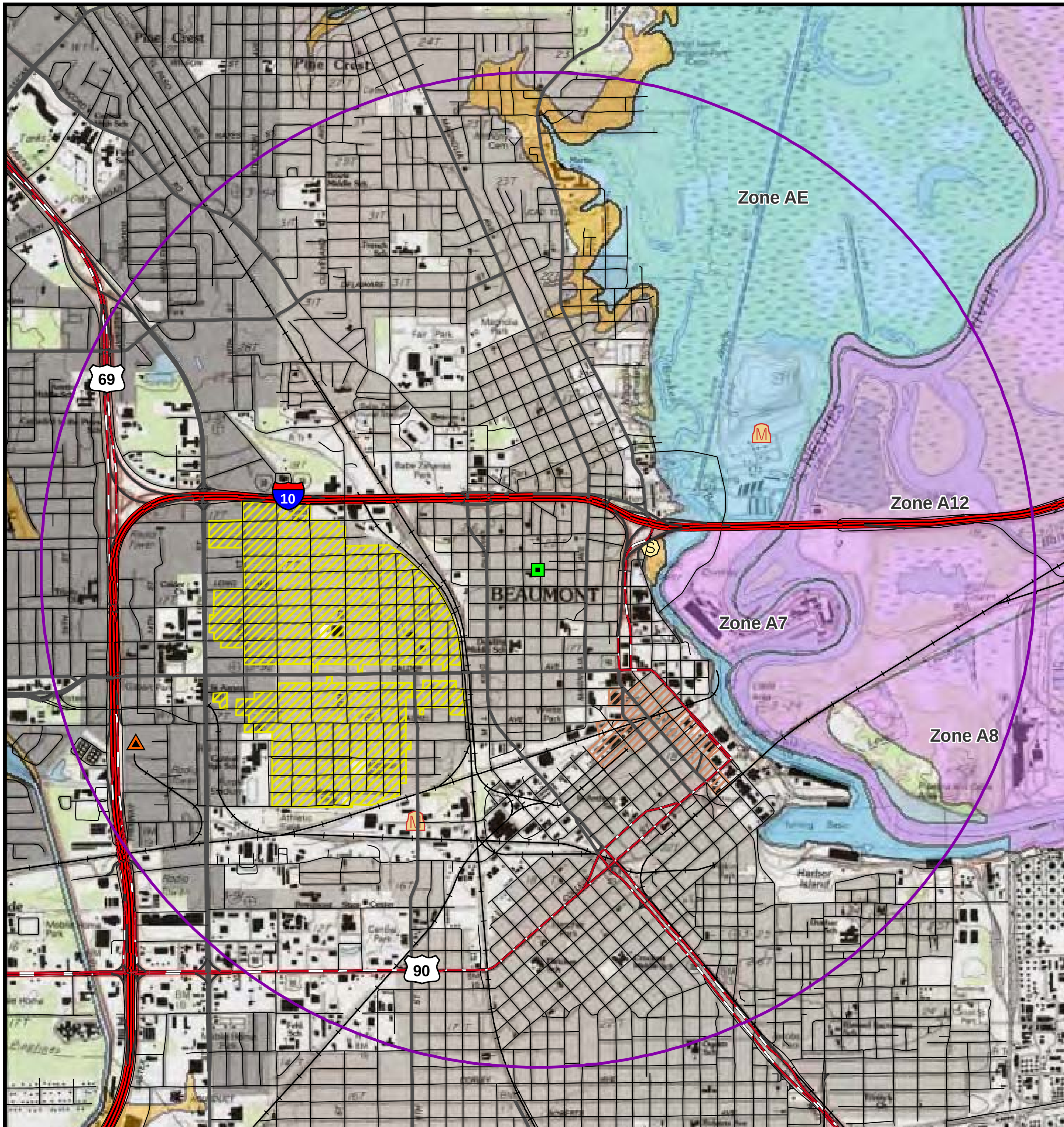
Sincerely,

A. Elizabeth Butman

A. Elizabeth Butman, Forest Region Project Reviewer
For: F. Lawerence Oaks, State Historic Preservation Officer

FLO/eb

Cc: Ron Ellington, Chair, Jefferson County Historical Commission
Stephen C. Richardson, Planning Manager, City of Beaumont



- Applicant Location
- 2-Mile Radius of Applicant Location
- Airport without Jet Service
- Airport with Jet Service
- Industrial/Hazardous Waste Location
- Municipal Landfill

Natural Gas Facilities

- Production Plant
- Compressor Station

Oil Facilities

- Refinery
- Tank Farm
- Superfund Site
- Railroad
- Historical District
- Potential Historic District Under Evaluation
- Coastal Barrier Resources System Designated Area

100-Year Floodplain (FEMA)

Zone Designation

- A
- A1 - A30
- AE
- AH
- ANI
- AO
- V
- V1 - V30
- VE
- 500-Year Floodplain (FEMA)

0 1,000 2,000 3,000 Feet
1:36,000
1 in = 3,000 feet

REFERENCE:
Texas Commission on Environmental Quality, 20070418, Municipal Solid Waste Sites/ Landfills [MSW_sites.shp]; Texas Commission on Environmental Quality, 19960830, TCEQ Permitted Industrial & Hazardous Waste Sites [pihw.shp]; Texas Commission on Environmental Quality, 20071018, TCEQ Superfund Sites [Superfund_Sites.shp]; US Environmental Protection Agency, Oil Facilities [us_oil.shp]; US Environmental Protection Agency, Natural Gas Facilities [us_nat_gas.shp]; TNRIS, 20070525, 1-Percent Flood Risk Zones (FEMA) [1-Percent Flood Risk Zones (FEMA)_JEFFERSON.shp] and [1-Percent Flood Risk Zones (FEMA)_ORANGE.shp]; Federal Emergency Management Agency (FEMA), 1998, Q3 Flood Data [FEMA_Q3_245.shp]

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

FIGURE 1

ENVIRONMENTAL POINTS OF INTEREST

APPLICANT NO. 4420
1095 CENTER ST, BEAUMONT, TEXAS 77701
HOMEOWNER ASSISTANCE PROGRAM - JEFFERSON COUNTY

MXD:THAP\Drafting\TX_Road_Home\130323\ArcView\GIS_Documents\Project_Maps\MXD\Applicant_Maps\tdhca_130323_app_2mi

HOU - B Muske - 02/23/09

TEXAS HISTORICAL COMMISSION
real places telling real stories

April 24, 2009

Science Kilner
Shaw Environmental
8501 North Mopac, Suite 320
Austin, Texas 78759

Re: Project review under Section 106 of the National Historic Preservation Act of 1966
Proposed rehabilitation/demolition of 3131 7th Street, Port Arthur, Jefferson Co., Texas, N20

Dear Ms. Kilner:

Thank you for your correspondence describing the above referenced project. This letter serves as comment on the proposed undertaking from the State Historic Preservation Officer, the Executive Director of the Texas Historical Commission.

The review staff, led by Charles M. Peveto has completed a review based on the submittal of information provided of the following property by applying state and federal criteria for historical designation:

- 3131 17th Street

This property is i **eligible** for listing on the National Register of Historic Places under for Criterion C for Architecture as a contributing member of a potential historic district. Please contact Elizabeth Butman, with the Architecture Division (512/463.7687) for a determination of effect. She may request architectural drawings, specifications, work write-ups, and a complete set of photographs (including historic) showing all the areas that the proposed work may affect. Photographs should be labeled and keyed to the existing report affected by this project.

It is possible, however, that buried cultural materials may be present in the project area. If such materials are encountered during construction or disturbance activities, work should cease in the immediate area; work can continue in the project area where no cultural materials are present. Please contact the SHPO's Archeology Division (512/463-6167) to consult on further actions that may be necessary to protect the cultural remains.

We look forward to further consultation with your office and hope to maintain a partnership that will foster effective historic preservation. Thank you for your cooperation in this federal review process, and for your efforts to preserve the irreplaceable heritage of Texas. If you have any questions concerning our review or if we can be of further assistance, please contact Charles M. Peveto at 512/463-6008.

Sincerely,

Chl M. Pvto

Charles M. Peveto, Historian
for F. Lawerence Oaks, SHPO

cc: Elizabeth Butman, Architecture Division
Ron Ellington, Jefferson County Historical Chair

RICK PERRY, GOVERNOR • JON T. HANSEN, CHAIRMAN • F. LAWERENCE OAKS, EXECUTIVE DIRECTOR
P.O. BOX 12276 • AUSTIN, TEXAS • 78711-2276 • P 512.463.6100 • F 512.475.4872 • TDD 1.800.735.2989 • www.thc.state.tx.us

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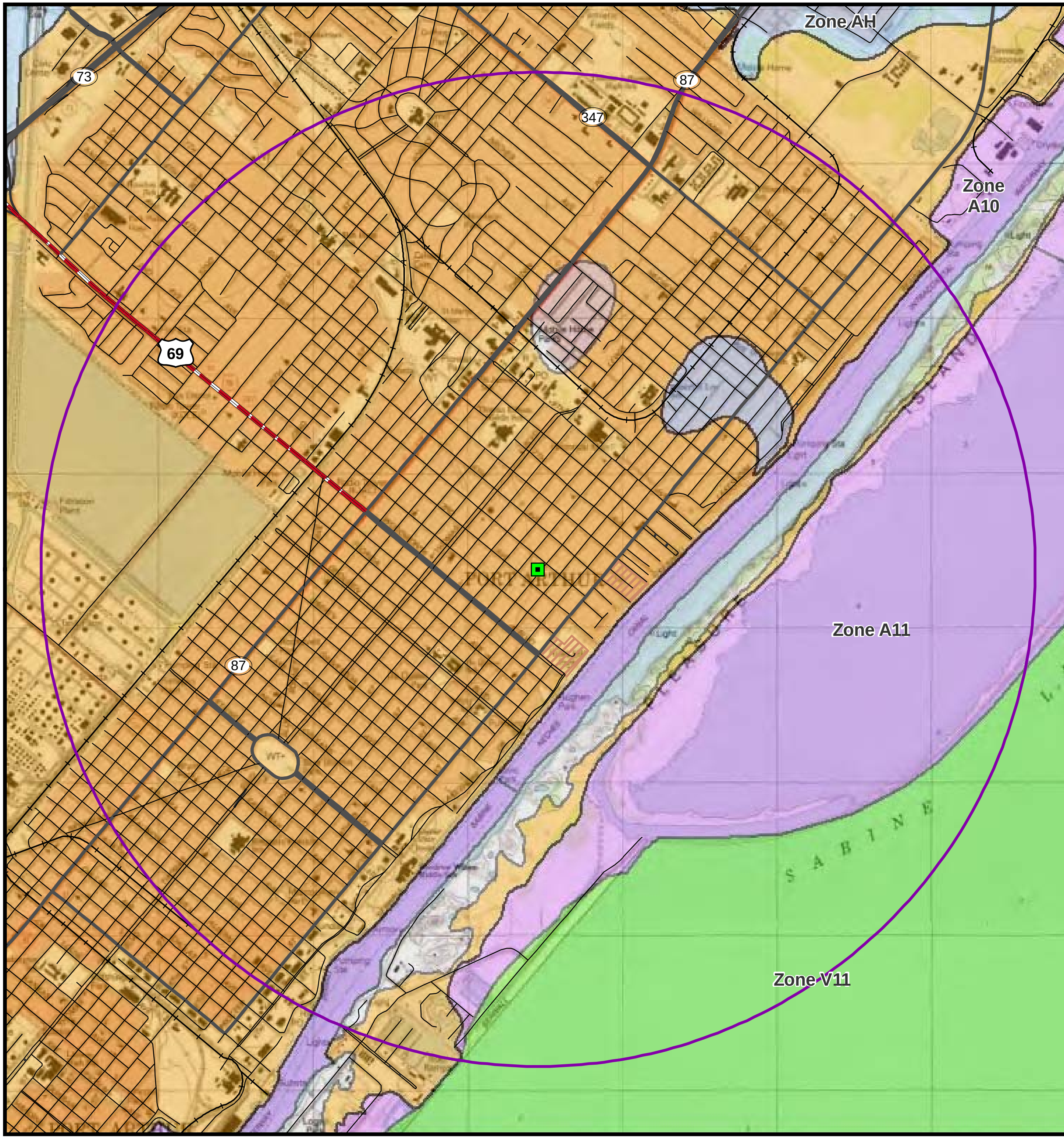
Photographic Documentation

Client:	TDHCA
Applicant #:	4575
Date:	1/21/2009
Location:	3131 7th Street, Port Arthur, TX
Description:	Lot with existing structure
Photographer:	John Parker-Lewis



- Applicant Location
- 2-Mile Radius of Applicant Location
- Airport without Jet Service
- Airport with Jet Service
- Industrial/Hazardous Waste Location
- Municipal Landfill

Natural Gas Facilities

- Production Plant
- Compressor Station

Oil Facilities

- Refinery
- Tank Farm
- Superfund Site
- Railroad
- Historical District
- Potential Historic District Under Evaluation
- Coastal Barrier Resources System Designated Area

100-Year Floodplain (FEMA)

Zone Designation

- A
- A1 - A30
- AE
- AH
- ANI
- AO
- V
- V1 - V30
- VE
- 500-Year Floodplain (FEMA)

0 1,000 2,000 3,000 Feet

1:36,000

1 in = 3,000 feet

REFERENCE:
Texas Commission on Environmental Quality, 20070418, Municipal Solid Waste Sites/ Landfills [MSW_sites.shp]; Texas Commission on Environmental Quality, 19960830, TCEQ Permitted Industrial & Hazardous Waste Sites [pihw.shp]; Texas Commission on Environmental Quality, 20071018, TCEQ Superfund Sites [Superfund_Sites.shp]; US Environmental Protection Agency, Oil Facilities [us_oil.shp]; US Environmental Protection Agency, Natural Gas Facilities [us_nat_gas.shp]; TNRIS, 20070525, 1-Percent Flood Risk Zones (FEMA) [1-Percent Flood Risk Zones (FEMA)_ JEFFERSON.shp] and [1-Percent Flood Risk Zones (FEMA)_ORANGE.shp]; Federal Emergency Management Agency (FEMA), 1998, Q3 Flood Data [FEMA_Q3_245.shp]

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TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

FIGURE 1

ENVIRONMENTAL POINTS OF INTEREST

APPLICANT NO. 4575

3131 7TH ST, PORT ARTHUR, TX 77642

HOMEOWNER ASSISTANCE PROGRAM - JEFFERSON COUNTY

MXD:T:\APDrafting\TX_Road_Home\130323\ArcView\GIS_Documents\Project_Maps\MXD\Applicant_Maps\dhca_130323_app_2mi

HOU - B Muske - 02/16/09

TEXAS HISTORICAL COMMISSION
real places telling real stories

April 24, 2009

Science Kilner
Shaw Environmental
8501 North Mopac, Suite 320
Austin, Texas 78759

Re: Project review under Section 106 of the National Historic Preservation Act of 1966
Proposed rehabilitation/demolition of 1615 Victoria Street, Beaumont, Jefferson Co., Texas, N20

Dear Ms. Kilner:

Thank you for your correspondence describing the above referenced project. This letter serves as comment on the proposed undertaking from the State Historic Preservation Officer, the Executive Director of the Texas Historical Commission.

The review staff, led by Charles M. Peveto has completed a review based on the submittal of information provided of the following property by applying state and federal criteria for historical designation:

- 1615 Victoria Street

This property is i **eligible** for listing on the National Register of Historic Places under for Criterion C for Architecture as a contributing member of a potential historic district. Please contact Elizabeth Butman, with the Architecture Division (512/463.7687) for a determination of effect. She may request architectural drawings, specifications, work write-ups, and a complete set of photographs (including historic) showing all the areas that the proposed work may affect. Photographs should be labeled and keyed to the existing report affected by this project.

It is possible, however, that buried cultural materials may be present in the project area. If such materials are encountered during construction or disturbance activities, work should cease in the immediate area; work can continue in the project area where no cultural materials are present. Please contact the SHPO's Archeology Division (512/463-6167) to consult on further actions that may be necessary to protect the cultural remains.

We look forward to further consultation with your office and hope to maintain a partnership that will foster effective historic preservation. Thank you for your cooperation in this federal review process, and for your efforts to preserve the irreplaceable heritage of Texas. If you have any questions concerning our review or if we can be of further assistance, please contact Charles M. Peveto at 512/463-6008.

Sincerely,

Chle M. Ple

Charles M. Peveto, Historian
for F. Lawerence Oaks, SHPO

cc: Elizabeth Butman, Architecture Division
Ron Ellington, Jefferson County Historical Chair

P.O. BOX 12276 • AUSTIN, TEXAS • 78711-2276 • P 512.463.6100 • F 512.475.4872 • TDD 1.800.735.2989 • www.thc.state.tx.us

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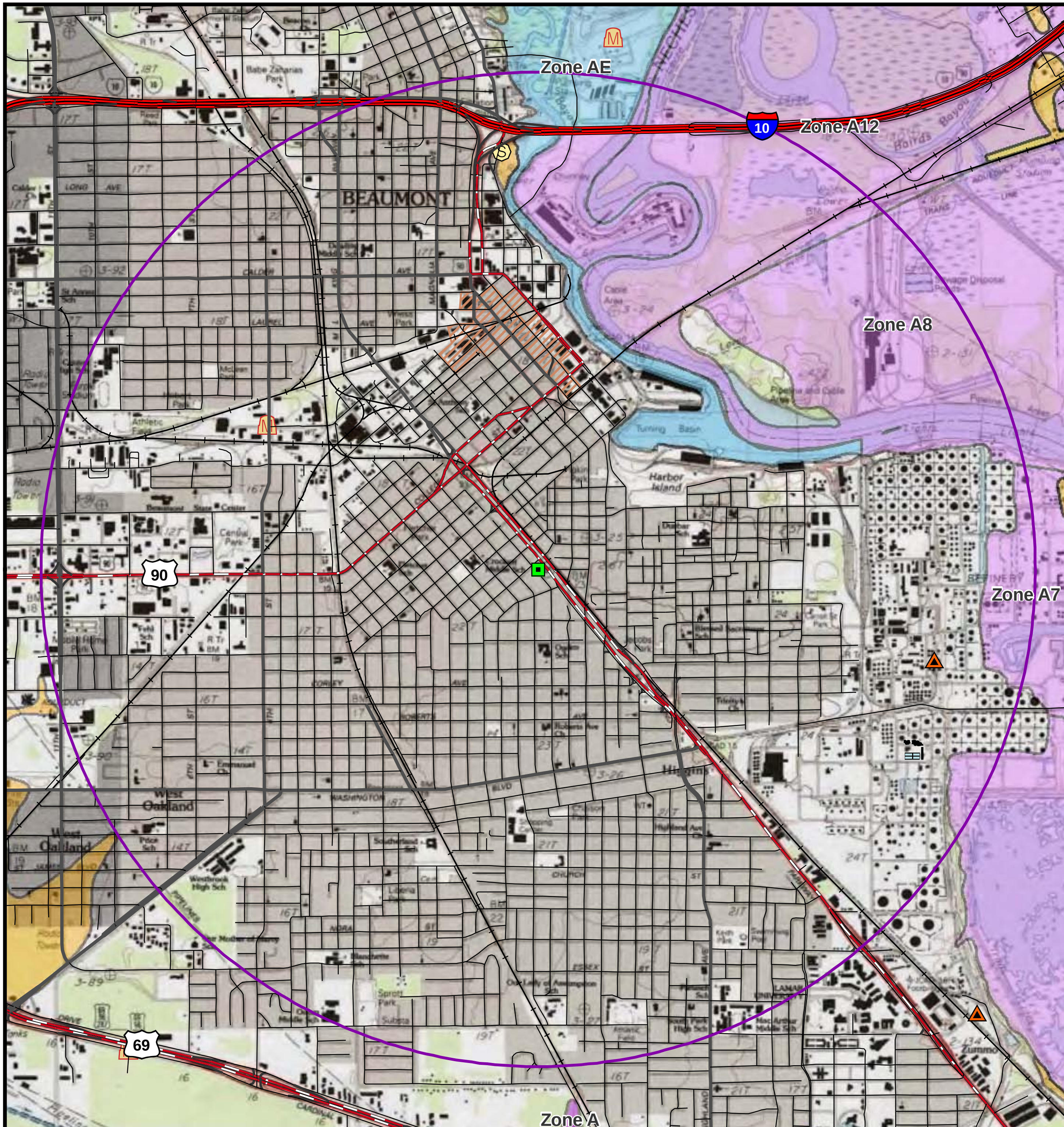
Photographic Documentation

Client:	TDHCA
Applicant #:	4945
Date:	12/19/2008
Location:	1615 Victoria Street, Beaumont, TX
Description:	Lot with existing structure
Photographer:	John Parker-Lewis

MXD: app4945_tdhca_130323_jeffapps_677



HOU - B Muske - 02/01/09

- Applicant Location
- 2-Mile Radius of Applicant Location
- Airport without Jet Service
- Airport with Jet Service
- Industrial/Hazardous Waste Location
- Municipal Landfill

Natural Gas Facilities

- Production Plant
- Compressor Station

Oil Facilities

- Refinery
- Tank Farm
- Superfund Site
- Railroad
- Historical District
- Coastal Barrier Resources System Designated Area

100-Year Floodplain (FEMA)

Zone Designation

- A
- A1 - A30
- AE
- AH
- ANI
- AO
- V
- V1 - V30
- VE
- 500-Year Floodplain (FEMA)

0 1,000 2,000 3,000 Feet

1:36,000

1 in = 3,000 ft

REFERENCE:
Texas Commission on Environmental Quality, 20070418, Municipal Solid Waste Sites/ Landfills [MSW_sites.shp]; Texas Commission on Environmental Quality, 19960830, TCEQ Permitted Industrial & Hazardous Waste Sites [pihw.shp]; Texas Commission on Environmental Quality, 20071018, TCEQ Superfund Sites [Superfund_Sites.shp]; US Environmental Protection Agency, Oil Facilities [us_oil.shp]; US Environmental Protection Agency, Natural Gas Facilities [us_nat_gas.shp]; TNRIS, 20070525, 1-Percent Flood Risk Zones (FEMA) [1-Percent Flood Risk Zones (FEMA)_ JEFFERSON.shp] and [1-Percent Flood Risk Zones (FEMA)_ORANGE.shp]; Federal Emergency Management Agency (FEMA), 1998, Q3 Flood Data [FEMA_Q3_245.shp]

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TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

FIGURE 1

ENVIRONMENTAL POINTS OF INTEREST

APPLICANT NO. 4945

1615 VICTORIA ST, BEAUMONT, TEXAS 77701

HOMEOWNER ASSISTANCE PROGRAM - JEFFERSON COUNTY

TEXAS HISTORICAL COMMISSION

The State Agency for Historic Preservation

RICK PERRY, GOVERNOR

JOHN L. NAU, III, CHAIRMAN

F. LAWERENCE OAKS, EXECUTIVE DIRECTOR

April 1, 2009

Jason Buntz
Environmental Compliance Program Manager
Hicks & Company
1504 West 5th St.
Austin, TX 78703

Re: *Project review under Section 106 of the National Historic Preservation Act of 1966,* #5532
Proposed rehabilitation of 605 3rd St., Orange, Orange County, Texas (HUD/CDBG/106) ECD $162k
Demo

Dear Mr. Buntz,

Thank you for your correspondence describing the above referenced project. This letter serves as comment on the proposed undertaking from the State Historic Preservation Officer (SHPO), the Executive Director of the Texas Historical Commission.

The review staff, led by Charles Peveto and Elizabeth Butman, has completed its review of the information submitted for this project, received on March 5, 2009. The house at 605 3rd St. is located within the locally designated Old Orange Historic District, and it is **ELIGIBLE** for listing in the National Register of Historic Places under Criterion C for Architecture as a contributing member of a potential historic district.

In order for the Texas Historical Commission to complete its review of the proposed work, we request that your office submit additional information regarding the project, including a description of the hurricane damage present at this property, current photographs of the areas in which work is to be performed, and architectural drawings or a complete written description of the proposed work. Rehabilitation of the house in compliance with the *Secretary of the Interior's Standards for Rehabilitation* will be considered to have no adverse effect on historic properties.

We look forward to further consultation with your office and hope to maintain a partnership that will foster effective historic preservation. Thank you for your cooperation in this federal review process, and for your efforts to preserve the irreplaceable heritage of Texas. **If you have any questions concerning our review or if we can be of further assistance, please contact Elizabeth Butman at 512/463-7687.**

Sincerely,

A. Elizabeth Butman

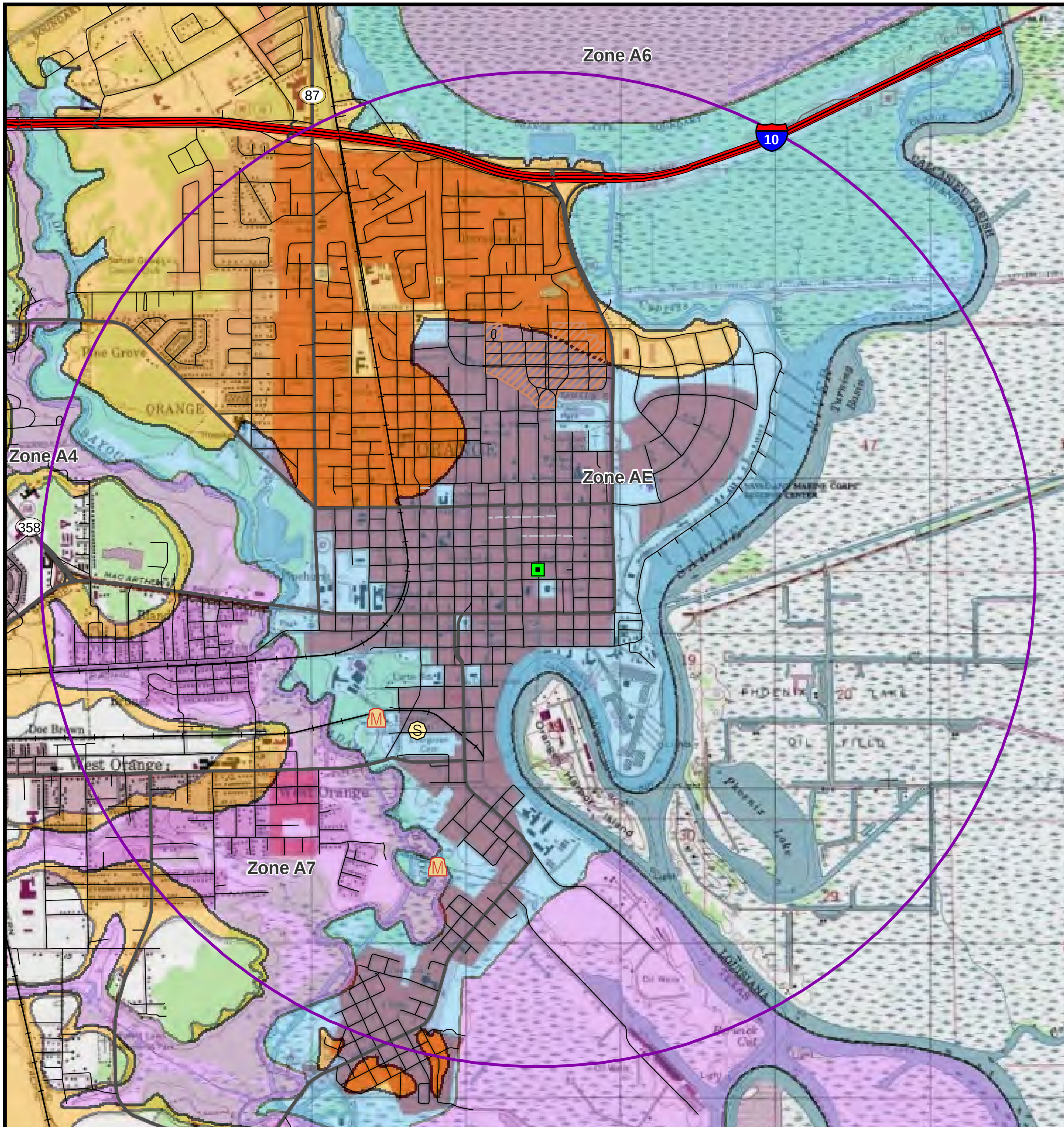
A. Elizabeth Butman, Forest Region Project Reviewer
For: F. Lawerence Oaks, State Historic Preservation Officer

FLO/eb

Cc: Dr. Howard C. Williams, Chair, Orange County Historical Commission

Photographic Documentation

Client: TDHCA
Applicant No : 5532
Date:
Location: 605 3rd Street, Orange, TX
Description: Lot with Existing Structure
Photographer:



Applicant Location
2-Mile Radius of Applicant Location
Airport without Jet Service
Airport with Jet Service
Industrial/Hazardous Waste Location
Municipal Landfill

Natural Gas Facilities

Production Plant
Compressor Station

Oil Facilities

Refinery
Tank Farm
Superfund Site
Railroad
Historical District
Coastal Barrier Resources System Designated Area

100-Year Floodplain (FEMA)

Zone Designation

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TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

FIGURE 1

ENVIRONMENTAL POINTS OF INTEREST

APPLICANT NO. 5532
605 3RD STREET, ORANGE, TX 77630
HOMEOWNER ASSISTANCE PROGRAM - ORANGE COUNTY

MXD:T:\APD\drafting\TX_Road_Home\130323\ArcView\GIS_Documents\Project_Maps\MXD\Applicant_Maps\tdhca_130323_app_2mi

HOU - B Muske - 02/10/09

DISASTER RECOVERY DIVISION

BOARD ACTION REQUEST
May 21, 2009

Action Item

Presentation, discussion and possible approval and the establishing of a board policy on specific outside of structure costs for development of homes in Hurricane Rita Round 2.

Requested Action

Approve, deny or approve with modification the recommendation.

Background

On November 13, 2008, the TDHCA Board approved Amendment 6 to the Action Plan, which altered the reconstruction maximum benefit restrictions in the Action Plan under HAP and SPRP components of CDBG Round 2. The alteration included separating out construction costs for the new structure itself and related costs like demolition, closing costs and remediation for subsequent board approval after public comment. This action, approved by HUD, allowed the Board to direct staff to modify limits, as needed, without the lengthy Action Plan amendment process with HUD.

On December 18, 2008, as part of this request to increase limits within this program, the TDHCA Board approved up to $10,000 per home for costs to address local code requirements, such as septic systems, off street parking, water wells, underground electrical services, and those types of items that are not required for every home.

While this increase addresses most of the local code requirements, there are some areas that require services that exceed the $10,000 cap established. Staff is seeking the Board to establish a policy when that cap is exceeded for supportive funds for development of homes in Hurricane Rita Round 2. Potential options for the Board's consideration include:

1. Grant the TDHCA Executive Director the authority to evaluate and grant an increase on a case by case basis, based on executive team review
2. Raise the cap on this item to accommodate potential needs above $10,000
3. Bring each case requiring in excess of $10,000 to the Board on a case by case basis

Recommendation

Adopt a policy for staff to follow when considering services to address local code requirements that exceeds the established cap of $10,000.

DISASTER RECOVERY DIVISION

BOARD ACTION REQUEST
May 21, 2009

Action Item

Presentation, discussion and possible approval of a policy regarding how to proceed when the inability to obtain a hold harmless consent to build form from an existing lien holder is an impediment to providing homes to Hurricane Rita applicants in Round 2.

Requested Action

Approve, deny or approve with modification the recommendation.

Background

The Texas Department of Housing and Community Affairs received funding from HUD to provide disaster assistance to persons affected by hurricane Rita. Under the Rita II funding, ACS administers a program to repair or replace housing damaged by the storm. When warranted, it is necessary to replace homes when repairs are extensive. The home replaced is demolished.

A hold harmless agreement must be obtained from the lender when there is an existing loan on the home that requires approval. There are about 70 homes on hold because lenders have objections and will not execute the agreement. The major objection is that the form requires the lender to agree not to sue us if a mistake is made. Lenders have also stated they have a problem allowing the collateral for their loan to be demolished. The majority of time, the replacement housing enhances the value of the collateral.

Recommendation

Authorize staff to remove homes from program if we cannot obtain hold harmless by a valid lien holder. In the alternative TDHCA could forego obtaining releases and accept the risks.

DISASTER RECOVERY DIVISION

BOARD ACTION REQUEST
May 21, 2009

Action Item

Presentation, discussion and possible approval to expend remaining funds dedicated to Sabine Pass in the State of Texas Action Plan.

Requested Action

Approve, deny or approve with modification the recommendation.

Background

The Texas Department of Housing and Community Affairs received funding from HUD to provide disaster assistance to persons affected by Hurricane Rita. Under the Rita II funding, ACS administers a program to repair or replace housing damaged by the storm. There is a $12 million set aside for Sabine Pass. Currently, there are approximately $5 million in unreserved funds. Options to utilize the remaining funds include opening the application process to additional participants, a last call to those in need of assistance.

During initial meetings, residents expressed an interest in a reimbursement compensation program which would allow TDHCA to reimburse those that repaired homes at their own expense. Therefore, although we know that this would be an acceptable solution to the community, a waiver from HUD would be required. Residents also expressed an interest in hardening new and existing homes with permanent storm shutters or other mitigation activities that prevents or minimizes damage from a future storm event.

The action plan allows excess funds to go into the Housing Assistance Fund which can be utilized in Hurricane Rita impacted areas outside of Sabine Pass. TDHCA recommends funds remain in the community unless excess funds remain after efforts to identify additional participants are exhausted.

Recommendation

Consider amendment of the State of Texas Action Plan for Community Block Grant (CDBG) Disaster Recovery to allow a reimbursement compensation program in Sabine Pass pending HUD's approval of the required waiver. In addition a "last call" would be made in the community to provide assistance to those homeowners whose homes were damaged by the storm or who desire/require mitigation to harden their homes against future storm events. Funds remaining after these efforts would be disbursed as allowed by the Plan.

MULTIFAMILY FINANCE PRODUCTION DIVISION

BOARD ACTION REQUEST

May 21, 2009

Action Item

Presentation, Discussion, and Possible Action regarding a Notice of Funds Availability for a $58 million affordable rental housing set-aside under CDBG disaster funding related to Hurricanes Ike and Dolly

Required Action

Approve for Publication the Proposed Notice of Funding Availability for $58 Million for Multifamily Rental Housing.

Background

At the February 5, 2009 Board meeting, staff presented an update of the Disaster Recovery Funds for Ike and Dolly and requested the Board's approval to move forward in drafting a Notice of Funding Availability (NOFA) for $58 million of Multifamily Rental Funds.

Staff held two roundtable discussions with stakeholders to receive input on NOFA. The majority of the input was in opposition to the scoring and difficulty of the proposed application process. Staff has responded by redesigning the NOFA. Staff eliminated scoring and reduced the applicant requirements while maintaining a standard of quality. The process will now be first come, first serve instead of competitive.

Staff held to the original goal of helping the smaller developments first, by limited the funds to developments with thirty-six units or less through July 17, 2009, and then open to larger developments after that date.

Recommendation

Staff recommends the Board approve the NOFA for publication in the *Texas Register*.

Texas Department of Housing and Community Affairs

Disaster Recovery Division

State Administered CDBG Hurricane Dolly and Ike Multifamily Rental Programs

Notice of Funding Availability (NOFA)

1) Summary

a) The Texas Department of Housing and Community Affairs (the “Department” or “TDHCA”) announces this Draft Notice of Funding Availability (“NOFA”) of approximately $58,894,225 in federal funding from the Community Development Block Grant (“CDBG”) Disaster Recovery Fund (the “Funds”) to be used within only those Impacted Counties specified in Section 1(b), below, for an Affordable Rental Housing Stock Restoration Program in response to Hurricanes Dolly and Ike. The availability and use of these funds is subject to the U. S. Department of Housing and Urban Development’s (“HUD”) approval of the State of Texas Action Plan, submitted to HUD by the Office of Rural and Community Affairs (“ORCA”) pursuant to the Hurricane’s Dolly and Ike CDBG *State of Texas Plan for Disaster Recovery* (“Action Plan”), Subpart I of the regulations at Title 24 Part 570 of the Code of Federal Regulations, as it is the only regulation promulgated by the Secretary, unless specifically waived for Texas under Federal Register Notice dated 2/13/2009 ORCA has been designated by the Governor of the State of Texas as the primary agency to administer the Action Plan, and the Department has been assigned responsibility for the administration of the housing component of the Action Plan.

b) These funds are proposed to be made available in the form of grants or loans to the owners of affordable rental properties in any of the 37 Hurricane Dolly or Ike “Impacted Counties” counties covered under the Action Plan (Angelina, Austin, Brazoria, Cameron, Chambers, Cherokee, Fort Bend, Galveston, Gregg, Grimes, Hardin, Harris, Harrison, Hidalgo, Houston, Jasper, Jefferson, Liberty, Madison, Matagorda, Montgomery, Nacogdoches, Newton, Orange, Polk, Rusk, Sabine, San Augustine, San Jacinto, Shelby, Smith, Trinity, Tyler, Walker, Waller, Washington, Willacy) that sustained documented loss of or damage to affordable housing rental stock as a direct result of either Hurricane Ike or Hurricane Dolly. A minimum of 51% of the total units in each property are to be used for affordable rental housing for low/moderate-income Texans earning 80 percent or less of the Area Median Family Income (AMFI).

c) The NOFA complies with the requirements as stated in the Action Plan. This draft NOFA will clearly establish the award process, the application acceptance period, threshold criteria (including applicable building codes), and selection criteria. It is anticipated that funds will be awarded in September 2009.

d) To reflect the Department’s commitment to obtain public input at the local level on CDBG activities as described in the Action Plan, the Department held two roundtable meetings in April 2009 in Houston and Brownsville.

2) Allocation of CDBG Funds

a) These funds are made available through the Department's allocation of CDBG Disaster Recovery funds from the U.S. Department of Housing and Urban Development (HUD). These CDBG Disaster Recovery funds have been set-aside solely for affordable rental housing activities to restore the affordable housing rental stock that was damaged, depleted, or destroyed in the Impacted Counties by Hurricanes Ike or Dolly.

b) The CDBG funds will be made available to Impacted Counties through a first come, first serve application process. Applications submitted for properties located in each of the Councils of Government (COG) Regions identified in the chart below will be evaluated for Eligibility and Threshold criteria. Applications that successfully satisfy Threshold criteria will be moved forward for financial feasibility and environmental review. Recommendations for funding will be made from the applications that have met all evaluation criteria to the satisfaction of the Department. Impacted Counties/Regions appear in the table below:

COG Region	Impacted counties within COG	$ amount available	Percentage of this set aside allocated
East Texas Council of Government	Cherokee, Gregg, Harrison, Rusk, Smith	$518,423.02	0.876890879%
Brazos Valley Council of Government	Grimes, Madison, Washington	$503,099.95	0.855104409%
Deep East Texas Council of Government	Angelina, Houston, Jasper, Nacogdoches, Newton, Polk, Sabine, San Augustine, San Jacinto, Shelby, Trinity, Tyler	$3,333,184.52	5.637942331%
South East Texas Regional Planning Commission	Hardin, Jefferson, Orange	$7,864,483.99	13.302446022%
Houston-Galveston Area Council	Austin, Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Matagorda, Montgomery, Walker, Waller	$45,753,239.36	77.389692425%
Lower Rio Grande Valley Development Council	Cameron, Hidalgo, Willacy	$862,483.46	1.465938165%
Total		$58,834,914.30	100%

If there are any funds remaining in a COG Region after August 1, 2009 and there are insufficient requests for the funds available in that COG Region, then those unrequested funds will be distributed among the remaining COG Regions.

c) Maximum award amount is $5,000,000.

d) Developments consisting of 36 units or less will be given first priority.

e) Applications will first be accepted for Developments that consist of 36 units or less. The application acceptance period for these applications will begin June 1, 2009 and will close on July 17, 2009.

f) Applications for developments with more than 36 units will be accepted beginning July 20, 2009 with the final application closing deadline of August 14, 2009.

g) Awards will be made as grants or deferred forgivable loans.

3) Eligible Activities and Applicants

a) Rehabilitation of existing affordable single-family or multifamily rental housing developments damaged by Hurricanes Ike or Dolly, that were uninsured or underinsured.

b) Replacement of single-family or multifamily rental housing developments or units damaged or destroyed by Hurricanes Ike or Dolly through reconstruction and new construction on the same site or another site as long as the applicant is replacing the same number of units destroyed.

c) The applicant must be either the current owner of the property or, at the time of application, have a binding contract to purchase the property and the seller must have been the owner of record at the time of the disaster. An "as is" appraisal (consistent with 10 TAC §1.34) is required for all acquisition properties.

d) If the units are to be reconstructed on a different site, the applicant must show evidence of control over and the destruction of the units being replaced and show good cause as to why the units are being reconstructed on a different site. Relocation from a floodplain would be an example of good cause.

e) Eligible activities will include those permissible under the Housing and Community Development Act (HCDA) Section 105(a) and the federal CDBG Rules at §24 CFR 570, Subpart I, as specifically allowed for under Federal Register Notice dated 2/13/2009, which involve the rehabilitation, reconstruction, or new construction (including demolition, site clearance, and remediation) of affordable rental housing in Hurricane Ike and Dolly impacted areas.

f) Eligible applicants for this program include qualified nonprofit organizations, for-profit entities, sole proprietors, public housing authorities and units of general local government.

g) Scattered site developments are eligible as long as they are rental housing units.

4) Ineligible Applicants

The following violations will cause an Applicant and any Applications they have submitted to be ineligible:

a) The Applicant, Development Owner, or Developer is an Administrator of a previously funded Contract for which Department funds have been partially or fully de-obligated due to failure to meet contractual obligations during the 12 months prior to application submission date, unless the de-obligation was voluntary and prior to the contract term expiration date, or was the remainder on a completed Contract;

b) The Applicant, Development Owner, or Developer has failed to submit a response to provide an explanation, evidence of corrective action or a payment of disallowed costs or fees as a result of a monitoring review;

c) The Applicant, Development Owner, or Developer has failed to make timely payment or is delinquent on any loans or fee commitments made with the Department on the date of the Application submission;

d) The Applicant, Development Owner, or Developer has been or is barred, suspended, or terminated from procurement in a state or federal program or listed in the List of Parties Excluded from Federal

Procurement or Non-Procurement Programs or has otherwise been debarred by HUD or the Department;

e) The Applicant, Development Owner, or Developer has violated the State's revolving door policy;

f) The Applicant, Development Owner, or Developer has been convicted of a state or federal felony crime involving fraud, bribery, theft, misrepresentation of material fact, misappropriation of funds, or other similar criminal offenses within fifteen years preceding the Application deadline;

g) The Applicant, Development Owner, or Developer at the time of Application submission is:

i) subject to an enforcement or disciplinary action under state or federal securities law or by the NASD;

ii) subject to a federal tax lien;

iii) or is the subject of an enforcement proceeding with any governmental entity;

h) The Applicant, Development Owner, or Developer with any past due audits has not submitted those past due audits to the Department in a satisfactory format on or before the Application submission date in accordance with 10 TAC §1.3;

i) The submitted Application has an entire volume of the Application missing; has excessive omissions of documentation from the threshold Criteria or uniform Application documentation; or is so unclear, disjointed, or incomplete that a thorough review cannot reasonably be performed by the Department, as determined by the Department. If an Application is determined ineligible pursuant to this section, the Application will be terminated without being processed as an Administrative Deficiency. To the extent that a review was able to be performed, specific reasons for the Department's determination of ineligibility will be included in the termination letter to the Applicant;

j) The Applicant, Development Owner, or Developer or anyone that has Controlling ownership interest in the Development Owner or Developer that is active in the ownership or Control of one or more other rent restricted rental housing properties in the state of Texas administered by the Department is in Material Noncompliance with the Land Use Restriction Agreement ("LURA");

k) Any Application that includes financial participation by a Person who, during the five-year period preceding the date of the bid or award, has been convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or Reconstruction efforts as a result of Hurricanes Dolly and/or Ike or Katrina or any other disaster occurring after September 25, 2005, or was assessed a federal civil or administrative penalty in relation to such a contract.

5) Affordability Requirements

a) Each development will require a minimum CDBG affordability period of 5 years after closeout of the loan or grant. If the property is restricted under an existing LURA from the Department, the affordability period will be the greater of 5 years or the existing affordability period reflected in the existing LURA. Throughout this period, the applicant agrees to maintain the development for the intended purpose as outlined in the LURA. Compliance will be monitored by the Department consistent with 10 TAC §60, Subchapter A, Compliance Monitoring.

b) At a minimum, 51% of the total units must benefit low-moderate income persons earning 80 percent or less of the AMFI as defined by HUD and detailed in the Housing and Community Development Act of 1974 (HCDA) Title I, 105(a).

6) Site and Development Restrictions:

a) Applicant properties must be located within the 37 impacted Counties directly affected by Hurricane Dolly and/or Ike.

b) All applications intended to serve persons with disabilities must adhere to the Department's Integrated Housing Rule at 10 TAC §1.15.

c) Pursuant to 24 CFR §92.251, housing that is constructed or rehabilitated with CDBG funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. In the absence of a local code for new construction or rehabilitation, CDBG-assisted new construction or rehabilitation must meet, as applicable, one of three model codes: Uniform Building Code (ICBO), National Building Code (BOCA), Standard (Southern) Building Code (SBCCI); or the Council of American Building Officials (CABO) one or two family code; or the Minimum Property Standards (MPS) in 24 CFR §200.925 or §200.926. To avoid duplicative inspections when Federal Housing Administration (FHA) financing is involved in a HOME-assisted property, a participating jurisdiction may rely on a Minimum Property Standards (MPS) inspection performed by a qualified person. Newly constructed housing must meet the current edition of the Model Energy Code published by the Council of American Building Officials.

d) All other CDBG-assisted housing (e.g., acquisition) must meet all applicable State and local housing quality standards and code requirements and if there are no such standards or code requirements, the housing must meet the housing quality standards in 24 CFR §982.401. When CDBG funds are used for a rehabilitation development the entire unit must be brought up to the applicable property standards, pursuant to 24 CFR §92.251(a) (1). All multifamily rehabilitation developments are subject to a Uniform Physical Conditions Standards inspection. All deficiencies identified in that inspection must be corrected before final retainage is released.

e) Housing developments must meet the accessibility requirements at 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794). Multifamily housing developments must meet the design and construction requirements at the Texas Administrative Code, Title 10, Chapter 60, Subchapter (B) 10 TAC §§60.201-211). Covered multifamily dwellings, as defined at 24 CFR §100.201 as well as common use facilities in developments with covered dwellings must meet the design and construction requirements at 24 CFR §100.205, which implement the Fair Housing Act (42 U.S.C. 3601-3619) and the design and construction requirements of the Fair Housing Act Design Manual. Additionally, pursuant to the 2009 Qualified Allocation Plan (QAP), 10 TAC §49.9(h)(4)(H), Developments involving New Construction (excluding New Construction of nonresidential buildings) where some Units are two-stories and are normally exempt from Fair Housing accessibility requirements, a minimum of 20% of each Unit type (i.e. one bedroom, two bedroom, three bedroom) must provide an accessible entry level and all common-use facilities in compliance with the design and construction requirements of the Fair Housing Act Design Manual, and include a minimum of one bedroom and one bathroom or powder room at the entry level. A compliance certification will be required after the Development is completed from an inspector, architect, or accessibility specialist. Any Developments designed as single family structures must also satisfy the requirements of §2306.514, Texas Government Code.

f) 10 TAC §49.6(a) stipulating that all developments in a 100-year flood plain are subject to Department restrictions. Units that are being demolished and rebuilt shall be elevated in accordance with FEMA advisory flood elevations and shall be subject to the requirements of 24 CFR §570.605.

g) Minimum development size is four (4) Units. A Development may consist of multifamily or single-family units.

7) Threshold Criteria:

a) Completion and submission of the required application and any other supplemental information deemed necessary by the Department.

b) Completion and submission of the Site Packet as provided in the application materials.

c) Development Certification as provided in the ASPM.

d) Submission of current financial statements, authorization to release credit and previous participation documentation (if applicable).

e) Submission of current and pro forma operating budget demonstrating positive cashflow under current market rent.

f) Provide a third-party verified scope of work or property condition assessment in accordance with 10 TAC §1.36.

g) Provide evidence of damage or property loss claims.

h) Provide evidence of financial reserves equal to at least ten percent (10%) of the total development cost to be held during the construction period for rehabilitation developments.

i) Rehabilitation may include the replacement of damaged or no longer functional appliances. Appliances must be replaced with Energy-Star or equivalently rated appliances (refrigerator, dishwasher, ceiling fans and lighting).

j) If HVAC systems are to be replaced, they must be replaced with energy efficient rated systems.

k) All New Construction or Reconstruction that is using this source of funding alone or layered with other funding sources must meet the minimum threshold requirements as described in §49.9(h) of the Texas Government Code with the exception of the following:

i) (3) regarding set-asides;

ii) (4)(K) and (4)(L) regarding certifications;

iii) (6)(C) and (D) which relate to tax credit syndication;

iv) (8) regarding notifications;

v) (11)(B) regarding non-profit set-aside for tax credits; and

vi) (15) regarding self-score.

8) Tie Breakers

In the event that two or more applications are received at the same time or are ready to proceed at the same time, the Department will utilize the factors in this paragraph, in the order they are presented, to determine which Development will receive a preference in consideration for an award. The Department may also make a partial funding recommendation. The application located in the municipality or, if located outside a municipality, the county that has:

a) the highest number of units per capita destroyed by Hurricanes Ike or Dolly;

b) the greatest dollar amount of damage per capita;

c) the greatest number of residents displaced;

d) the lowest area income.

9) Application Review Process

(a) Review and Assessment of Applications. Applications submitted for consideration for CDBG Disaster Recovery funding under this NOFA will be reviewed according to the process outlined in this subsection. An Application, during any of these stages of review, may be determined to be ineligible as further described in §4(a) of this NOFA. Applicants will be promptly notified in these instances.

i) Eligibility Criteria Review. All Applications will first be reviewed as described in this paragraph. Applications will be confirmed for eligibility for funding.

ii) Threshold Criteria Review. Applications will be reviewed for Threshold. Applications not meeting Threshold Criteria will be notified of any Administrative Deficiencies, in each event the Applicant will be given an opportunity to correct such deficiencies. Applications not meeting Threshold Criteria after receipt and review of the Administrative Deficiency response will be terminated and the Applicant will be provided a written notice to that effect.

iii) Administrative Deficiencies. If an Application contains Administrative Deficiencies pursuant to 10 TAC §49.3(2) which, in the determination of the Department staff, require clarification or correction of information submitted at the time of the Application, the Department staff may request clarification or correction of such Administrative Deficiencies. Because the review for Eligibility, Selection, Threshold Criteria, and review for financial feasibility by the Department's

Real Estate Analysis Division may occur separately, Administrative Deficiency requests may be made several times. The Department staff will request clarification or correction in a deficiency notice in the form of an email, or if an e-mail address is not provided in the Application, by facsimile, and a telephone call (only if there has not been confirmation of the receipt within 24 hours) to the Applicant and one other party identified by the Applicant in the Application advising that such a request has been transmitted. If Administrative Deficiencies are not clarified or corrected to the satisfaction of the Department by 5:00 p.m. on the fifth business day following the date of the deficiency notice, then for competitive Applications under this NOFA, five points shall be deducted from the Selection Criteria score for each additional day the deficiency remains unresolved. If Administrative Deficiencies are not clarified or corrected by 5:00 p.m. on the seventh business day following the date of the deficiency notice, then the Application shall be terminated. The time period for responding to a deficiency notice begins at the start of the business day following the deficiency notice date. Deficiency notices may be sent to an Applicant prior to or after the end of the Application Acceptance Period. This Administrative Deficiency process applies to requests for information made by the Real Estate Analysis Division review.

b) **Financial Evaluation**. The Department shall underwrite an Application to determine the financial feasibility and amount of need of the Development to arrive at an appropriate level of CDBG Disaster Recovery Funds. In determining an appropriate level of CDBG Disaster Recovery Funds, the Department shall, at a minimum, evaluate the estimated cost of repairs needed by the development based on insurance estimates from the development owner's insurer, and if applicable verifiable estimates from reputable contractors. The Department shall evaluate acceptable cost parameters as evidenced in the third-party verified scope of work or property condition assessment. Underwriting of a Development will include a determination by the Department, that the amount of CDBG Disaster Recovery Funds recommended for commitment to a Development is necessary for the financial feasibility of the Development and its viability as a qualified rent restricted housing property. In making this determination, the Department will use the Underwriting Rules and Guidelines, 10 TAC §1.32. An Applicant may not change or supplement any part of an Application in any manner after the filing deadline, and may not increase their funding amount, or revise their unit mix (both income levels and bedroom mixes), except in response to a direct request from the Real Estate Analysis Division to remedy an Administrative Deficiency as further described in 10 TAC §49.3(2) or by amendment of an Application after a commitment.
The Department may decline to consider any application if the proposed activities do not, in the Department's sole determination, represent a prudent use of the Department's funds. The Departments is not obligated to proceed with any action pertaining to any applications which are received and may decide it is in the Department's best interest to refrain from pursuing any selection process. The Department strives, through its loan terms, to securitize its funding while ensuring the financial feasibility of a Development. The Department reserves the right to negotiate individual elements of any application.

c) **Compliance Evaluation.** After the Department has determined which Developments will be reviewed for financial feasibility, those same Developments will be reviewed for evaluation of the compliance status by the Department's Portfolio Management and Compliance Division, in accordance with 10 TAC Chapter 60.

d) **Alternative Dispute Resolution.** In accordance with §2306.082 Texas Government Code and 10 TAC 53.6, it is the Department's policy to encourage the use of appropriate Alternative Dispute Resolution procedures "ADR") under the Governmental Dispute Resolution Act, Chapter 2009, Texas Government Code, to assist in resolving disputes under the Department's jurisdiction. As described in Chapter 154, Civil Practices and Remedies Cod, ADR procedures include mediation. Except as prohibited by the Department's ex parte communications policy, the Department encourages informal communications between Department staff and Applicants, and other interested persons, to exchange information and informally resolve disputes. If at anytime an Applicant or other person would like to engage the Department in an ADR procedure, the person may send a proposal to the Department's Dispute Resolution Coordinator. For additional information on the Department's ADR Policy, see the Department's General Administrative Rules on ADR at 10 TAC §1.17.

e) Site Evaluation. Site conditions shall be evaluated through a physical site inspection by the Department or a third party designated by the Department. Such inspection will evaluate the Development Site based upon the criteria set forth in the Site Evaluation form provided in the Application and the inspector shall provide a written report of such site evaluation. The evaluations shall be based on the condition of the surrounding neighborhood, including appropriate environmental and aesthetic conditions and proximity to retail, medical, recreational and accessibility via the existing transportation infrastructure and public transportation systems shall be considered. "Unacceptable" sites include, without limitation, those containing a immitigable environmental factor that may adversely affect the health and safety of the residents.

f) Environmental Review. All applications will be subject to an environmental review as prescribed in 24 CRF Parts 50 and 58. However, the environmental review <u>must</u> be completed prior to <u>any</u> choice limiting activity with regards to the property.

10) Submission and Review Process

a) Applicants are encouraged to attend one of the Departments Application Workshops.

b) The application acceptance period for this NOFA will begin on June 1, 2009. The Department will accept applications from 8 a.m. to 5 p.m. each business day, excluding federal and state holidays from the date this NOFA is published on the Department's web site **until the deadline** stated in this NOFA. For questions regarding this NOFA please contact Teresa Morales at (512) 475-3344 or via email at <u>teresa.morales@tdhca.state.tx.us</u>.

c) If an Application is submitted to the Department that requests funds from two separate housing finance programs, the Application will be handled in accordance with the guidelines for each housing program. The Applicant is responsible for adhering to the deadlines and requirements of both programs.

d) All applications must be submitted, and provide all documentation, as described in this NOFA and associated application materials.

e) Applicants must submit the Application materials as detailed in the Final Application Submission Procedures Manual (ASPM) in effect at the time the application is submitted. All scanned copies must be scanned in accordance with the guidance provided in the Final ASPM in effect at the time the application is submitted.

f) Development Owners may not proceed or allow a contractor to proceed with construction, including demolition, on any Activity, Project or Development without first completing the required environmental clearance procedures and Loan closing with the Department

g) Third party reports – If all applicable third party reports are not received at the time of application submission, the Application will be terminated.

h) If a development has an existing Housing Tax Credit or HOME contract with the Department and construction on the development has not begun, or if an applicant has a current application in process for another financial assisted program with the Department, an abbreviated application for a CDBG award can be submitted under this NOFA. An application qualifying for the abbreviated application process may be considered by staff to have already met the threshold requirements of this NOFA without additional submission or review unless staff determines additional documentation is required in accordance with Paragraph (i) below.

i) The requirements of the abbreviated application will be reflected in the Application Submission Procedures Manuel (ASPM). In addition to the application requirements in the ASPM, staff may use discretion to determine if additional information that is typically required in the full application (including third party reports) is necessary or prudent in order to review for compliance with state or federal rules or due to changes in the market since last reviewed by the Department. Full application and an amendment may be required for any application that includes changes to the previous Board approved application beyond those that are directly related to the development costs, financing structure or additional CDBG program related requirements or that affect an existing allocation of Housing Tax Credits.

j) All Application materials including manuals, NOFA, program guidelines, and all applicable CDBG rules, will be available on the Department's website at http://www.tdhca.state.tx.us/cdbg/index.htm. Applications will be required to adhere to the CDBG Rule and threshold requirements in effect at the time of the Application submission. Applications must be on forms provided by the Department, and cannot be altered or modified and must be in final form before submitting them to the Department.

11) Contract Administration.

Any activity funded under this NOFA will be governed by a written Contract that identifies the terms and conditions related to the awarded funds. The Contract will not be effective until executed by all parties to the Contract. Any amendments must be in writing and are subject to the requirements of the HTC Amendment Policy and the requirements of this section.

a) Unless otherwise changed by agreement of the parties in a Contract and approved by the Board, the terms found in Contract shall be consistent with the following:

i) Up to fifty percent of the developer fee shall be disbursed in accordance with the percentage completion of construction. The remaining fifty percent of developer fee shall not be disbursed until the later of the following:

(1) 90% occupancy, or

(2) 100% completion of construction and certificates of occupancy or architect's certification are/is received.

ii) The Department may, at the Department's sole discretion, authorize up to 50% of the developer fee to fund a special reserve account with funds to be released in accordance with Paragraph (i) of this Subsection, as allowable by HUD. Through Contract or other means the Department deems appropriate, the release of these funds shall be controlled by the Department.

iii) Department authorized pre-award costs for pre-development costs, including but not limited to legal, architectural, engineering, appraisal, surveying, environmental, and market study fees, may be paid if incurred before the effective date of the Contract.

iv) The Department may withhold any draw until completion of a site/construction inspection as deemed necessary by the Department to ensure that construction progress is being made in accordance with the Contract.

v) All applicable sections of the Department's rules for Loans and Contract Administration as reflected in 10 TAC Chapter 53 Subchapter G shall apply; where HOME funds are specifically referenced in this Chapter, the Department may interpret such language to also apply to the funds provided under this NOFA. Should there be any conflicts between the rules and this NOFA, the NOFA will take precedent.

vi) Contract provisions to ensure compliance with 24 CFR Part 570 and Federal Register Notice dated 2/13/2009.

b) Unless otherwise changed by agreement of the parties in a Contract and approved by the Board, performance under the Contract will be evaluated with the following benchmarks:

i) Closing must occur within 6 months from the date of the Board meeting at which the award is made;

ii) Construction must begin within 2 months of the actual closing date or 8 months from the date of the Board meeting at which the award is made, which ever is earlier;

iii) Fifty percent of construction completion must occur within 12 months of the actual closing date;

iv) Completion of construction and receipt of certificates of occupancy, or certification of completion by an architect for rehabilitation, must occur within 24 months of the date of actual closing.

c) The Executive Director may collectively provide up to one six-month extension to the end date of any Contract. Any additional time extension granted by the Executive Director shall include a statement by the Executive Director relating to unusual, non foreseeable, or extenuating circumstances that warrant more than a six-month extension. If the extension is longer than six months and the Executive Director determines that a statement related to unusual, non-foreseeable, or extenuating circumstances cannot be issued, it will be presented to the Board for approval, approval with modifications, or denial of the requested extension.

d) If the Development Owner fails to meet a benchmark requirement and does not seek, or is not granted, an extension of a benchmark, the awarded funds related to the lack of performance may be entirely or partially de-obligated at the Department's sole discretion. Each benchmark reflected in Subsection (b) of this Section is an individual term and subject to the amendment processes. An interim benchmark extension may or may not extend the entire Contract at the Department's discretion.

e) Waiver. The Board, in its discretion and within the limits of federal and state law, may waive any one or more of the requirements of the Contract if the Board finds that waiver is appropriate to fulfill the purposes or policies of Chapter 2306, Texas Government Code, or for good cause, as determined by the Board.

f) Accounting Requirements. Within sixty (60) days after the Contract end date, the Administrator or Development Owner shall provide a full accounting of funds expended under the terms of the Contract. Failure of a Development Owner to provide full accounting of funds expended under the terms of a Contract shall be sufficient reason for the Department to deny any future Contract to the Development Owner.

Applications must be submitted by one of the following delivery methods:

via overnight delivery to:

Texas Department of Housing and Community Affairs
Attn: Disaster Recovery Division
221 East 11th Street
Austin, TX 78701-2410

or via the U.S. Postal Service to:

Texas Department of Housing and Community Affairs
Attn: Disaster Recovery Division
Post Office Box 13941
Austin, TX 78711-3941

NOTE: *This NOFA does not include the text of the various applicable regulatory provisions that may be important to the particular CDBG Rental Housing Development Program. For proper completion of the application, the Department strongly encourages potential applicants to review all applicable State and Federal regulations.*

HOME AND HOUSING TRUST PROGRAMS DIVISION

BOARD ACTION REQUEST

May 21, 2009

Action Item

Presentation, Discussion and Possible Approval of HOME Program Award Recommendations.

Requested Action

Approve, Deny, or Approve with Amendments the HOME Program Award Recommendations.

Background

Awards for contracts from all active Notices of Funding Availability (NOFAs), reflecting multiple activity types, and disaster relief, are combined in this one action item.

OWNER OCCUPIED HOUSING ASSISTANCE, HOMEBUYER ASSISTANCE, AND TENANT- BASED RENTAL ASSISTANCE

At the April 23, 2008, Board meeting, the Board approved applications for all of the remaining funds that were available under the 2008 Single Family NOFA. Under this NOFA, $28,373,445 in project and administrative funds was awarded to 81 viable applications since December 18, 2008. These funds will be used to assist 591 households access safe, decent, and affordable housing. At the time of the April Board meeting, one application, the City of Charlotte, Application # 2008-0159, was pending an application termination appeal.

The application from the City of Charlotte was terminated on April 8, 2009, due to the failure to provide match in accordance with the NOFA's threshold requirement. On April 15, 2009, the Applicant appealed this decision to the Executive Director due to the language in the NOFA being unclear regarding whether the provision of match was a threshold requirement or just one of the options with which the threshold score could be attained. On May 1, 2009, the Executive Director granted the Applicant's appeal. Due to the fact that this application was in process of appealing the termination, it was not included in the award recommendations for the April 23, 2009 Board meeting. Therefore, staff recommends that this application be awarded $375,000 in project funds and $15,000 in administrative funds under the Owner Occupied Housing Assistance Program and that the Department utilize funds from the declined and/or deobligated HOME funds which are available to commit under 10 TAC §1.19(e)(2), to fund this application fully. The City of Charlotte proposes to assist 5 households whose incomes are at or below 30% of the Area Median Family Income, as defined by HUD.

The OCC Program provides eligible households with loans for the rehabilitation or reconstruction of their existing owner-occupied home and earning 80% or less of the Area

Median family Income (AMFI) as defined by HUD. The assisted unit must be the principal residence of the homeowner and meet all program eligibility requirements.

Attached:

- 2008 HOME Single Family NOFA (OCC) – Award Recommendations Log
- 2008 HOME Single Family NOFA - Application Log

HOUSING PROGRAMS FOR PERSONS WITH DISABILITIES

On September 4, 2008, the Board approved the Notice of Funding Availability (NOFA) for the Housing Programs for Persons with Disabilities, which made available $1,500,000. For the first 180 days of the NOFA, $750,000 in funding was made available for Homebuyer Assistance, and $750,000 for Tenant Based Rental Assistance (TBRA). After the 180 days, funds were made available to either activity in any area of the state. These funds are not subject to the Regional Allocation Formula and are available in any area of the state, including Participating Jurisdictions (PJs). The Persons with Disabilities Homebuyer Assistance Program provides eligible households assistance for acquisition or the acquisition and minor rehabilitation for accessibility of affordable single family housing. The Persons with Disabilities Tenant Based Rental Assistance Program provides eligible households with rental subsidies, including security and utility deposits for a period not to exceed 24 months. Tenants must earn 80% or less of the AMFI, participate in a self-sufficiency program, and meet all program eligibility requirements. Ninety percent (90%) of the households assisted with respect to rental or TBRA units must have incomes at or below 60% of the AMFI, in accordance with 24 CFR §92.216. TBRA funds became available for the first 90 days for applicants proposing to assist persons transitioning from an institution and at least 50% of the total households proposed must be targeted to persons transitioning from an institutional setting into a community placement or community setting. This open cycle NOFA made funds available on a first-come, first-served basis until all funds have been awarded or 5:00 p.m., May 29, 2009, whichever is first to occur.

To date, three (3) applications totaling $766,301 in project funds and $45,979 in administrative funds have been received under the Tenant Based Rental Assistance Program. One application has been terminated and two applications, totaling $600,000 in project funds and $36,000 in administrative funds, are being recommended for funding today which result in assistance for 73 households.

The applications have been reviewed by the Compliance and Asset Oversight Division and no issues of material non-compliance, unresolved audit findings, or questioned or disallowed costs have been identified.

If the attached award recommendation is approved, a total of $900,000 will remain in the NOFA.

Attached:

- HOME Persons with Disabilities NOFA – Award Recommendations
- HOME Persons with Disabilities NOFA - Application Log

Recommendation

Staff recommends that the Board approve all of the awards as detailed in the Award Recommendations logs attached.

2008 HOME SF NOFA (2008 OCC) - Award Recommendations Log

May 07, 2009

Sorted by Date and Time Received

Statewide Summary	Totals
SF NOFA Amount:	$27,034,118
OCC Set-Aside Amount:	$20,123,882
Total Recommended:	$375,000
Total Apps. Recommended:	1

App number	Received Date	Time Received	Applicant	Region	Project Funds Requested	Admin Funds Requested	Total Units	Project Funds Awarded and/or Recommended	Admin Funds Awarded and/or Recommended	Total Units	Comments
2008-0159	3/24/2009	2:54 AM	City of Charlotte	9	$375,000	$15,000	5	$375,000	$15,000	5	Pending Award
				Totals:	**$375,000**	**$15,000**	**5**	**$375,000**	**$15,000**	**5**	

2008 SF Application Log Final Collapse

Sorted by date/time received

Total NOFA Amount - $27,034,118

Total Amount Available: -$405,043

App number	Received Date	Time Received	Applicant	Region	Project Funds Requested	Admin Funds Requested	Total Units	Project Funds Awarded and/or Recommended	Admin Funds Awarded and/or Recommended	Total Units	Comments
2008-0065 2008 OCC	9/8/2008	9:39 AM	City of Carthage	4	$375,000	$7,500	6	$375,000	$7,500	6	Awarded 12/18/2008
2008-0064 2008 OCC	9/8/2008	9:40 AM	City of Center	5	$375,000	$7,500	6	$375,000	$7,500	6	Awarded 12/18/2008
2008-0066 2008 OCC	9/8/2008	11:09 AM	City of Jacksonville	4	$375,000	$7,500	6	$375,000	$7,500	6	Awarded 12/18/2008
2008-0063 2008 OCC	9/8/2008	11:10 AM	City of Crockett	5	$375,000	$7,500	6	$375,000	$7,500	6	Awarded 12/18/2008
2008-0062 2008 OCC	9/8/2008	3:27 PM	City of Palestine	4	$375,000	$7,500	6	$375,000	$7,500	6	Awarded 12/18/2008
2008-0067 2008 OCC	9/15/2008	9:07 AM	City of Wortham	8	$375,000	$7,500	6	$375,000	$7,500	6	Awarded 12/18/2008
2008-0068 2008 TBRA	9/16/2008	2:09 PM	Ellis Community Resources Inc.	9	$300,000	$12,000	28	$300,000	$36,000	28	Awarded 2/5/2009
2008-0069 2008 OCC	9/16/2008	4:38 PM	City of Corsicana	3	$375,000	$7,500	6	$375,000	$7,500	6	Awarded 2/5/2009
2008-0070 2008 TBRA	9/17/2008	1:11 PM	Buckner Children & Family Services, Inc. dba Buckner Family Place	5	$87,360	$3,494	7	$87,360	$3,494	7	Awarded 12/18/2008
2008-0071 2008 OCC	9/18/2008	1:06 PM	City of Gladewater	4	$375,000	$7,500	6	$375,000	$7,500	6	Awarded 12/18/2008

App number	Received Date	Time Received	Applicant	Region	Project Funds Requested	Admin Funds Requested	Total Units	Project Funds Awarded and/or Recommended	Admin Funds Awarded and/or Recommended	Total Units	Comments
2008-0072 2008 OCC	9/18/2008	3:58 PM	County of La Salle	11	$375,000	$7,500	6	$375,000	$7,500	6	Awarded 12/18/2008
2008-0073 2008 OCC	9/22/2008	2:57 PM	City of La Grange	7	$375,000	$7,500	6	$375,000	$7,500	6	Awarded 2/5/2009
2008-0074 2008 OCC	9/22/2008	2:58 PM	City of Moody	8	$375,000	$7,500	6	$375,000	$15,000	6	Awarded 12/18/2008
2008-0075 2008 OCC	9/22/2008	2:59 PM	City of La Feria	11	$375,000	$7,500	6	$375,000	$15,000	6	Awarded 12/18/2008
2008-0076 2008 OCC	9/22/2008	4:30 PM	City of Teague	8	$375,000	$7,500	6	$375,000	$7,500	6	Awarded 12/18/2008
2008-0079 2008 OCC	9/23/2008	2:53 PM	City of Devine	9	$375,000	$7,500	6	$375,000	$15,000	6	Awarded 12/18/2008
2008-0077 2008 OCC	9/24/2008	3:07 PM	City of Smithville	7	$375,000	$7,500	6	$375,000	$15,000	6	Awarded 12/18/2008
2008-0078 2008 OCC	9/25/2008	9:39 AM	City of Temple	8	$375,000	$7,500	6	$375,000	$7,500	6	Awarded 12/18/2008
2008-0080 2008 OCC	9/25/2008	3:09 PM	City of Conroe	6	$375,000	$7,500	6	$375,000	$7,500	6	Awarded 12/18/2008
2008-0081 2008 OCC	10/2/2008	3:38 PM	City of Hallettsville	10	$375,000	$7,500	6	$375,000	$15,000	6	Awarded 12/18/2008
2008-0082 2008 OCC	10/3/2008	2:33 PM	City of Taylor	7	$375,000	$7,500	6	$375,000	$15,000	6	Awarded 12/18/2008
2008-0083 2008 OCC	10/6/2008	11:23 AM	City of Hughes Springs	4	$360,000	$7,200	6	$360,000	$7,200	6	Awarded 12/18/2008

App number	Received Date	Time Received	Applicant	Region	Project Funds Requested	Admin Funds Requested	Total Units	Project Funds Awarded and/or Recommended	Admin Funds Awarded and/or Recommended	Total Units	Comments
2008-0084 2008 OCC	10/7/2008	1:02 PM	Webb County	11	$240,000	$4,800	8	$240,000	$4,800	4	Awarded 12/18/2008
2008-0087 2008 OCC	10/9/2008	1:36 PM	City of Cuney	4	$375,000	$7,500	6	$375,000	$7,500	6	Awarded 12/18/2008
2008-0086 2008 OCC	10/9/2008	1:46 PM	City of Redwater	4	$180,000	$3,600	3	$180,000	$3,600	3	Awarded 12/18/2008
2008-0085 2008 OCC	10/9/2008	3:53 PM	City of Midland	12	$160,000	$3,200	5	$160,000	$3,200	5	Awarded 12/18/2008
2008-0088 2008 TBRA	10/13/2008	8:13 AM	Buckner Children & Family Services, Inc. dba Buckner Family Place at Hearthstone	12	$151,008	$6,040	6	$151,008	$6,040	6	Awarded 12/18/2008
2008-0099 2008 OCC	10/14/2008	10:27 AM	City of Bogata	4	$300,000	$6,000	5	$300,000	$6,000	5	Awarded 12/18/2008
2008-0100 2008 OCC	10/14/2008	10:27 AM	City of Clarksville	4	$360,000	$7,200	6	$360,000	$7,200	6	Awarded 12/18/2008
2008-0098 2008 OCC	10/14/2008	10:28 AM	San Benito Housing Authority	11	$375,000	$7,500	6	$375,000	$7,500	6	Awarded 12/18/2008
2008-0097 2008 OCC	10/14/2008	12:29 PM	Franklin County	4	$300,000	$6,000	5	$300,000	$6,000	5	Awarded 12/18/2008
2008-0096 2008 OCC	10/14/2008	3:11 PM	City of McKinney	3	$300,000	$6,000	5	$300,000	$6,000	5	Awarded 12/18/2008
2008-0091 2008 HBA	10/15/2008	1:31 PM	Midland Community Development Corp.	12	$100,000	$4,000	10	$100,000	$4,000	10	Awarded 12/18/2008
2008-0092 2008 OCC	10/15/2008	1:33 PM	Red River County	4	$360,000	$7,200	6	$360,000	$7,200	6	Awarded 12/18/2008

App number	Received Date	Time Received	Applicant	Region	Project Funds Requested	Admin Funds Requested	Total Units	Project Funds Awarded and/or Recommended	Admin Funds Awarded and/or Recommended	Total Units	Comments
2008-0093 2008 OCC	10/15/2008	1:35 PM	Cass County	4	$360,000	$7,200	6	$360,000	$7,200	6	Awarded 12/18/2008
2008-0094 2008 OCC	10/15/2008	1:36 PM	City of Bloomburg	4	$180,000	$3,600	3				Terminated
2008-0095 2008 OCC	10/15/2008	1:37 PM	South Plains Community Action Association, Inc.	1	$375,000	$7,500	5				Under Review
2008-0089 2008 OCC	10/15/2008	4:27 PM	City of Terrell	3	$360,000	$7,200	5	$360,000	$7,200	6	Awarded 12/18/2008
2008-0090 2008 OCC	10/15/2008	4:31 PM	City of Nacogdoches	5	$375,000	$7,500	6	$375,000	$7,500	6	Awarded 12/18/2008
2008-0102 2008 OCC	10/22/2008	3:04 PM	City Of Paris	4	$375,000	$7,500	5	$375,000	$7,500	5	Awarded 2/5/2009
2008-0103 2008 OCC	10/22/2008	3:05 PM	City of Meadow	1	$375,000	$7,500	5	$375,000	$7,500	5	Awarded 12/18/2008
2008-0104 2008 OCC	10/29/2008	2:26 PM	City of Bonham	3	$375,000	$7,500	5	$375,000	$7,500	5	Awarded 2/5/2009
2008-0110 2008 OCC	10/30/2008	11:29 AM	City of Mineola	4	$375,000	$7,500	5				Terminated
2008-0107 2008 OCC	11/3/2008	9:57 AM	Community Council of Southwest Texas, Inc.	11	$375,000	$7,500	6	$375,000	$7,500	5	Awarded 2/5/2009
2008-0108 2008 HBA	11/3/2008	10:03 AM	Community Council of Southwest Texas, Inc.	0	$500,000	$20,000	50	$500,000	$20,000	50	Awarded 2/5/2009
2008-0109 2008 OCC	11/3/2008	10:05 AM	County of Lamar	4	$375,000	$7,500	5	$375,000	$7,500	5	Awarded 2/5/2009

App number	Received Date	Time Received	Applicant	Region	Project Funds Requested	Admin Funds Requested	Total Units	Project Funds Awarded and/or Recommended	Admin Funds Awarded and/or Recommended	Total Units	Comments
2008-0106 2008 OCC	11/3/2008	3:34 PM	City of Sundown	1	$375,000	$7,500	5	$375,000	$7,500	5	Awarded 12/18/2008
2008-0111 2008 TBRA	11/5/2008	10:05 AM	Affordable Caring Housing, Inc.	4	$110,561	$4,422	10	$110,561	$4,422	10	Awarded 12/18/2008
2008-0112 2008 OCC	11/10/2008	8:59 AM	El Paso Collaborative for Community and Economic Development	13	$375,000	$7,500	7	$375,000	$7,500	7	Awarded 2/5/2009
2008-0114 2008 OCC	11/14/2008	4:27 PM	City of Godley	3	$150,000	$3,000	2	$150,000	$3,000	2	Awarded 12/18/2008
2008-0113 2008 HBA	11/14/2008	4:36 PM	Affordable Homes of South Texas, Inc.	11	$300,000	$12,000	30	$300,000	$12,000	30	Awarded 12/18/2008
2008-0115 2008 OCC	11/20/2008	6:17 AM	City of New Braunfels	9	$375,000	$7,500	15	$375,000	$15,000	5	Awarded 2/5/2009
2008-0116 2008 OCC	11/21/2008	4:19 PM	City of Pilot Point	3	$150,000	$3,000	2	$150,000	$3,000	2	Awarded 12/18/2008
2008-0118 2008 TBRA	12/8/2008	3:31 PM	Affordable Caring Housing, Inc.	8	$110,232	$4,409	10	$110,232	$13,228	10	Awarded 2/5/2009
2008-0120 2008 OCC	12/16/2008	4:01 PM	City of Anton	1	$375,000	$7,500	5	$0	$0	0	declined
2008-0119 2008 HBA	12/16/2008	4:03 PM	City of Midland	12	$100,000	$4,000	10	$100,000	$4,000	10	Awarded 2/5/2009
2008-0121 2008 OCC	12/23/2008	8:43 AM	City of Abernathy	1	$375,000	$15,000	5	$375,000	$15,000	5	Awarded 2/5/2009
2008-0123 2008 OCC	12/23/2008	1:35 PM	City of McCamey	12	$375,000	$15,000	5	$375,000	$15,000	5	Awarded 2/5/2009

App number	Received Date	Time Received	Applicant	Region	Project Funds Requested	Admin Funds Requested	Total Units	Project Funds Awarded and/or Recommended	Admin Funds Awarded and/or Recommended	Total Units	Comments
2008-0122 2008 OCC	12/23/2008	1:36 PM	City of Ralls	1	$375,000	$15,000	5	$375,000	$15,000	5	Awarded 2/5/2009
2008-0124 2008 TBRA	12/30/2008	1:28 PM	Fort Bend County Women's Center, Inc.	6	$322,056	$12,882	19	$300,000	$36,000	19	Awarded 2/5/2009
2008-0125 2008 OCC	1/7/2009	2:05 PM	City of Winters	2	$375,000	$15,000	5	$375,000	$15,000	5	Awarded 2/5/2009
2008-0126 2008 OCC	1/13/2009	1:30 PM	City of Turkey	1	$375,000	$15,000	5	$375,000	$15,000	5	Awarded 2/5/2009
2008-0128 2008 OCC	1/15/2009	4:05 PM	Hill Country Home Opportunity Council, Inc.	9	$375,000	$7,500	5				Terminated
2008-0127 2008 OCC	1/15/2009	1:12 PM	City of Soccoro	13	$375,000	$15,000	25	$375,000	$15,000	6	Awarded 2/5/2009
2008-0136 2008 OCC	1/20/2009	8:34 AM	Azteca Economic Development Corporation	1	$374,000	$15,600	5				Terminated
2008-0130 2008 OCC	2/2/2009	2:33 PM	City of Mart	8	$375,000	$15,000	5	$375,000	$15,000	5	Awarded 4/23/2009
2008-0139 2008 OCC	2/3/2009	3:44 AM	City of Seminole	12	$375,000	$15,000	5	$375,000	$15,000	5	Awarded 4/23/2009
2008-0135 2008 OCC	2/4/2009	3:49 PM	City of Trinidad	4	$375,000	$7,500	5				Terminated
2008-0134 2008 OCC	2/6/2009	5:18 PM	City of Point Comfort	10	$375,000	$15,000	5	$375,000	$15,000	5	Awarded 4/23/2009
2008-0132 2008 OCC	2/11/2009	1:13 PM	City of Agua Dulce	10	$375,000	$15,000	5	$375,000	$15,000	5	Awarded 4/23/2009

App number	Received Date	Time Received	Applicant	Region	Project Funds Requested	Admin Funds Requested	Total Units	Project Funds Awarded and/or Recommended	Admin Funds Awarded and/or Recommended	Total Units	Comments
2008-0133 2008 OCC	2/17/2009	4:29 PM	County of Delta	4	$375,000	$15,000	5	$375,000	$15,000	5	Awarded 4/23/2009
2008-0137 2008 OCC	2/19/2009	2:26 PM	City of Willis	6	$375,000	$15,000	5	$375,000	$15,000	5	Awarded 4/23/2009
2008-0138 2008 OCC	2/20/2009	3:57 AM	Frio County	9	$375,000	$15,000	5				Withdrawn
2008-0140 2008 OCC	2/24/2009	1:23 AM	City of Mount Vernon	4	$375,000	$15,000	5	$375,000	$15,000	5	Awarded 4/23/2009
2008-0141 2008 TBRA	2/24/2009	9:47 AM	Travis County Housing Finance Corporation	7	$300,000	$12,000	20				Terminated
2008-0142 2008 OCC	2/26/2009	4:49 PM	City of Mineola	4	$375,000	$15,000	5	$375,000	$15,000	5	Awarded 4/23/2009
2008-0143 2008 OCC	2/27/2009	4:41 AM	City of Carrizo Springs	11	$375,000	$15,000	5	$375,000	$15,000	5	Awarded 4/23/2009
2008-0144 2008 OCC	2/27/2009	4:42 AM	City of Seadrift	10	$375,000	$15,000	5	$375,000	$15,000	5	Awarded 4/23/2009
2008-0145 2008 OCC	3/3/2009	2:28 AM	City of Valentine	13	$375,000	$15,000	5	$375,000	$15,000	5	Awarded 4/23/2009
2008-0148 2008 OCC	3/9/2009	2:07 AM	City of Roxton	4	$375,000	$15,000	5	$375,000	$15,000	5	Awarded 4/23/2009
2008-0151 2008 TBRA	3/9/2009	2:08 AM	Four Rivers Outreach, Inc.	3	$322,560	$13,440	21				Terminated
2008-0147 2008 OCC	3/9/2009	2:09 AM	City of Greenville	3	$375,000	$15,000	5				Terminated

App number	Received Date	Time Received	Applicant	Region	Project Funds Requested	Admin Funds Requested	Total Units	Project Funds Awarded and/or Recommended	Admin Funds Awarded and/or Recommended	Total Units	Comments
2008-0150 2008 OCC	3/9/2009	4:24 AM	City of Trinidad	4	$375,000	$15,000	5	$375,000	$15,000	5	Awarded 4/23/2009
2008-0149 2008 OCC	3/10/2009	11:59 AM	City of Harker Heights	8	$375,000	$15,000	5	$375,000	$15,000	5	Awarded 4/23/2009
2008-0152 2008 OCC	3/11/2009	9:14 AM	City of Encinal	11	$375,000	$15,000	5				Terminated
2008-0153 2008 TBRA	3/12/2009	3:41 AM	Travis County Housing Finance Corporation	7	$300,000	$36,000	20	$300,000	$36,000	20	Awarded 4/23/2009
2008-0154 2008 OCC	3/16/2009	1:18 AM	City of Smyer	1	$375,000	$15,000	5	$375,000	$15,000	5	Awarded 4/23/2009
2008-0155 2008 OCC	3/16/2009	1:30 AM	City of Detroit	4	$375,000	$15,000	5	$375,000	$15,000	5	Awarded 4/23/2009
2008-0156 2008 OCC	3/16/2009	1:31 PM	City of Pecan Gap	4	$375,000	$15,000	5	$375,000	$15,000	5	Awarded 4/23/2009
2008-0157 2008 HBA	3/18/2009	1:27 AM	Paris Living - A Community Development Corporation	4	$500,000	$20,000	25	$500,000	$20,000	25	Awarded 4/23/2009
2008-0158 2008 OCC	3/18/2009	4:38 PM	City of Annona	4	$375,000	$15,000	5	$375,000	$15,000	5	Awarded 4/23/2009
2008-0159 2008 OCC	3/24/2009	2:54 AM	City of Charlotte	9	$375,000	$15,000	5	$375,000	$15,000	5	Pending Award
2008-0161 2008 OCC	3/26/2009	3:45 PM	Refugio County	10	$375,000	$15,000	5	$375,000	$15,000	5	Awarded 4/23/2009
2008-0160 2008 OCC	3/26/2009	3:48 PM	Dimmit County	11	$375,000	$15,000	5	$0	$0	0	Terminated

App number	Received Date	Time Received	Applicant	Region	Project Funds Requested	Admin Funds Requested	Total Units	Project Funds Awarded and/or Recommended	Admin Funds Awarded and/or Recommended	Total Units	Comments
2008-0162 2008 OCC	4/1/2009	2:06 PM	City of Tahoka	1	$375,000	$15,000	5	$375,000	$15,000	5	Awarded 4/23/2009
				Totals:	**$32,387,777**	**$982,987**	**723**	**$27,814,161**	**$949,284**	**596**	

Persons With Disabilities - Award Recommendations Log

Sorted by date/time received

Total NOFA Amount - $1,500,000

Total Amount Available: $1,500,000

App number	Received Date	Time Received	Applicant	Region	Project Funds Requested	Admin Funds Requested	Total Units	Project Funds Awarded and/or Recommended	Admin Funds Awarded and/or Recommended	Total Units	Comments
2008-0165	4/15/2009		Community Partnership for the Homeless	7	$300,000	$18,000	30	$300,000	$18,000	30	Pending Award
2008-0163	4/21/2009	4:35 AM	San Antonio Metropolitan Ministry, Inc.	9	$300,000	$18,000	43	$300,000	$18,000	43	Pending Award
				Totals:	**$600,000**	**$36,000**	**73**	**$600,000**	**$36,000**	**73**	

Persons With Disabilities - Application Log

Sorted by date/time received

Total NOFA Amount - $1,500,000

Total Amount Available: $1,500,000

App number	Received Date	Time Received	Applicant	Region	Project Funds Requested	Admin Funds Requested	Total Units	Project Funds Awarded and/or Recommended	Admin Funds Awarded and/or Recommended	Total Units	Comments
2008-0146	3/3/2009	2:30 AM	Spindletop MHMR Services	5	$166,301	$9,979	25				Terminated
2008-0165	4/15/2009		Community Partnership for the Homeless	7	$300,000	$18,000	30	$300,000	$18,000	30	Pending Award
2008-0163	4/21/2009	4:35 AM	San Antonio Metropolitan Ministry, Inc.	9	$300,000	$18,000	43	$300,000	$18,000	43	Pending Award
				Totals:	**$766,301**	**$45,979**	**98**	**$600,000**	**$36,000**	**73**	

HOME AND HOUSING TRUST FUND PROGRAMS DIVISION

BOARD ACTION REQUEST

May 21, 2009

Action Item

Presentation, Discussion and Possible Approval of Housing Trust Fund Program Award Recommendations.

Requested Action

Approve, Deny or Approve with Amendments the Housing Trust Fund Program Award Recommendations.

2009 VETERANS HOUSING SUPPORT PROGRAM

A Notice of Funding Availability (NOFA) for $1,000,000 for the 2009 Texas Veterans Housing Support Program was approved by the Board on December 18, 2008, consistent with the 2009 Housing Trust Fund Annual Plan. The NOFA allows applications for funding on a statewide first-come, first-served basis and established a submission deadline of May 1, 2009.

The Department has received four applications to date requesting a total of $959,995 in project funds and $40,000 in administrative funding for a total of $999,995 of funds requested. On April 23, 2009, the board approved awards totaling $499,995, leaving $500,005 available. If the application being considered today is awarded the recommended $250,000 in HTF funds, $250,005 in funds will remain available under the NOFA.

The Veterans Rental Assistance application to assist 24 households from the Community Partnership for the Homeless has been reviewed and met the NOFA requirements and is therefore being recommended for award. Other applications are still in the review process.

The Application Log reflecting all applications received in response to the Veterans Housing Support Program NOFA and an Award Recommendations Log is attached.

RENTAL PRODUCTION PROGRAM

A Notice of Funding Availability (NOFA) for $2,594,000 for Rental Production was approved by the Board in September 2008, consistent with the 2009 Housing Trust Fund Annual Plan. The NOFA allows applications for funding on a statewide first-come, first-served basis and establishes a submission deadline of April 6, 2009. The Board previously approved awards totaling $1,794,000, which leaves $800,000 available for awards. The Department currently has six pending applications totaling $1,535,000. Two of these applications for $1,000,000 are being recommended today. One of these applications for Meadow Park Village was tabled by the

Board at the April 23, 2009 Board meeting due to the Applicant's concerns that the loan terms would not be viable. The chief concern was that the interest rate of 5% could not be supported by the property's operations and that only a 0% interest rate and some loan forgiveness would be necessary. After additional evaluation the underwriting report continues to indicate that the Applicant's expenses of $6,051 per unit are substantially higher than should be expected of a comparable tax-exempt property in this market. Should the Board choose to accept that the Applicant's operations will not allow repayment at the recommended terms, staff recommends that the Board consider a $500,000 loan structured with a 26 year amortization and term and 0% interest rate. This structure would allow for full principal repayment over the same remaining term on the first lien debt. Additionally, based on the Applicant's proforma, this structure would result in a debt coverage ratio (DCR) of 1.12. The underwriter's proforma yields a DCR of 1.59, which is higher than the Department's maximum of 1.35.

If the recommended applications are awarded today, all of the remaining $800,000 in funds available under the NOFA will be awarded. In order to fully fund The Willows Apartments, staff recommends using $200,000 in funds from the Department's available balance of HTF funds.

The subject applications have completed the two stages of the review process in accordance with the Housing Trust Fund Rule. The Real Estate Analysis (REA) Division has evaluated the applications and the underwriting reports are included in today's board book. All recommendations are subject to conditions reflected in the underwriting reports.

Attached:

- 2009 Housing Trust Fund Rental Production Program – Award Recommendations Log;
- 2009 Housing Trust Fund Rental Production Program – Application Log; and
- Real Estate Analysis Division underwriting reports.

Recommendation

Staff recommends that the Board approve awards for the following applications as detailed in the attached Award Logs:

2009-0012	Community Partnership for the Homeless	VRA
08335	Meadow Park Village	RPP
08343	The Willows Apartments	RPP

Staff's recommendations for all Rental Production Program awards are subject to conditions reflected in the underwriting reports.

2009 Texas Veterans Housing Support Program - Award Recommendations Log

Sorted by Date/Time Received

Total NOFA Amount – $1,000,000
Total Amount Available Prior to Action: $500,005

App number	Received Date	Time Received	Applicant	Region	Project Funds Requested	Admin Funds Requested	Total Units	Project Funds Awarded and/or Recommended	Admin Funds Awarded and/or Recommended	Total Units	Comments
2009-0012	3/26/2009	3:47 AM	Community Partnership for the Homeless	7	$240,000	$10,000	24	$240,000	$10,000	24	Pending Award
				Totals:	**$240,000**	**$10,000**	**24**	**$240,000**	**$10,000**	**24**	

2009 Texas Veterans Housing Support Program – Application Log

Sorted by Date/Time Received

Total NOFA Amount – $1,000,000
Total Amount Available Prior to Action: $500,005

App number	Received Date	Time Received	Applicant	Region	Project Funds Requested	Admin Funds Requested	Total Units	Project Funds Awarded and/or Recommended	Admin Funds Awarded and/or Recommended	Total Units	Comments
2009-0004	2/12/2009	2:33 PM	FUTURO Communities, Inc	11	$239,995	$10,000	7	$239,995	$10,000	7	Awarded 4/23/09
2009-0008	3/9/2009	12:53 PM	Center for Housing & Economic Opportunities Corporation	7	$240,000	$10,000	7	$240,000	$10,000	7	Awarded 4/23/09
2009-0012	3/26/2009	3:47 PM	Community Partnership for the Homeless	7	$240,000	$10,000	24	$240,000	$10,000	24	Pending Award
2009-0014	4/30/2009	8:15AM	County of Webb	11	$240,000	$10,000	11				Under Review
				Totals:	**$959,995**	**$40,000**	**49**	**$719,995**	**$30,000**	**38**	

HTF Rental Production Program - Award Recommendations
Sorted by Date and Time Received

Thursday, May 14, 2009

Available General Set-Aside: $2,594,000
Funds Remaining Prior to this Action - $800,000

File #	Region	Received By Date:	Development Name	City	Housing Activity(1)	Rqstd HTF Units	Rec. HTF Units	Total Units	Target (2) Population	Layering HOME	Requested Project Funds	Awarded / Recommended Project Funds	Status
08335	7	8/28/2008	Meadow Park Village Apartments	Lockhart	R	36	36	36	General	No	$500,000	$500,000	Pending Award 5/21/2009
08343	7	11/13/2008	The Willows Apartments	Smithville	R	32	32	32	Family	No	$500,000	$500,000	Pending Award 5/21/2009
Total HTF Applications		**2**		**Unit Totals:**		**68**	**68**	**68**	**Fund Totals:**		**$1,000,000**	**$1,000,000**	

1 = Housing Activity= New Construction = NC, Rehabilitation = R
2 = Target Population Abbreviation: Intergenerational=Intg

HTF Rental Production Program - Application Log
Sorted by Date and Time Received

Thursday, May 14, 2009

Available General Set-Aside - $2,594,000
Funds Remaining Prior to this Action - $800,000

File #	Region	Received By Date:	Development Name	City	Housing Activity(1)	Rqstd HTF Units	Rec. HTF Units	Total Units	Target (2) Population	Layering HOME	Requested Project Funds	Awarded / Recommended Project Funds	Status
08415	9	8/21/2008	The Mirabella	San Antonio	R	18	18	172	Elderly	Yes	$384,000	$384,000	Awarded 11/13/2008
08334	10	8/27/2008	Parkwood Apartments	Nixon	R	8	24	24	General	Yes	$450,000	$450,000	Awarded 2/5/2009
08335	7	8/28/2008	Meadow Park Village Apartments	Lockhart	R	36	36	36	General	No	$500,000	$500,000	Pending Award 5/21/2009
09605	3	10/3/2008	Woodmont Apartments	Fort Worth	NC	26	26	252	General	Yes	$460,000	$460,000	Awarded 4/23/2009
08339	3	10/29/2008	Crown Point Apartments	Venus	R	24	24	24	General	No	$500,000	$500,000	Awarded 3/12/2009
08343	7	11/13/2008	The Willows Apartments	Smithville	R	32	32	32	Family	No	$500,000	$500,000	Pending Award 5/21/2009
09120	6	2/26/2009	Senior Villages of Huntsville	Huntsville	R	36		36	Elderly	No	$160,000		Under Review
09105	2	2/26/2009	The Villages at Snyder	Snyder	NC	0		80	Intergenerational	No	$275,000		Under Review
09104	5	2/26/2009	Stone Hearst Seniors	Beaumont	NC	0		36	Elderly	No	$100,000		Under Review
				Unit Totals:		180	160	692		Fund Totals:	$3,329,000	$2,794,000	

Total HTF Applications 9

1 = Housing Activity= New Construction = NC, Rehabilitation = R
2 = Target Population Abbreviation: Intergenerational=Intg

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
Real Estate Analysis Division
Underwriting Report

REPORT DATE: 05/15/09 PROGRAM: HTF FILE NUMBER: **08335**

ADDENDUM TO APRIL 9, 2009 REPORT

DEVELOPMENT

Meadow Park Village Apartments

Location: 1200 Meadow Park Region: 7

City: Lockhart County: Caldwell Zip: 78644 [x] QCT [ ] DDA

Key Attributes: Family, Rehab, Rural, and duplexes

ALLOCATION

	REQUEST			ORIGINAL RECOMMENDATION		
TDHCA Program	Amount	Interest	Amort/Term	**Amount**	**Interest**	**Amort/Term**
Housing Trust Fund	$304,000	forgivable	0/0			
Housing Trust Fund	$196,000	0.00%	360/360	**$500,000**	**5.00%**	**193/193**

				ALTERNATIVE RECOMMENDATION		
Housing Trust Fund				**$500,000**	**0.00%**	**312/312**

CONDITIONS

1 Receipt, review and acceptance of evidence that the asbestos affected materials in the laundry room have been removed or receipt of an Operation & Maintenance plan prepared by a qualified firm is a condition of this report. It is required that any removal

2 Should the terms and rates of the proposed debt change, the transaction should be re-evaluated and an adjustment to the allocation amount or terms may be warranted.

CONCLUSIONS

At the April 21, 2009 Board meeting, the Board tabled consideration of this allocation request until the applicant could work with the Real Estate Analysis Division ("REA") regarding the underwriter's original recommendation.

In the original underwriting report, REA concluded that the property has operated with expenses significantly over similarly sized developments contained in the TDHCA database. Therefore, REA underwrote the development consistent with the database information ($4,800 per unit annually). Subsequently, the Applicant submitted additional information supporting the historical operating expenses of just over $6,000 per unit.

After review of this additional information, the underwriter concurs that the property has operated as reported by the Applicant, but based on comparable information the underwriter can not determine a justification as to why the property operates at these expense levels.

The property is a Section 8 mark-to-market transaction with rents and operating expenses approved by HUD. Additionally, the underwriter acknowledges that small developments with 32 units operate with higher per unit expenses. However, two specific properties in Lockhart were identified in the TDHCA database that operate at approximately $3,800 per unit net of property taxes (see attached comparison).

REA has no disagreement with the applicant that the property has operated as reported. REA maintains, however, that the original REA underwritten operating expense estimate is the correct estimate to use for determining the structure of the Housing Trust Fund allocation considering a structure that provides for recovery of TDHCA's investment in the property. REA's operating expense estimate is generous at $1,000 per unit higher than the two comparable properties mentioned above.

The REA's original analysis and recommendation provides for repayment of the HTF allocation determined by an amortization period required to achieve an acceptable DCR between 1.15 and 1.35.

Should the Board accept the Applicant's historical expenses for structuring the HTF loan, REA's recommendation provides for full repayment at 0% interest as hard, amortizing debt over a term that matches the senior debt.

This report assumes the HTF loan(s) be superior to the existing Housing & Community Service Loans.

Manager of Real Estate Analysis:	*Raquel Morales*	Date:	May 15, 2009
Director of Real Estate Analysis:	*Brent Stewart*	Date:	May 15, 2009

Meadow Park Village - HTF Application
Operating Expense Analysis

Expense Comparables	Annual Expenses per Unit	Property Type	# Units	Taxes
TDHCA Database Average	$4,128	Various	>76	(Includes Property Taxes)
Lockhart Comp #1	$3,861	Senior	20	(Property Taxes Deducted)
Lockhart Comp #2	$3,800	Family	32	(Property Taxes Deducted)
TDHCA Underwritten	$4,846	Family	36	(No Property Taxes)
Applicant	$6,051	Family	36	(No Property Taxes)

MULTIFAMILY COMPARATIVE ANALYSIS

Meadow Park Village Apartments, Lockhart, HTF #08335

Type of Unit	Number	Bedrooms	No. of Baths	Size in SF	Gross Rent Lmt.	Rent Collected	Rent per Month	Applicant	Market	Rent per SF	Tnt-Pd Util	WS&T
HTF50%	2	1	1	568	$666	$645	$1,290	$645	$615	$1.14	$68.00	$69.00
HTF 30%	3	1	1	570	$400	$645	$1,935	$645	$615	$1.13	$68.00	$69.00
HTF 50%	3	1	1	570	$666	$645	$1,935	$645	$615	$1.13	$68.00	$69.00
HTF 30%	8	2	1	693	$480	$734	$5,872	$734	$710	$1.06	$86.00	$74.00
HTF 50%	12	2	1	693	$800	$734	$8,808	$734	$710	$1.06	$86.00	$74.00
HTF30%	3	3	1.5	924	$555	$909	$2,727	$909	$1,075	$0.98	$106.00	$85.00
HTF50%	3	3	1.5	924	$924	$909	$2,727	$909	$1,075	$0.98	$106.00	$85.00
HTF50%	2	4	2	1,129	$1,031	$1,040	$2,080	$1,040.00	$1,255	$0.92	$121.00	$96.00
TOTAL:	36		**AVERAGE:**	728		$760	$27,374			$1.04	$87.28	$75.94

INCOME	Total Net Rentable Sq Ft:	26,218		TDHCA	APPLICANT	Actual 2007	Actual 2006	COUNTY	IREM REGION	COMPT. REGION
POTENTIAL GROSS RENT				$328,488	$328,488	$296,100	$286,224	Caldwell		7
Secondary Income		Per Unit Per Month:	$5.00	2,160	2,160	6,300	6,794	$5.00	Per Unit Per Month	
Other Support Income:				0	0			$0.00	Per Unit Per Month	
POTENTIAL GROSS INCOME				$330,648	$330,648	$302,400	$293,018			
Vacancy & Collection Loss		% of Potential Gross Income:	-7.50%	(24,799)	(16,536)	(13,917)	(5,584)	-5.00%	of Potential Gross Income	
Employee or Other Non-Rental Units or Concessions				0						
EFFECTIVE GROSS INCOME				$305,849	$314,112	$288,483	$287,434			
EXPENSES	% OF EGI	PER UNIT	PER SQ FT					PER SQ FT	PER UNIT	% OF EGI
General & Administrative	4.22%	$359	0.49	$12,910	$15,141	$40,831	$37,233	$0.58	$421	4.82%
Management	5.50%	467	0.64	16,823	18,085	16,823	16,724	0.69	502	5.76%
Payroll & Payroll Tax	10.87%	924	1.27	33,254	47,459	33,254	28,882	1.81	1,318	15.11%
Repairs & Maintenance	7.43%	631	0.87	22,727	36,903	50,897	30,858	1.41	1,025	11.75%
Utilities	2.68%	228	0.31	8,210	10,300	8,210	6,309	0.39	286	3.28%
Water, Sewer, & Trash	11.37%	966	1.33	34,763	38,110	34,763	36,282	1.45	1,059	12.13%
Property Insurance	3.28%	279	0.38	10,041	12,000	10,268	9,813	0.46	333	3.82%
Property Tax 2.6585	0.00%	0	0.00	0	0	0	0	0.00	0	0.00%
Reserve for Replacements	5.09%	432	0.59	15,553	19,644	0	0	0.75	546	6.25%
TDHCA Compliance Fees	0.00%	0	0.00	0	0	0	0	0.00	0	0.00%
Other: Supp. Serv.	6.60%	561	0.77	20,188	20,188			0.77	561	6.43%
TOTAL EXPENSES	57.04%	$4,846	$6.65	$174,468	$217,830	$195,046	$166,101	$8.31	$6,051	69.35%
NET OPERATING INC	42.96%	$3,649	$5.01	$131,381	$96,282	$93,437	$121,333	$3.67	$2,675	30.65%
DEBT SERVICE										
GMAC/Capmark	16.99%	$1,443	$1.98	$51,956	$55,250			$2.11	$1,535	17.59%
HTF	2.14%	$181	$0.25	6,533	6,533			$0.25	$181	2.08%
Housing & Comm Svcs	3.74%	$318	$0.44	11,454	11,454			$0.44	$318	3.65%
NET CASH FLOW	20.09%	$1,707	$2.34	$61,438	$23,045			$0.88	$640	7.34%
AGGREGATE DEBT COVERAGE RATIO				1.88	1.31					
RECOMMENDED DEBT COVERAGE RATIO				1.35						

CONSTRUCTION COST

Description	Factor	% of TOTAL	PER UNIT	PER SQ FT	TDHCA	APPLICANT	PER SQ FT	PER UNIT	% of TOTAL
Acquisition Cost (site or bldg)		58.23%	$29,597	$40.64	$1,065,482	$1,065,482	$40.64	$29,597	58.37%
Off-Sites		0.00%	0	0.00	0	0	0.00	0	0.00%
Sitework		9.07%	4,611	6.33	166,000	166,000	6.33	4,611	9.09%
Direct Construction		21.08%	10,716	14.71	385,768	385,768	14.71	10,716	21.13%
Contingency	5.00%	1.51%	766	1.05	27,588	55,177	2.10	1,533	3.02%
Contractor's Fees	14.00%	4.22%	2,146	2.95	77,247	77,247	2.95	2,146	4.23%
Indirect Construction		3.32%	1,689	2.32	60,808	60,808	2.32	1,689	3.33%
Ineligible Costs		0.00%	0	0.00	0		0.00	0	0.00%
Developer's Fees	2.09%	0.82%	417	0.57	15,000	15,000	0.57	417	0.82%
Interim Financing		0.00%	0	0.00	0		0.00	0	0.00%
Reserves		1.75%	888	1.22	31,974		0.00	0	0.00%
TOTAL COST		100.00%	$50,830	$69.79	$1,829,868	$1,825,482	$69.63	$50,708	100.00%
Construction Cost Recap		*35.88%*	***$18,239***	***$25.04***	***$656,603***	***$684,192***	***$26.10***	***$19,005***	*37.48%*

SOURCES OF FUNDS

				TDHCA	APPLICANT	RECOMMENDED	
GMAC/Capmark	35.37%	$17,980	$24.69	$647,291	$647,291	$647,291	Developer Fee Available
TDHCA- HTF				196,000	196,000	500,000	$15,000
Housing & Comm Svcs	2.89%	$1,467	$2.01	52,808	52,808	52,808	
Housing & Comm Svcs- cashflow				365,383	365,383	365,383	% of Dev. Fee Deferred
Housing & Comm Svcs- cashflow	2.73%	$1,389	$1.91	50,000	50,000	50,000	0%
TDHCA - HTF (Forgivable)				304,000	304,000		
Reserve for Replacement Funds	11.48%	$5,833	$8.01	210,000	210,000	210,000	
Deferred Developer Fees	0.24%	$122	$0.17	4,386	0	0	15-Yr Cumulative Cash Flow
TOTAL SOURCES				$1,829,868	$1,825,482	$1,825,482	$748,026

MULTIFAMILY COMPARATIVE ANALYSIS (continued)

Meadow Park Village Apartments, Lockhart, HTF #08335

PAYMENT COMPUTATION

Primary	$685,000	Amort	360
Int Rate	6.50%	DCR	2.53

Secondary	$82,209	Amort	120
Int Rate	6.999%	Subtotal DCR	2.25

Additional	$82,209	Amort	120
Int Rate	7.00%	Aggregate DCR	1.88

RECOMMENDED FINANCING STRUCTURE:

Primary Debt Service	$51,956
Secondary Debt Service	45,307
Additional Debt Service	11,454
NET CASH FLOW	$22,665

Primary	$685,000	Amort	360
Int Rate	6.50%	DCR	2.53

Secondary	$500,000	Amort	193
Int Rate	5.00%	Subtotal DCR	1.35

Additional	$82,209	Amort	120
Int Rate	7.00%	Aggregate DCR	1.21

OPERATING INCOME & EXPENSE PROFORMA: RECOMMENDED FINANCING STRUCTURE

INCOME at 3.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
POTENTIAL GROSS RENT	$328,488	$338,343	$348,493	$358,948	$369,716	$428,602	$496,868	$576,006	$774,103
Secondary Income	2,160	2,225	2,292	2,360	2,431	2,818	3,267	3,788	5,090
Other Support Income:	0	0	0	0	0	0	0	0	0
POTENTIAL GROSS INCOME	330,648	340,567	350,784	361,308	372,147	431,421	500,135	579,793	779,194
Vacancy & Collection Loss	(24,799)	(25,543)	(26,309)	(27,098)	(27,911)	(32,357)	(37,510)	(43,484)	(58,440)
Employee or Other Non-Renta	0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME	$305,849	$315,025	$324,476	$334,210	$344,236	$399,064	$462,625	$536,309	$720,754
EXPENSES at 4.00%									
General & Administrative	$12,910	$13,426	$13,963	$14,522	$15,103	$18,375	$22,355	$27,199	$40,261
Management	16,823	17,328	17,848	18,383	18,934	21,950	25,446	29,499	39,645
Payroll & Payroll Tax	33,254	34,584	35,968	37,406	38,902	47,331	57,585	70,061	103,708
Repairs & Maintenance	22,727	23,636	24,581	25,564	26,587	32,347	39,355	47,881	70,876
Utilities	8,210	8,538	8,880	9,235	9,605	11,685	14,217	17,297	25,604
Water, Sewer & Trash	34,763	36,154	37,600	39,104	40,668	49,479	60,198	73,240	108,414
Insurance	10,041	10,442	10,860	11,294	11,746	14,291	17,387	21,154	31,313
Property Tax	0	0	0	0	0	0	0	0	0
Reserve for Replacements	15,553	16,175	16,823	17,495	18,195	22,137	26,933	32,769	48,506
Other	20,188	20,996	21,835	22,709	23,617	28,734	34,959	42,533	62,959
TOTAL EXPENSES	$174,468	$181,279	$188,356	$195,712	$203,357	$246,328	$298,437	$361,634	$531,285
NET OPERATING INCOME	$131,381	$133,746	$136,119	$138,498	$140,879	$152,736	$164,188	$174,675	$189,470
DEBT SERVICE									
First Lien Financing	$51,956	$51,956	$51,956	$51,956	$51,956	$51,956	$51,956	$51,956	$51,956
Second Lien	45,307	45,307	45,307	45,307	45,307	45,307	45,307	45,307	45,307
Other Financing									
NET CASH FLOW	$34,118	$36,483	$38,856	$41,235	$43,616	$55,473	$66,925	$77,412	$92,207
DEBT COVERAGE RATIO	1.35	1.38	1.40	1.42	1.45	1.57	1.69	1.80	1.95

MULTIFAMILY COMPARATIVE ANALYSIS

Meadow Park Village Apartments, Lockhart, HTF #08335 - ALTERNATIVE SCENARIO

Type of Unit	Number	Bedrooms	No. of Baths	Size in SF	Gross Rent Lmt.	Rent Collected	Rent per Month	Applicant	Market	Rent per SF	Tnt-Pd Util	WS&T
HTF50%	2	1	1	568	$666	$645	$1,290	$645	$615	$1.14	$68.00	$69.00
HTF 30%	3	1	1	570	$400	$645	$1,935	$645	$615	$1.13	$68.00	$69.00
HTF 50%	3	1	1	570	$666	$645	$1,935	$645	$615	$1.13	$68.00	$69.00
HTF 30%	8	2	1	693	$480	$734	$5,872	$734	$710	$1.06	$86.00	$74.00
HTF 50%	12	2	1	693	$800	$734	$8,808	$734	$710	$1.06	$86.00	$74.00
HTF30%	3	3	1.5	924	$555	$909	$2,727	$909	$1,075	$0.98	$106.00	$85.00
HTF50%	3	3	1.5	924	$924	$909	$2,727	$909	$1,075	$0.98	$106.00	$85.00
HTF50%	2	4	2	1,129	$1,031	$1,040	$2,080	$1,040.00	$1,255	$0.92	$121.00	$96.00
TOTAL:	36		AVERAGE:	728		$760	$27,374			$1.04	$87.28	$75.94

INCOME	Total Net Rentable Sq Ft: 26,218			TDHCA	APPLICANT	Actual 2008	Actual 2007	Actual 2006	COUNTY	IREM REGION	COMPT. REGION
POTENTIAL GROSS RENT				$328,488	$328,488	$307,992	$296,100	$286,224	Caldwell		7
Secondary Income		Per Unit Per Month:	$5.00	2,160	2,160	5,360	6,300	6,794	$5.00	Per Unit Per Month	
Other Support Income:				0	0				$0.00	Per Unit Per Month	
POTENTIAL GROSS INCOME				$330,648	$330,648	$313,352	$302,400	$293,018			
Vacancy & Collection Loss		% of Potential Gross Income:	-7.50%	(24,799)	(16,536)	(16,216)	(13,917)	(5,584)	-5.00%	of Potential Gross Income	
Employee or Other Non-Rental Units or Concessions				0							
EFFECTIVE GROSS INCOME				$305,849	$314,112	$297,136	$288,483	$287,434			

EXPENSES	% OF EGI	PER UNIT	PER SQ FT	TDHCA	APPLICANT	Actual 2008	Actual 2007	Actual 2006	PER SQ FT	PER UNIT	% OF EGI
General & Administrative	11.83%	$1,005	1.38	$36,185	$15,141	$39,229	$37,805	$34,225	$0.58	$421	4.82%
Management	5.55%	471	0.65	$16,965	18,085	17,349	16,823	16,724	0.69	502	5.76%
Payroll & Payroll Tax	11.24%	955	1.31	$34,369	47,459	37,308	34,967	30,833	1.81	1,318	15.11%
Repairs & Maintenance	12.74%	1,083	1.49	$38,979	36,903	35,181	50,897	30,858	1.41	1,025	11.75%
Utilities	1.58%	134	0.18	$4,840	10,300	0	8,210	6,309	0.39	286	3.28%
Water, Sewer, & Trash	12.40%	1,053	1.45	$37,913	38,110	42,694	34,763	36,282	1.45	1,059	12.13%
Property Insurance	3.33%	283	0.39	$10,182	12,000	10,346	10,343	9,857	0.46	333	3.82%
Property Tax 2.6585	0.00%	0	0.00	$0	0	0	0	0	0.00	0	0.00%
Reserve for Replacements	5.96%	507	0.70	$18,240	19,644	18,732	18,228	17,760	0.75	546	6.25%
TDHCA Compliance Fees	0.00%	0	0.00	$0	0	0	0	0	0.00	0	0.00%
Other: Supp. Serv.	6.59%	560	0.77	$20,156	20,188	21,876	19,849	18,744	0.77	561	6.43%
TOTAL EXPENSES	71.22%	$6,051	$8.31	$217,830	$217,830	$222,715	$231,885	$201,592	$8.31	$6,051	69.35%
NET OPERATING INC	28.78%	$2,445	$3.36	$88,020	$96,282	$74,421	$56,598	$85,842	$3.67	$2,675	30.65%
DEBT SERVICE											
GMAC/Capmark	16.99%	$1,443	$1.98	$51,956	$55,250				$2.11	$1,535	17.59%
HTF	2.14%	$181	$0.25	6,533	6,533				$0.25	$181	2.08%
Housing & Comm Svcs	3.74%	$318	$0.44	11,454	11,454				$0.44	$318	3.65%
NET CASH FLOW	5.91%	$502	$0.69	$18,077	$23,045				$0.88	$640	7.34%
AGGREGATE DEBT COVERAGE RATIO				1.26	1.31						
RECOMMENDED DEBT COVERAGE RATIO				1.24							

CONSTRUCTION COST

Description	Factor	% of TOTAL	PER UNIT	PER SQ FT	TDHCA	APPLICANT	PER SQ FT	PER UNIT	% of TOTAL
Acquisition Cost (site or bldg)		58.01%	$29,597	$40.64	$1,065,482	$1,065,482	$40.64	$29,597	58.37%
Off-Sites		0.00%	0	0.00	0	0	0.00	0	0.00%
Sitework		9.04%	4,611	6.33	166,000	166,000	6.33	4,611	9.09%
Direct Construction		21.00%	10,716	14.71	385,768	385,768	14.71	10,716	21.13%
Contingency	5.00%	1.50%	766	1.05	27,588	55,177	2.10	1,533	3.02%
Contractor's Fees	14.00%	4.21%	2,146	2.95	77,247	77,247	2.95	2,146	4.23%
Indirect Construction		3.31%	1,689	2.32	60,808	60,808	2.32	1,689	3.33%
Ineligible Costs		0.00%	0	0.00	0		0.00	0	0.00%
Developer's Fees	2.09%	0.82%	417	0.57	15,000	15,000	0.57	417	0.82%
Interim Financing		0.00%	0	0.00	0		0.00	0	0.00%
Reserves		2.11%	1,076	1.48	38,735		0.00	0	0.00%
TOTAL COST		100.00%	$51,017	$70.05	$1,836,629	$1,825,482	$69.63	$50,708	100.00%
Construction Cost Recap		*35.75%*	***$18,239***	***$25.04***	***$656,603***	***$684,192***	***$26.10***	***$19,005***	*37.48%*

SOURCES OF FUNDS

Source	%	PER UNIT	PER SQ FT	TDHCA	APPLICANT	RECOMMENDED	
GMAC/Capmark	35.24%	$17,980	$24.69	$647,291	$647,291	$647,291	Developer Fee Available
TDHCA- HTF				196,000	196,000	500,000	$15,000
Housing & Comm Svcs	2.88%	$1,467	$2.01	52,808	52,808	52,808	
Housing & Comm Svcs- cashflow				365,383	365,383	365,383	% of Dev. Fee Deferred
Housing & Comm Svcs- cashflow	2.72%	$1,389	$1.91	50,000	50,000	50,000	4%
TDHCA - HTF (Forgivable)				304,000	304,000	0	
Reserve for Replacement Funds	11.43%	$5,833	$8.01	210,000	210,000	220,614	
Deferred Developer Fees	0.61%	$310	$0.43	11,147	0	533	15-Yr Cumulative Cash Flow
TOTAL SOURCES				$1,836,629	$1,825,482	$1,836,629	$281,380

MULTIFAMILY COMPARATIVE ANALYSIS (continued)

Meadow Park Village Apartments, Lockhart, HTF #08335 - ALTERNATIVE SCENARIO

PAYMENT COMPUTATION

Primary	$685,000	Amort	360
Int Rate	6.50%	DCR	1.69
Secondary	$196,000	Amort	360
Int Rate	0.000%	Subtotal DCR	1.50
Additional	$82,209	Amort	120
Int Rate	7.00%	Aggregate DCR	1.26

RECOMMENDED FINANCING STRUCTURE:

Primary Debt Service	$51,956
Secondary Debt Service	19,231
Additional Debt Service	11,454
NET CASH FLOW	$5,379

Primary	$685,000	Amort	360
Int Rate	6.50%	DCR	1.69
Secondary	$500,000	Amort	312
Int Rate	0.00%	Subtotal DCR	1.24
Additional	$82,209	Amort	120
Int Rate	7.00%	Aggregate DCR	1.07

$0

OPERATING INCOME & EXPENSE PROFORMA: RECOMMENDED FINANCING STRUCTURE

INCOME at 3.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
POTENTIAL GROSS RENT	$328,488	$338,343	$348,493	$358,948	$369,716	$428,602	$496,868	$576,006	$774,103
Secondary Income	2,160	2,225	2,292	2,360	2,431	2,818	3,267	3,788	5,090
Other Support Income:	0	0	0	0	0	0	0	0	0
POTENTIAL GROSS INCOME	330,648	340,567	350,784	361,308	372,147	431,421	500,135	579,793	779,194
Vacancy & Collection Loss	(24,799)	(25,543)	(26,309)	(27,098)	(27,911)	(32,357)	(37,510)	(43,484)	(58,440)
Employee or Other Non-Rental	0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME	$305,849	$315,025	$324,476	$334,210	$344,236	$399,064	$462,625	$536,309	$720,754
EXPENSES at 4.00%									
General & Administrative	$36,185	$37,633	$39,138	$40,704	$42,332	$51,503	$62,661	$76,237	$112,849
Management	16,965	17,474	17,999	18,538	19,095	22,136	25,662	29,749	39,980
Payroll & Payroll Tax	34,369	35,744	37,174	38,661	40,207	48,918	59,517	72,411	107,186
Repairs & Maintenance	38,979	40,538	42,159	43,846	45,600	55,479	67,498	82,122	121,561
Utilities	4,840	5,033	5,235	5,444	5,662	6,888	8,381	10,196	15,093
Water, Sewer & Trash	37,913	39,430	41,007	42,647	44,353	53,962	65,653	79,877	118,237
Insurance	10,182	10,589	11,013	11,453	11,911	14,492	17,632	21,452	31,754
Property Tax	0	0	0	0	0	0	0	0	0
Reserve for Replacements	18,240	18,970	19,728	20,518	21,338	25,961	31,586	38,429	56,884
Other	20,156	20,963	21,801	22,673	23,580	28,689	34,904	42,466	62,861
TOTAL EXPENSES	$217,830	$226,373	$235,253	$244,484	$254,077	$308,028	$373,494	$452,940	$666,406
NET OPERATING INCOME	$88,020	$88,652	$89,222	$89,726	$90,159	$91,036	$89,131	$83,369	$54,348
DEBT SERVICE									
First Lien Financing	$51,956	$51,956	$51,956	$51,956	$51,956	$51,956	$51,956	$51,956	$51,956
Second Lien	19,231	19,231	19,231	19,231	19,231	19,231	19,231	19,231	19,231
Other Financing									
NET CASH FLOW	$16,833	$17,465	$18,035	$18,540	$18,972	$19,849	$17,944	$12,182	($16,838)
DEBT COVERAGE RATIO	1.24	1.25	1.25	1.26	1.27	1.28	1.25	1.17	0.76

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
Real Estate Analysis Division
Underwriting Report

REPORT DATE: 04/08/09 PROGRAM: HTF FILE NUMBER: **08343**

DEVELOPMENT

The Willows Apartments

Location: 324 Webb Street Region: 7

City: Smithville County: Bastrop Zip: 78957 ☐ QCT ☐ DDA

Key Attributes: Family, Rehabilitation, Rural

ALLOCATION

	REQUEST			**RECOMMENDATION**		
TDHCA Program	Amount	Interest	Amort/Term	**Amount**	**Interest**	**Amort/Term**
Housing Trust Fund	$500,000	0.00%	480/480	**$500,000**	**0.00%**	**360/360**

SALIENT ISSUES

TDHCA SET-ASIDES for HTF LURA		
Income Limit	Rent Limit	Number of Units
50% of AMI	50% of AMI	32

PROS

- USDA can be expected to closely monitor the funding of reserves to provide for future capital needs.
- The financial viability of the property is enhanced by a rental Assistance Agreement with USDA covering all 24 units.

CONS

- The subject property is 25 years old, and will be 55 years old at maturity of the recommended financing.

PREVIOUS UNDERWRITING REPORTS

Willows Apartments (TDHCA #95076) received an annual tax credit allocation of $35,308 in 1995.

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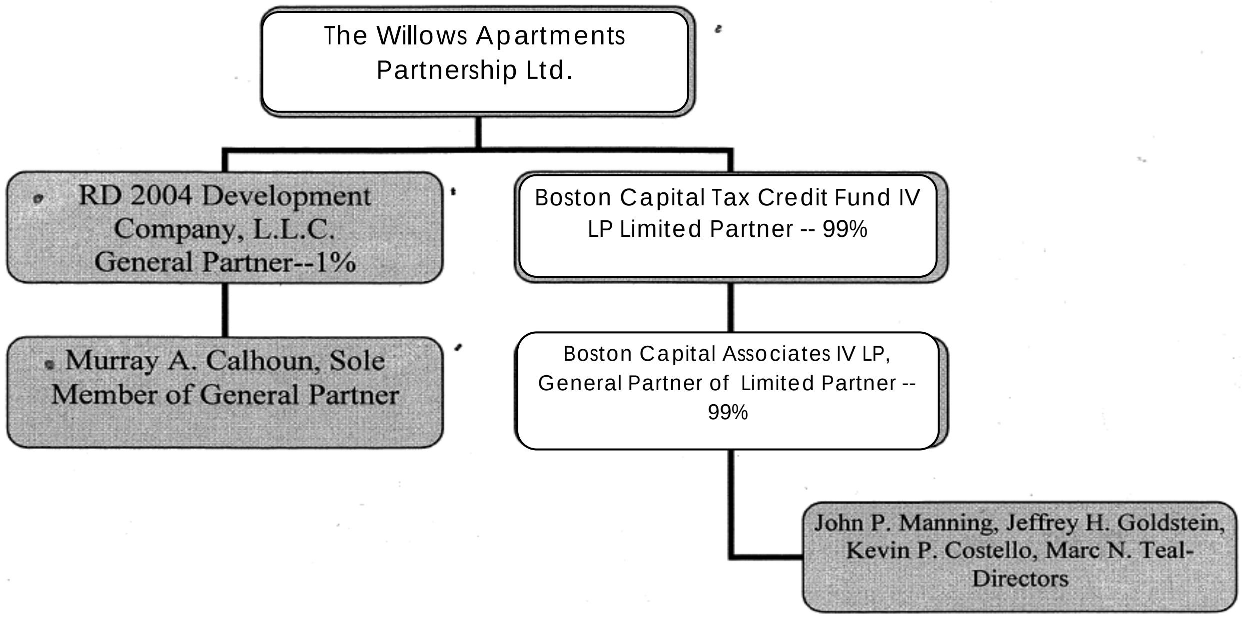
DEVELOPMENT TEAM

OWNERSHIP STRUCTURE



CONTACT

Contact: Murray A. Calhoun Phone: (504) 561-1172 Fax: (504) 561-1182
Email: murraycalhoun@mac-rellc.com

KEY PARTICIPANTS

Name	Net Assets	Liquidity[1]	# Completed Developments
The Willows Apartments	N/A		N/A
RD 2004 Development Company, LLC	N/A		7
Lymac Development, LLC	N/A		7
Murray & Caroline Calhoun	N/A		7

IDENTITIES of INTEREST

- The Applicant, Developer, General Contractor, and property manager are related entities. These are common relationships for HTC-funded developments.
- A change in ownership is not proposed in the application. The HTF funds will be used by the current owner for rehabilitation and the existing USDA-RD debt is proposed to remain in place.

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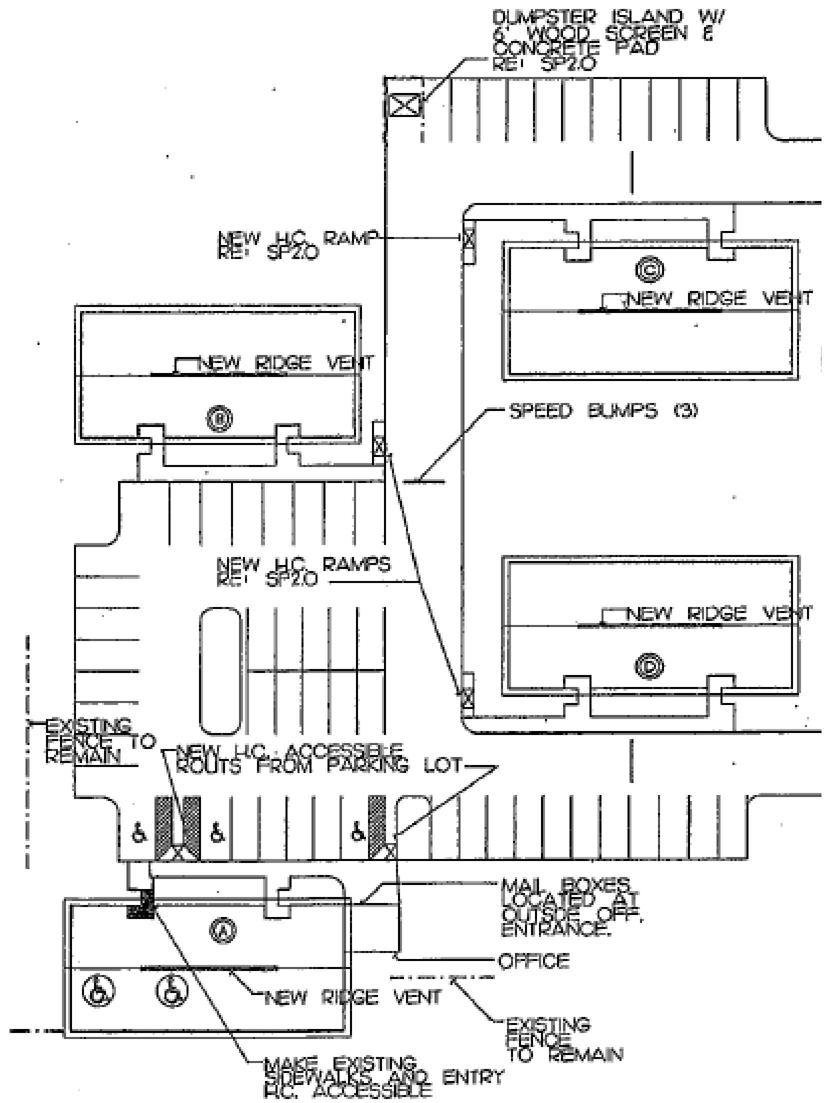
PROPOSED SITE

SITE PLAN



BUILDING CONFIGURATION

Building Type	A										Total Buildings
Floors/Stories	2										
Number	4										**4**

BR/BA	SF	Units										Total Units	Total SF
1/1	607	4										16	9,712
2/1	807	4										16	12,912
Units per Building		8										**32**	**22,624**

Capital Needs Assessment

The plan calls for modifications/improvements to handicap accessibility; the replacement/addition/refurbishment of roofing, doors, exterior siding, interior flooring, cabinets, counter tops, sinks, appliances, water heaters, and drives and parking. The Applicant provided a Capital Needs Assessment (CNA) as an acceptable substitute for the required Property Condition Assessment (PCA) and the CNA confirms these improvements.

SITE ISSUES				
Total Size:	2.177 acres	Scattered site?	[ ] Yes [x] No	
Flood Zone:	Zone X	Within 100-yr floodplain?	[ ] Yes [x] No	
Zoning:	Multifamily	Needs to be re-zoned?	[ ] Yes [x] No	[ ] N/A

TDHCA SITE INSPECTION

Inspector: Manufactured Housing Staff   Date: 12/18/2008

Overall Assessment:

[ ] Excellent [x] Acceptable [ ] Questionable [ ] Poor [ ] Unacceptable

Surrounding Uses:

North:	residential	East:	farmland
South:	farmland	West:	Webb Street and commercial

HIGHLIGHTS of ENVIRONMENTAL REPORTS

Provider: Gibson Consulting, LLC   Date: 10/23/2008

Recognized Environmental Concerns (RECs) and Other Concerns:

- None

MARKET HIGHLIGHTS

A traditional Market Study report was not included, as existing USDA-RD-financed projects with over 80% occupancy are not required to submit a separate report, but must submit an appraisal. An appraisal dated October 30, 2008 prepared by Sherrill & Associates (“Appraiser”) included the following market highlights:

"The subject is located in Smithville, Texas which is located ... about midway between Bastrop and LaGrange, Texas. It is approximately 40 miles southeast of downtown Austin and approximately 90 miles northeast of downtown San Antonio...located on the southeast side of Bastrop County. Bastrop County had a population of 57,733 in the year 2000 and it had an estimated population of 71,684 in 2006, which is an increase of 24.2% over year 2000, while population has increased 12.7% statewide ... The economic base is made up of Government Services, Agribusiness, Natural Gas, Retail, Tourism and Biotechnology. A large part of the residents of Bastrop County commute to jobs in the Austin Metro Area." (pg. 9)

The subject development is currently 84% occupied with a rental subsidy, and it is likely the existing tenants will choose to remain at the property. A capture rate was not calculated but is of limited value given the low vacancy at the property and limited anticipated turnover as a result of the rehabilitation.

PROPOSED, UNDER CONSTRUCTION & UNSTABILIZED COMPARABLE DEVELOPMENTS								
PMA				SMA				
Name	File #	Total Units	Comp Units	Name	File #	Total Units	25%	Comp Units
N/A								

INCOME LIMITS						
Bastrop						
% AMI	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons
50	$24,900	$28,450	$32,000	$35,550	$38,400	$41,250

Unit Type (% AMI)	Current Contract Rent	Proposed Contract Rent	Market Rent	Underwriting Rent	Increase Over Contract
1 BR 607 SF 50%	450	450	$450	$450	$0
2 BR 807 SF 50%	525	525	$515	$525	$0

Comments:

The Appraisal fulfills the Department's market study requirement and allows staff to make a funding recommendation for the Subject development.

OPERATING PROFORMA ANALYSIS

Income: Number of Revisions: 1 Date of Last Applicant Revision: 2/10/2009

The subject property has a Rental Assistance Agreement with USDA covering all rental units. The Applicant's projected income is based on the 2009 USDA approved contract rents for the property. The Applicant's secondary income assumptions are in line with current TDHCA underwriting guidelines. However, the Applicant has projected losses due to vacancy and collection totaling 8% of potential income; typically, at a minimum, underwriting guidelines allow for vacancy and collection losses of 5% for developments with 100% rental assistance. The underwriting analysis therefore assumes the standard vacancy and collection losses at 7.5% of potential gross income. Despite the differences described above, effective gross income within 5% of the Underwriter's estimate.

Expense: Number of Revisions: None Date of Last Applicant Revision: N/A

The Applicant's total annual operating expense projection at $3,410 per unit is not within 5% of the Underwriter's estimate of $3,897, derived from actual operating history of the development, the TDHCA database, and third-party data sources. The Underwriter considered historical operating expenses for the development from January 2007 to December 2008. The Applicant's budget shows utilities to be $1K higher when compared to the Underwriter's estimate.

Additionally, the Applicant's reserve for replacement estimate of $259/unit is most likely due to stated USDA requirements, resulting in a reserve for replacement estimate to that is $6K lower than the Underwriter's estimate. The underwriting minimum for rehabilitation developments is $300/unit; however, it should be noted, that the underwriting analysis of the expected repairs over time presented in the Property Condition Assessment indicates a need for the initial reserve for replacement requirement to be set at $540 per unit. Since this meets the definition of a rehab, the Underwriter utilized the higher figure. At the estimated reserve expense amount, the reserve balance remains positive through Year 15.

Conclusion:

While the Applicant's effective gross income is within 5% of the Underwriter's estimates; the Applicant's total operating expenses and net operating income are not within 5%. As a result, the Underwriter's year one proforma will be used to determine the development's debt capacity. The proposed permanent financing structure results in an initial year's debt coverage ratio (DCR) of 1.34, which is within the Department's DCR guideline of 1.15 to 1.35.

Additionally, the Applicant's and Underwriter's expense to income ratios (62.71% and 71.26%, respectively) are high. The Underwriter's expense to income ratio is significantly above the TDHCA maximum of 65%. An expense to income ratio above 60% reflects an increased risk that the development will not be able to sustain even a moderate period of flat income and rent growth with rising expenses. However, the 2008 Real Estate Analysis rules provide that a transaction with a ratio greater than 65% will be re-characterized as feasible if "the Development will receive rental assistance in association with USDA-RD-RHS financing." [§1.32(7)(B)(ii)]. The subject's rents are managed by USDA. As such, the subject development meets this feasibility exception.

Feasibility:

The underwriting 30-year proforma utilizes a 3% annual growth factor for income and a 4% annual growth factor for expenses in accordance with current TDHCA guidelines. As noted above, the Applicant's/Underwriter's base year effective gross income, expense and net operating income were utilized resulting in a debt coverage ratio that remains above 1.15 and continued positive cashflow. Therefore, the development can be characterized as feasible for the long-term.

ACQUISITION INFORMATION

APPRAISED VALUE

Provider: Sherrill & Associates, Inc. Date: 10/30/2008

Number of Revisions: None Date of Last Applicant Revision: N/A

Land Only:	2.18 acres	$54,000	As of:	10/30/2008
Existing Buildings: (as-improved)		$562,000	As of:	10/30/2008
Total Development: (as-improved)		$616,000	As of:	10/30/2008

Comments:

The Appraiser determined the market value of the real estate to be $616K. The Appraiser also calculated the value of the favorable financing related to the existing USDA 515 loans as well as the proposed HTF loan, and concluded an insurable value for the property of $1,340,431. This represents the total amount of debt that USDA will consent to on the property. The appraisal indicates the remaining economic life of the subject to be 30 years.

ASSESSED VALUE

Land Only:	2.18 acres	$76,195	Tax Year:	2007
Existing Buildings:		$488,626	Valuation by:	Bastrop CAD
Total Assessed Value:		$564,821	Tax Rate:	2.3512

EVIDENCE of PROPERTY CONTROL

Type: Deed Without Warranty Acreage: 2.177

Deed Date: 10/4/1995 Valid Through Board Date? [x] Yes [ ] No

Acquisition Cost: N/A Other:

Seller: USDA Related to Development Team? [ ] Yes [x] No

Comments:

There is no transfer of ownership associated with this application. The Applicant, The Willows Apartments Partnership, Ltd., acquired the subject property in 1995 from USDA.

CONSTRUCTION COST ESTIMATE EVALUATION

COST SCHEDULE Number of Revisions: None Date of Last Applicant Revision: N/A

Acquisition Value:

The Applicant is the current owner of the Subject development; therefore, there is no acquisition associated with the application.

Sitework Cost:

Since this is a proposed rehabilitation the associated sitework costs are minimal. The Applicant has estimated no sitework costs; however, the submitted Capital Needs Assessment (CNA) estimates sitework costs of $387 per unit. The underwriting analysis reflects the estimate indicated in the submitted CNA.

Direct Construction Cost:

The Applicant's direct construction cost estimate is $9K or 2% higher than the estimate provided in the CNA. The underwriting analysis will reflect the CNA value.

Contingency & Fees:

The Applicant's contractor's and developer's fees for general requirements, general and administrative expenses, and profit are all within the maximums allowed by TDHCA guidelines.

Reserves:

The Applicant has not included any funding for reserves. The underwriting analysis assumes a minimum of 2 months of operating expenses.

Conclusion:

The Underwriter's cost schedule was derived from information presented in the Application materials submitted by the Applicant. Any deviations from the Applicant's estimates are due to program and underwriting guidelines. Therefore, the Underwriter's development cost schedule will be used to determine the development's need for permanent funds.

FINANCING STRUCTURE

SOURCES & USES Number of Revisions: None Date of Last Applicant Revision: N/A

Source: TDHCA Housing Trust Fund Type: **Permanent Financing**

Principal: $500,000 Interest Rate: 0.0% [x] Fixed Amort: 480 months

Comments:

The Applicant has applied for $500,000 in Housing Trust Fund financing in the form of a loan at 0% amortized over 40 years. The "As Prospective Market Value" appraisal indicates the remaining economic life of the property is only 30 years; therefore, any HTF funding awarded will be limited to a 30-year term.

Source: USDA-RD Type: **Permanent Financing**

Principal: $539,000 Interest Rate: 1.00% [x] Fixed Amort: 480 months

Principal: $287,500 Interest Rate: 1.00% [x] Fixed Amort: 480 months

Comments:

The subject property carries two existing USDA-RD Sec 515 loans which are subsidized through an interest credit to an effective 1% interest rate. The first loan was originated in 1995 in the principal amount of $539K with a 40-year term. The second loan originated in 1996 in the amount of $287,500, also with a 40-year term.

Amount: $0 Type: **Deferred Developer Fees**

CONCLUSIONS

Recommended Financing Structure:

As stated above, the proforma analysis results in a debt coverage ratio within the Department's guideline of 1.15 to 1.35. However, the Underwriter has reduced the term of the HTF loan to match the remaining economic life of the property, which results in a slight increase in the annual debt service and a DCR of 1.20 which is still acceptable according to Department guidelines.

Therefore, the Underwriter recommends a total HTF award of $500K structured as a fully repayable loan carrying a 0% interest rate and a term/amortization period of 360 months. The Underwriter's total development cost of $525,003 less the recommended $500K HTF loan indicates the need for $25,003 in additional permanent funds. Deferred developer fees in this amount appear to be repayable from development cashflow within 2 years of stabilized operation.

Return on Equity:

This is a USDA-RD transaction, in which the Applicant is restricted by the loan agreement to a return of no more than 8% per annum on the borrower's original investment, with any excess cash flow going to fund replacement reserves. USDA-RD will manage this return on equity restriction.

Underwriter:	*Diamond Unique Thompson*	Date:	April 8, 2009
Manager of Real Estate Analysis:	*Raquel Morales*	Date:	April 8, 2009
Director of Real Estate Analysis:	*Brent Stewart*	Date:	April 8, 2009

MULTIFAMILY COMPARATIVE ANALYSIS

The Willows Apartments, Smithville, HTF #08343

Type of Unit	TYPE	Number	Bedrooms	No. of Baths	Size in SF	Gross Rent Lmt.	Rent Collected	Rent per Month	Rent per SF	Tnt-Pd Util	W,S,T
TC 50%	HTF	16	1	1	607	$666	$450	$7,200	$0.74	$91.00	$47.00
TC 50%	HTF	16	2	1	807	$800	$525	$8,400	$0.65	$114.00	$47.00
TOTAL:		32		**AVERAGE:**	707		$488	$15,600	$0.69	$102.50	$47.00

INCOME		Total Net Rentable Sq Ft:	22,624		**TDHCA**	**APPLICANT**	COUNTY	IREM REGION	COMPT. REGION
POTENTIAL GROSS RENT					$187,200	$187,200	Bastrop		7
Secondary Income			Per Unit Per Month:	$5.13	1,968	1,968	$5.13	Per Unit Per Month	
Other Support Income:					0		$0.00	Per Unit Per Month	
POTENTIAL GROSS INCOME					$189,168	$189,168			
Vacancy & Collection Loss		% of Potential Gross Income:		-7.50%	(14,188)	(15,132)	-8.00%	of Potential Gross Income	
Employee or Other Non-Rental Units or Concessions					0				
EFFECTIVE GROSS INCOME					$174,980	$174,036			
EXPENSES		% OF EGI	PER UNIT	PER SQ FT			PER SQ FT	PER UNIT	% OF EGI
General & Administrative		5.39%	$295	0.42	$9,432	$9,270	$0.41	$290	5.33%
Management		7.16%	391	0.55	12,526	12,943	0.57	404	7.44%
Payroll & Payroll Tax		8.78%	480	0.68	15,362	16,100	0.71	503	9.25%
Repairs & Maintenance		11.38%	622	0.88	19,913	19,050	0.84	595	10.95%
Utilities		1.83%	100	0.14	3,207	3,502	0.15	109	2.01%
Water, Sewer, & Trash		13.36%	731	1.03	23,380	18,200	0.80	569	10.46%
Property Insurance		3.99%	218	0.31	6,975	5,575	0.25	174	3.20%
Property Tax	2.3512	8.82%	482	0.68	15,431	15,005	0.66	469	8.62%
Reserve for Replacements		9.87%	540	0.76	17,268	8,288	0.37	259	4.76%
TDHCA Compliance Fees		0.00%	0	0.00		0	0.00	0	0.00%
Other: return to owner		0.69%	38	0.05	1,202	1,202	0.05	38	0.69%
TOTAL EXPENSES		71.26%	$3,897	$5.51	$124,695	$109,135	$4.82	$3,410	62.71%
NET OPERATING INC		28.74%	$1,571	$2.22	$50,286	$64,901	$2.87	$2,028	37.29%
DEBT SERVICE									
USDA RD		14.33%	$784	$1.11	$25,078	$25,260	$1.12	$789	14.51%
TDHCA HTF		7.14%	$391	$0.55	12,500	12,500	$0.55	$391	7.18%
Additional Financing		0.00%	$0	$0.00	0		$0.00	$0	0.00%
NET CASH FLOW		7.26%	$397	$0.56	$12,707	$27,141	$1.20	$848	15.60%
AGGREGATE DEBT COVERAGE RATIO					1.34	1.72			
RECOMMENDED DEBT COVERAGE RATIO					1.20				

CONSTRUCTION COST

Description	Factor	% of TOTAL	PER UNIT	PER SQ FT	TDHCA	APPLICANT	PER SQ FT	PER UNIT	% of TOTAL
Acquisition Cost (site or bldg)		0.00%	$0	$0.00	$0	$0	$0.00	$0	0.00%
Off-Sites		0.00%	0	0.00	0	0	0.00	0	0.00%
Sitework		2.36%	387	0.55	12,390	0	0.00	0	0.00%
Direct Construction		65.11%	10,683	15.11	341,853	351,120	15.52	10,973	70.22%
Contingency	0.00%	0.00%	0	0.00	0	0	0.00	0	0.00%
Contractor's Fees	11.29%	7.62%	1,250	1.77	40,000	40,000	1.77	1,250	8.00%
Indirect Construction		8.86%	1,453	2.06	46,500	46,500	2.06	1,453	9.30%
Ineligible Costs		0.00%	0	0.00	0	0	0.00	0	0.00%
Developer's Fees	11.62%	9.98%	1,637	2.32	52,380	52,380	2.32	1,637	10.48%
Interim Financing		1.90%	313	0.44	10,000	10,000	0.44	313	2.00%
Reserves		4.17%	684	0.97	21,880	0	0.00	0	0.00%
TOTAL COST		100.00%	$16,406	$23.21	$525,003	$500,000	$22.10	$15,625	100.00%
Construction Cost Recap		*75.09%*	***$12,320***	***$17.43***	***$394,243***	***$391,120***	***$17.29***	***$12,223***	*78.22%*

SOURCES OF FUNDS	%	Per Unit	Per Sq Ft	TDHCA	APPLICANT	RECOMMENDED	
TDHCA HTF	95.24%	$15,625	$22.10	$500,000	$500,000	$500,000	Developer Fee Available
Additional Financing	0.00%	$0	$0.00	0			$52,380
HTC Syndication Proceeds	0.00%	$0	$0.00	0		0	% of Dev. Fee Deferred
Deferred Developer Fees	0.00%	$0	$0.00	0		25,003	48%
Additional (Excess) Funds Req'd	4.76%	$781	$1.11	25,003	0	0	15-Yr Cumulative Cash Flow
TOTAL SOURCES				$525,003	$500,000	$525,003	$148,123

PAYMENT COMPUTATION

Primary	$826,500	Amort	480
Int Rate	1.00%	DCR	2.01

Secondary	$500,000	Amort	480
Int Rate	0.00%	Subtotal DCR	1.34

Additional	$0	Amort	
Int Rate		Aggregate DCR	1.34

RECOMMENDED FINANCING STRUCTURE:

Primary Debt Service	$25,078
Secondary Debt Service	16,667
Additional Debt Service	0
NET CASH FLOW	$8,541

Primary	$826,500	Amort	480
Int Rate	1.00%	DCR	2.01

Secondary	$500,000	Amort	360
Int Rate	0.00%	Subtotal DCR	1.20

Additional	$0	Amort	0
Int Rate	0.00%	Aggregate DCR	1.20

OPERATING INCOME & EXPENSE PROFORMA: RECOMMENDED FINANCING STRUCTURE

INCOME at 3.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
POTENTIAL GROSS RENT	$187,200	$192,816	$198,600	$204,558	$210,695	$244,254	$283,157	$328,256	$441,149
Secondary Income	1,968	2,027	2,088	2,150	2,215	2,568	2,977	3,451	4,638
Other Support Income:	0	0	0	0	0	0	0	0	0
POTENTIAL GROSS INCOME	189,168	194,843	200,688	206,709	212,910	246,821	286,134	331,707	445,787
Vacancy & Collection Loss	(14,188)	(14,613)	(15,052)	(15,503)	(15,968)	(18,512)	(21,460)	(24,878)	(33,434)
Employee or Other Non-Rental Units or C	0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME	$174,980	$180,230	$185,637	$191,206	$196,942	$228,310	$264,674	$306,829	$412,353
EXPENSES at 4.00%									
General & Administrative	$9,432	$9,810	$10,202	$10,610	$11,035	$13,425	$16,334	$19,873	$29,416
Management	12,526	12,902	13,289	13,687	14,098	16,344	18,947	21,964	29,518
Payroll & Payroll Tax	15,362	15,976	16,615	17,280	17,971	21,864	26,601	32,364	47,907
Repairs & Maintenance	19,913	20,709	21,538	22,399	23,295	28,342	34,482	41,953	62,101
Utilities	3,207	3,335	3,469	3,607	3,752	4,564	5,553	6,756	10,001
Water, Sewer & Trash	23,380	24,315	25,288	26,299	27,351	33,277	40,487	49,258	72,915
Insurance	6,975	7,254	7,544	7,846	8,159	9,927	12,078	14,695	21,752
Property Tax	15,431	16,048	16,690	17,358	18,052	21,963	26,721	32,511	48,124
Reserve for Replacements	17,268	17,958	18,677	19,424	20,201	24,577	29,902	36,380	53,852
Other	1,202	1,250	1,300	1,352	1,406	1,711	2,081	2,532	3,749
TOTAL EXPENSES	$124,695	$129,557	$134,611	$139,862	$145,320	$175,995	$213,187	$258,287	$379,334
NET OPERATING INCOME	$50,286	$50,672	$51,026	$51,344	$51,622	$52,315	$51,487	$48,542	$33,019
DEBT SERVICE									
First Lien Financing	$25,078	$25,078	$25,078	$25,078	$25,078	$25,078	$25,078	$25,078	$25,078
Second Lien	16,667	16,667	16,667	16,667	16,667	16,667	16,667	16,667	16,667
Other Financing	0	0	0	0	0	0	0	0	0
NET CASH FLOW	$8,541	$8,928	$9,281	$9,599	$9,877	$10,570	$9,742	$6,797	($8,726)
DEBT COVERAGE RATIO	1.20	1.21	1.22	1.23	1.24	1.25	1.23	1.16	0.79

HOME DIVISION

BOARD ACTION REQUEST

May 21, 2009

Action Item

Presentation, Discussion and Possible Approval of the HOME Investment Partnerships Program 2009 Single Family, 2009 Rental Housing Development, and 2009 Colonia Model Subdivision and Single Family Development Program Notices of Funding Availability (NOFAs).

Requested Action

Approve, Deny or Approve with Amendments the HOME Investment Partnerships Program 2009 Single Family, 2009 Rental Housing Development, and 2009 Colonia Model Subdivision and Single Family Development Program Notices of Funding Availability (NOFAs).

Background

The U.S. Department of Housing and Urban Development (HUD) has released the Program Year 2009 formula grant amounts for the HOME Investment Partnerships Program. The Department will receive $43,933,530, which reflects a 9.7% increase in funds from 2008. Staff currently anticipates receiving the 2009 Funding Approval and Grant Agreement from HUD within the next several days, and in order to expedite the release of these funds, staff is presenting several 2009 NOFAs for Board approval subject to execution of the Grant Agreement with HUD.

The Department's approved 2009 Consolidated Annual Action Plan included the following program funding priorities:

- Approximately $25,923,970 allocated for single family programs including $18,146,779 allocated for Owner-Occupied Housing Assistance (OCC), $3,888,595 dedicated to Tenant-Based Rental Assistance (TBRA), and $3,888,595 allocated for Homebuyer Assistance (HBA);
- $5,000,000 for Rental Housing Development Program, approximately $5,590,030 for CHDO Rental Housing Development Program, and up to $1,000,000 for Rental Housing Development targeting Persons with Disabilities; and
- $1,000,000 in CHDO set-aside funds for the Colonia Model Subdivision Program (to be combined with another $2,000,000 in CHDO set-aside funds available from previous years).

The consolidated plan also includes funding for single family programs for persons with disabilities, approximately $1,196,677, as well as a statutory set-aside for contract for deed conversions, approximately $2,000,000. Staff is currently planning to present NOFAs for these programs to the Board for approval during the coming months. Today, staff is presenting three NOFAs to the Board for approval: The 2009 Single Family; 2009 Rental Housing Development; and 2009 Colonia Model Subdivision and Single Family Development Program NOFAs. Each of these NOFAs is detailed below.

2009 Single Family NOFA (OCC, TBRA, and HBA Programs)

As proposed, the NOFA makes funds available to eligible applicants to provide assistance to income eligible households with either assistance for the rehabilitation or reconstruction of owner occupied housing units, rental subsidy, or downpayment assistance. As required by §2306.1115 Texas Government Code, these funds are subject to the Regional Allocation Formula (RAF). Funds will be available though the RAF on a first-come, first-served basis until July 29, 2009. After this date, funds for each HOME Program Activity not requested through the RAF, will be made available statewide in its respective program activity until November 30, 2009. After this date, all remaining funds will be available on an ongoing basis for any activity statewide, until all funds are awarded or April 30, 2010. Funds under this NOFA will not be eligible in Participating Jurisdictions (PJs).

The availability and use of these funds are subject to the Department's HOME Program Rule (Title 10 Texas Administrative Code Chapter 53) and the federal regulations governing the HOME Program (24 CFR Part 92). An open application cycle method will be used to process applications received in response to this NOFA. Requirements of the Regional Allocation Formula will be utilized in prioritizing funding recommendations to the extent applicable.

As with the 2008 NOFA and in an effort to prevent predatory lending and foreclosures and as supported by HUD, staff recommends imposing the following first lien mortgage financing requirements for households receiving Homebuyer Assistance:

- No adjustable rate mortgages (ARMs);
- No mortgage loans where the loan to value is equal to or greater than 100%;
- No subprime mortgage loans;
- An origination fee and fees associated with the first lien mortgage loan may not exceed 2% of the loan amount; and
- The debt to income ratio (back-end ratio) may not exceed 45%.

All applications will be required to meet minimum threshold criteria. Additionally, each application must meet a minimum threshold score, which incentivizes applicants to elect additional eligible match or target lower income households, among other scoring criteria. It should be noted that staff has also clarified language in this section to ensure that all applicants are aware that a minimum amount of eligible match is required, based on the population of the city/county, for application with the exception of those under the TBRA Program.

The proposed NOFA is attached to this action item.

2009 Rental Housing Development NOFA

As indicated previously, the Department's 2009 Consolidated Annual Action Plan, as approved by HUD, includes set-asides totaling $5,000,000 for rental housing development activities for new construction, rehabilitation, or acquisition and rehabilitation of affordable rental housing developments. As proposed, the NOFA makes funding available to eligible applicants for the development of affordable rental housing for low-income Texans. The Consolidated Plan also includes $5,590,030 for Community Housing Development Organizations (CHDOs) proposing rental housing development activities and $1,000,000 for rental housing development targeting persons with disabilities.

In previous years, these set-asides were made available in separate NOFAs. However, in an effort to streamline the application process for both potential applicants and staff, staff is recommending that these set asides be combined and made available through one NOFA encompassing all rental housing development activities offered through the HOME program for 2009. The following revisions and additions are also notable:

- Clarification of threshold requirements that each application must meet to be consistent with the application materials and consistent with existing review practices;
- A requirement that the development team have access to other sources of short term capital, such as a letter of credit or cash reserves for applications in which the majority of the financing is coming from the Department; and
- Inclusion of the Board’s policy that the Department’s funds be fully repayable except for cases in which a HUD or FHD insured first lien is used or additional deep rent targeting is pledged on non-tax credit applications.

The funds are subject to the Regional Allocation Formula (RAF) for each Uniform State Service Region until July 20, 2009. Due to the significant oversubscription of applications to the 2008 RHD and CHDO RHD NOFAs that are currently pending, staff recommends that the Board approve a transfer of all applications not awarded by the July 30, 2009 Board meeting to the 2009 Rental Housing Development NOFA. Moreover, staff recommends that each application maintain its current priority. If approved, staff will send each applicant an election form to be returned by June 30, 2009 for participation under the 2009 NOFA.

The availability and use of these funds are subject to the Department’s HOME Program Rule (10 TAC Chapter 53), the federal regulations governing the HOME Program (24 CFR Part 92), and the Department’s Real Estate Analysis Rules and Guidelines (10 TAC §§1.32-1.37). An open application cycle will be used to process applications received in response to this NOFA.

The proposed NOFA is attached to this action item.

2009 Colonia Model Subdivision and Single Family Development Program NOFA

In addition to the CHDO funds dedicated to rental housing development activities, the 2009 Consolidated Annual Action Plan sets aside $1,000,000 of the 15% total CHDO set-aside for the Colonia Model Subdivision Program and single family development. These funds are combined with $2,000,000 in funds reserved from 2007 and 2008 CHDO set-asides and made available under the subject NOFA.

The Colonia Model Subdivision Program (CMSP) is a program identified in the subchapter GG of the Texas Governmental Code Chapter 2306. The purpose of the program is to promote the development of new, high-quality, residential subdivisions to provide alternatives to substandard Colonias for very-low and extremely income families. The ideal source of funds for this program is CDBG or another program that allows infrastructure development as a primary activity, which is not an activity allowable under the HOME program. However, in lieu of another source, the Department has chosen to dedicate the subject HOME funds to promote these activities by financing the construction of high-quality single family housing and provide low cost mortgages to qualified homebuyers. Each homebuyer has access of up to $15,000 in downpayment assistance and a permanent first lien mortgage for the balance of the cost of the home. The Department has used metrics from other HOME programs and Federal HOME rules to establish reasonable limitations for the program, such as an award maximum of $1,000,000 and a hard construction cost limit of $73 per square foot. Each application that will be presented to the Board for funding approval will also be evaluated by the Real Estate Analysis Division.

To comply with State Statute, the funds will be subject to the Regional Allocation Formula (RAF) until July 20, 2009. Thereafter, the funds will be reserved for applications proposing construction in colonias before becoming available statewide, except in Participating Jurisdictions, on October 30, 2009.

The availability and use of these funds are subject to the Department's HOME Program Rule (10 TAC Chapter 53), the federal regulations governing the HOME Program (24 CFR Part 92), and the Department's Real Estate Analysis Rules and Guidelines (10 TAC §§1.32-1.37). An open application cycle will be used to process applications received in response to this NOFA on a first come, first serve basis.

The proposed NOFA is attached to this action item.

Recommendation

Staff recommends approval of the 2009 Single Family, 2009 Rental Housing Development, and 2009 Colonia Model Subdivision and Single Family Development Program Notices of Funding Availability (NOFA) and approval to release for publication in the *Texas Register*.

Staff recommends a transfer of all pending applications that do not receive an award under the 2008 RHD or CHDO RHD NOFAs to the 2009 Rental Housing Development NOFA as described herein.

Texas Department of Housing and Community Affairs
HOME Investment Partnerships Program (HOME)

2009 Single Family
Owner-Occupied Housing Assistance,
Tenant-Based Rental Assistance, and Homebuyer Assistance Programs
Notice of Funding Availability (NOFA)

1) **Summary.**
   a) The Texas Department of Housing and Community Affairs ("the Department") announces the availability of approximately $25,923,970 in funding from the HOME Investment Partnerships Program (HOME) funds for single family housing programs, including Owner-Occupied Housing (OCC), Homebuyer (HBA), and Tenant-Based Rental (TBRA) Assistance, to assist low-income Texans. As published in the 2009 State of Texas Consolidated Plan One-Year Action Plan, $18,146,779 is available for the OCC Program, $3,888,595 is available for the HBA Program, and $3,888,595 is available for the TBRA Program.

   b) The availability and use of these funds is subject to the Department's HOME Program Rule at Title 10 Texas Administrative Code (10 TAC) Chapter 53 in effect at the time the application is submitted, the Federal HOME regulations governing the HOME program (24 CFR §92), and Chapter 2306, Texas Government Code. Other federal regulations apply, including but not limited to:
      i) 24 CFR §50 and §58 (Environmental Requirements);
      ii) 24 CFR §85.36 and §84.42 (Conflict of Interest Regulations); and
      iii) 24 CFR §5(A) (Federal Fair Housing Regulations).

2) **Source of Funds.** These funds are made available through the Department's 2009 annual HOME allocation from the U.S. Department of Housing and Urban Development (HUD). Additionally, uncommitted and deobligated HOME funds from prior years and HOME program income may be used. These funds are set-aside for eligible applicants proposing to provide assistance to eligible homeowners in need of rehabilitation or reconstruction of their primary residence, homebuyers for the acquisition (including downpayment and closing costs) of a home, and households seeking tenant-based rental assistance. Households assisted with HOME funds must be at or below 80% of the Area Median Family Income (AMFI) as defined by HUD, and meet all program eligibility requirements

3) **Allocation of Funds.**

a) In accordance with Texas Government Code Chapter 2306.111, housing funds awarded in the HOME Program must be allocated utilizing the Regional Allocation Formula (RAF) developed by the Department. Funds are allocated for each Program Activity to each Uniform State Service Region and rural and urban area types.

b) Requirements of the Regional Allocation Formula and 10 TAC §53.48(a) prioritize funding recommendations. Applicants may apply for the maximum allowed in each activity even though the amount of available funds utilizing the RAF may be less. However, only the maximum set-aside based on Sections (4)(a) and (4)(b) of this NOFA will be recommended for award during applicable period.

4) **Application Cycle.**

a) In accordance with 10 TAC § 53.48(a), this NOFA will be administered using an open application cycle. Funds will be available utilizing the RAF for each specified activity on a first-come, first-served basis. Applications will be accepted by the Department on an on-going basis utilizing the funds allocated by the RAF until 5:00 p.m. Wednesday, July 20, 2009, regardless of method of delivery.

b) On Thursday, July 21, 2009, any funds which have not been requested in an application per subsection a) of this section will collapse and be made available statewide (excluding PJs). However, funds will remain set-aside within each HOME Program Activity. Applications submitted under this subsection will be accepted by the Department on an on-going basis until 5:00 p.m. Monday, November 30, 2009, regardless of method of delivery.

c) On Tuesday, December 1, 2009, any funds not requested under subsections a) or b) of this section will be made available statewide (excluding PJs) for any eligible HOME Program Activity eligible under this NOFA. Applications will be accepted by the Department on an on-going basis until 5:00 p.m. Thursday, April 30, 2010, regardless of method of delivery.

d) Should funds made available under this NOFA become, at any time, oversubscribed or all funds be awarded; the Department may choose to close the NOFA in accordance to 10 TAC §53.48(a)(1).

5) **Rider 5 Provision.** Applicants awarded funds may use the state average median family income, adjusted for income level and household size, to determine income eligibility, and form of assistance, in accordance with 10 TAC 53.31(j), for eligible households living in those counties where the area median family income is lower than the state average median family income. This option is in accordance with the Housing Assistance Rider of the Department's Legislative Appropriation.

6) **Limitation on Funds.**

a) HOME funds will not be eligible for use in a Participating Jurisdiction (PJ). Any HOME funds available for serving households in a PJ will only be made available under a separate NOFA for Persons with Disabilities as described in the 2009 State of Texas Consolidated Plan One-Year Action Plan.

b) The Department awards HOME funds to eligible entities and the maximum award amount may not exceed the amount as stated in the NOFA. The award amount for administrative costs shall not exceed the amount allowed per 10 TAC §53.85. Administrator must use funds for Administrative costs in accordance with 24 CFR §92.207.

c) In accordance with 24 CFR §53.72, the Contract Administrator may incur and be reimbursed for travel costs prior to the effective date of the HOME Contract, as provided for with Administrative funds, related to mandatory implementation training required by the Department as a condition of receiving a HOME award and Contract.

d) An Applicant may submit an Application to apply for additional funding under the same NOFA only if the Applicant is 100% committed any current contract for the same activity.

e) With the exception of Tenant-Based Rental Assistance, the minimum HOME assistance amount per unit may not be less than $1,000 per HOME assisted unit. The per-unit subsidy may not exceed limits established under §221(d)(3) of the National Housing Act, which are applicable to the area in which the housing is located and as published by HUD. The purchase price of the housing unit plus the value of the rehabilitation or reconstruction, if applicable, must not exceed 95% of the Single Family Mortgage Limits under Section 203(b) of the National Housing Act.

7) Eligible and Ineligible Applicants.

a) Eligible Applicants are Units of General Local Government, Nonprofit Organizations, Public Housing Authorities (PHAs), and for-profit entities.

b) If an Applicant that is a nonprofit organization is requesting a waiver of the grant application fee, they must do so in the resolution, and must state that the nonprofit organization offers expanded services such as child care, nutrition programs, job training assistance, health services, or human services.

c) Applicants may be ineligible for funding if they meet any of the criteria listed in 10 TAC §53.42 of the Department's HOME Program Rule. Applicants are encouraged to familiarize themselves with the Department's certification and debarment policies prior to application submission.

8) Matching Funds. Applicants will be required to submit documentation on all financial resources to be used in the development that may be considered match to the Department's federal HOME requirements. Applicants must provide firm commitments as defined in the application and in accordance with the federal HOME rules at 24 CFR §92.218 and the Department's Match Guide. Applicants will be provided with the appropriate forms and instructions on how to report eligible match. Specific Match requirements are defined under sections (10), (11), or (12) of this NOFA as applicable

9) Eligible and Prohibited Activities.

a) Eligible activities include those permissible under the federal HOME Final Rule at 24 CFR §92.205 and the Department's HOME Program Rule at 10 TAC §53.31 for OCC, §53.32 for HBA, and §53.33 for TBRA.

b) Prohibited activities include those at 24 CFR §92.214 and 10 TAC §53.37.

10) **Owner-Occupied Housing Assistance (OCC).** A total of $18,146,779 in funding released under this NOFA may be used to administer an Owner-Occupied Housing Assistance Program to provide eligible households with loans for the rehabilitation or reconstruction of existing owner-occupied housing earning 80% or less of the Area Median Family Income (AMFI) as defined by HUD. As defined in 10 TAC §53.31(d)(1), the home must be the principal residence of the homeowner. Funds requested and awarded under this section are subject to the following requirements:

a) Maximum Award. In accordance with 10 TAC §53.47(a)(1), the maximum award amount for OCC shall not exceed $450,000, including administrative costs, per Application. In accordance with §53.85, up to 4% of the total project costs may be requested for administrative costs for the entire contract term.

b) Regional Allocation. Funds requested and awarded under section (10) and submitted in accordance with section (4)(a) of this NOFA are subject to the following Regional Allocation (Table 1).

Table 1. OCC Regional, Rural, and Urban Funding Amounts

Region	Place for Geographical Reference	Regional Funding Amount	Regional Funding %	Rural Funding Amount	Rural Funding %	Urban Funding Amount	Urban Funding %
1	Lubbock	$974,149	5.4%	$973,931	100.0%	$218	0.0%
2	Abilene	$664,150	3.7%	$645,587	97.2%	$18,563	2.8%
3	Dallas/Fort Worth	$3,555,944	19.6%	$1,032,213	29.0%	$2,523,731	71.0%
4	Tyler	$2,027,491	11.2%	$1,723,173	85.0%	$304,318	15.0%
5	Beaumont	$916,230	5.0%	$838,750	91.5%	$77,480	8.5%
6	Houston	$1,339,096	7.4%	$473,920	35.4%	$865,177	64.6%
7	Austin/Round Rock	$948,113	5.2%	$390,371	41.2%	$557,742	58.8%
8	Waco	$577,971	3.2%	$410,006	70.9%	$167,964	29.1%
9	San Antonio	$916,624	5.1%	$599,901	65.4%	$316,722	34.6%
10	Corpus Christi	$1,227,434	6.8%	$865,622	70.5%	$361,812	29.5%
11	Brownsville/Harlingen	$3,603,250	19.9%	$2,025,597	56.2%	$1,577,654	43.8%
12	San Angelo	$798,568	4.4%	$343,894	43.1%	$454,673	56.9%
13	El Paso	$597,760	3.3%	$436,391	73.0%	$161,369	27.0%
	Total	$18,146,779	100.0%	$10,759,356	59.3%	$7,387,423	40.7%

c) Form of Assistance.

i) Assistance will be provided to an eligible household in the form of a zero percent interest, deferred forgivable or repayable loan and in accordance with 10 TAC §53.31;

ii) The maximum amount of assistance is the total of construction costs and soft costs provided to an eligible household. The total construction costs are limited as follows:

(1) For Rehabilitation that is Reconstruction. The lesser of $73.00 per square foot or $80,000, if the Reconstruction includes actual costs for an aerobic septic system and/or demolition. If the Reconstruction includes costs for an aerobic septic system

and/or demolition, the total construction costs cannot exceed $73.00 per square foot exclusive of the aerobic septic system and demolition costs; and

(2) For Rehabilitation that is not Reconstruction. $30,000.

iii) The maximum amount eligible for project soft costs is defined in 10 TAC §53.85;

iv) All loans to assisted homeowners must be evidenced by loan documents provided by the Department. Each loan to an assisted homeowner for rehabilitation must be payable to the Department. Each loan for reconstruction or rehabilitation shall be evidenced by a construction loan agreement, note, deed of trust, mechanic's lien note, and mechanic's lien contract secured by the property and must be fully executed before any construction activities commence;

v) If at any time prior to the full loan period there occurs a resale of the property, a refinance of any superior lien, or if the unit ceases to be the assisted Household's principal residence, the remaining loan balance shall become due and payable; and

vi) If applicable, forgiveness of the loan balance is calculated based on a pro-rata annual share of the loan term. The anniversary date of the loan shall constitute completion of the year. Any partial year shall not be waived. The amount due will be based on the pro-rata share number of years of the remaining loan term.

d) Affordability Requirements. Households assisted under the OCC Program must comply with the affordability requirements defined in 10 TAC §53.31(j)-(m) and 24 CFR §92.254, as applicable.

e) Site and Construction Restrictions.
   i) Pursuant to 24 CFR §92.251 Housing that is rehabilitated or constructed with HOME funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion.
   ii) If a home is reconstructed, the applicant must ensure compliance with the universal design features in new construction, established by §2306.514 of the Texas Government Code, required for any applicant utilizing federal or state funds administered by TDHCA in the construction of single family homes. In the absence of a local code, HOME-assisted new construction or rehabilitation must meet the International Residential Code, Texas Minimum Construction Standards (TMCS) and be in compliance with the basic access standards in new construction, established by §2306.514 of the Texas Government Code.
   iii) Housing that is rehabilitated with funds awarded under this NOFA must meet all applicable energy efficiency standards established by §2306.187 of the Texas Government Code, and International Energy Conservation Code for energy standards as verified by RESCHECK .

f) Contract Term. Per 10 TAC §53.73(a)(1), the contract term for OCC Program Activity shall not exceed twenty-four (24) months and performance under the contract will be evaluated according to the following benchmarks:

i) Six (6) months, exempt administrative and broad review environmental clearance must be complete, and if not tiering, the first Household to be assisted must be environmentally cleared;
ii) Eight (8) months, Authority to Use Grant Funds must be fully executed and all Households to be assisted must be environmentally cleared;
iii) Twelve (12) months, 100% of funds must be committed to Households to be assisted;
iv) Eighteen (18) months, 100% of Household's Loans must be closed, if applicable;
v) Twenty-two (22) months, 100% of construction must be complete for all Households to be assisted; and
vi) Twenty-four (24) months, 100% funds drawn and 100% of match requirement supplied.

g) Application Threshold Requirements. Threshold criteria under this subsection and subsection (h) are mandatory requirements at the time of application submission, unless specifically indicated otherwise, and will be included in the written agreement if funds are awarded.

i) **Cash Reserve**. Each awarded applicant will be required to expend funds according to program guidelines and request funds from the Department for eligible expenses. Applicants must evidence the ability to administer the program and commit cash reserves of at least $120,000 to facilitate administration of the program during the Department's disbursement process. Cash reserves are not permanently invested in the project but are used for short term deficits that are reimbursed by program funds. Evidence of this commitment and the amount of the commitment must be included in the Applicant's resolution and budget. Applicants must submit:
(1) Financial statements indicating adequate local unrestricted cash or cash equivalents to utilize as cash reserves; and
(2) A letter from the Applicant's bank(s) or financial institution(s) indicating that current account balances are sufficient; or
(3) Evidence of an available line of credit or equivalent of at least $120,000.

ii) **Resolution**. All applications submitted must include an original resolution signed and dated within the six (6) months preceding the application submission date from the Applicant's direct governing body which includes:
(1) Authorization of the submission of the Application;
(2) Commitment and amount of cash reserves for use during the contract period;
(3) Source of funds for match obligation and match dollar amount;
(4) Name and title of the person authorized to represent the organization; and
(5) Signature authority to execute a contract.

iii) **Description of Demand**. All applicants must submit a narrative that describes in detail the demand evidenced for the proposed number of units to be assisted in the proposed service area which includes:
(1) Third Party source data (i.e. Census data);
(2) Calculations (i.e. amounts to be spent/contributed locally per project); and
(3) Assumptions.

iv) **Match.** The Department will recognize eligible forms of matching contributions made from nonfederal resources, per 24 CFR §92.218. The following table (Table 2) will be used to determine the amount of match required to meet threshold:

Table 2. OCC Housing Program Required Community Match Contribution

City Population	County Population	Required Match % of Project Funds Requested
< 3000	<20,000	5%
3000-5000	20,000-75,000	10%
> 5000	>75,000	12.5%

h) **Threshold Score**. In addition to the threshold requirements under subsection (g) of this section, the application must meet the **minimum threshold score of 15**. This score is tallied using points from the following categories:

i) **Affordable Housing Needs Score**. Points range from zero to seven as published by the Department. Maximum 7 points;

ii) **Additional Eligible Match**. In addition to the threshold match requirement in subsection (j)(vi) of this section, the Applicant can receive points for each percentage of additional match. The following table (Table 3) will be used to determine points awarded under this paragraph:

Table 3. OCC Housing Program Additional Community Match Contributions

City Population	County Population	Point Calculation
< 3000	< 20,000	10 points for each additional percentage of match
3,000 – 5,000	20,000 – 75,000	7 points for each additional percentage of match
> 5,000	> 75,000	5 points for each additional percentage of match

iii) **Income Targeting**. In order to meet its annual goal of assisting very low to extremely low-income families, the Department incentivizes application points for income targeting of households assisted. The following table will be used to determine income targeting requirements and associated points. Maximum 20 points

Table 4. OCC Point Incentives for Income Targeting

Income Target	Points
5% to 29.99 % of units at 60% AMFI	1
30% to 59.99 % of units at 60% AMFI	3
60% to 100 % of units at 60% AMFI	5
5% to 29.99% of units at 30% AMFI	+6
30% to 59.99% of units at 30% AMFI	+11
60% to 100% of units at 30% AMFI	+15

11) Homebuyer Assistance (HBA). Approximately $3,888,595 of HOME Funds released under this NOFA shall be used to administer a Homebuyer Assistance Program, providing downpayment and closing cost assistance (including soft costs) to eligible first time homebuyers earning 80% or less of the Area Median Family Income (AMFI) as defined by HUD for the acquisition of affordable single family housing.

a) Maximum Award. In accordance with 10 TAC §53.47(a)(1), the award amount for HBA shall not exceed $312,000, including administrative costs, per Application. However; up to $520,000, including administrative costs, may be awarded to HBA Applicants whose Service Area includes multiple counties within a Uniform State Service Region. In accordance with 10 TAC §53.85(a)(1), for the HBA Program Activities, funds for Administrative costs cannot exceed 4% of the total project costs for the entire Contract term.

b) Allocation Formula. Funds requested and awarded under section (11) and submitted in accordance with section (4)(a) of this NOFA are subject to the following Regional Allocation (Table 5).

Table 5. HBA Regional, Rural, and Urban Funding Amounts

Region	Place for Geographical Reference	Regional Funding Amount	Regional Funding %	Rural Funding Amount	Rural Funding %	Urban Funding Amount	Urban Funding %
1	Lubbock	$208,746	5.4%	$208,699	100.0%	$47	0.0%
2	Abilene	$142,318	3.7%	$138,340	97.2%	$3,978	2.8%
3	Dallas/Fort Worth	$761,988	19.6%	$221,188	29.0%	$540,799	71.0%
4	Tyler	$434,462	11.2%	$369,251	85.0%	$65,211	15.0%
5	Beaumont	$196,335	5.0%	$179,732	91.5%	$16,603	8.5%
6	Houston	$286,949	7.4%	$101,554	35.4%	$185,395	64.6%
7	Austin/Round Rock	$203,167	5.2%	$83,651	41.2%	$119,516	58.8%
8	Waco	$123,851	3.2%	$87,858	70.9%	$35,992	29.1%
9	San Antonio	$196,419	5.1%	$128,550	65.4%	$67,869	34.6%
10	Corpus Christi	$263,022	6.8%	$185,490	70.5%	$77,531	29.5%
11	Brownsville/Harlingen	$772,125	19.9%	$434,056	56.2%	$338,069	43.8%
12	San Angelo	$171,122	4.4%	$73,692	43.1%	$97,430	56.9%
13	El Paso	$128,091	3.3%	$93,512	73.0%	$34,579	27.0%
	Total	$3,888,595	100.0%	$2,305,576	59.3%	$1,583,019	40.7%

c) Form of Assistance.
   i) In accordance with §53.32(e), the maximum amount of assistance is the total of the downpayment and closing cost assistance and soft costs provided to an eligible household. The total amount of downpayment and closing cost assistance is limited to $20,000 per eligible homebuyer.
   ii) In accordance with 10 TAC §53.32(m), the first lien mortgage must meet the following requirements:
      (1) No adjustable rate mortgage loans (ARMs) or interest rate buy-down loans are allowed;
      (2) No mortgages with a loan to value equal to or greater than 100% are allowed;
      (3) Must not be a subprime mortgage loan as defined in 10 TAC §53.2(92);
      (4) An origination fee and any other fees associated with the mortgage loan may not exceed 2% of the loan amount; and
      (5) The debt to income ratio (back-end ratio) may not exceed 45%.
   iii) HBA assistance will be structured as follows:

(1) 0% interest rate;
(2) 5 or 10 year term contingent upon the total amount of assistance and in accordance with the federal affordability requirements at 24 CFR §92.254(a)(4);
(3) 2nd or 3rd lien; and
(4) Deferred forgivable loan per paragraph iv) of this subsection.

iv) Any forgiveness of the loan occurs upon the anniversary date of the Household's continuous occupancy as its principal residence and continues on an annual pro-rata basis until maturity of the loan. In the event that the housing unit ceases to be the principal residence of the household, the forgiveness of the loan, if applicable, will cease. In the event that the housing unit ceases to be the principal residence of the household, the department has established that the federal recapture requirements defined in 24 CFR §92.254 will be imposed.

d) Period of Affordability. The federal affordability requirements as defined in 24 CFR §92.254 will be imposed for all activities involving acquisition.

e) Property Standards. HOME-assisted housing under the HBA Program must meet all applicable State and local housing quality standards and code requirements. In the absence of such standards or code requirements, the housing must meet the Housing Quality Standards (HQS) in 24 CFR §982.401.

f) Contract Terms. In accordance with 10 TAC §53.73(a)(2), the contract term for the HBA Program Activity shall not exceed twenty-four (24) months and performance under the contract will be evaluated according to the following benchmarks:
  i) Six (6) months, exempt administrative and environmental clearance must be complete for at least one Household to be assisted;
  ii) Twelve (12) months, environmental clearance must be complete for at least 50% of the Households to be assisted, 50% of funds must be committed, 25% of funds drawn, and 25% of match supplied;
  iii) Eighteen (18) months, environmental clearance must be complete for at least 75% of the Households to be assisted, 75% of funds must be committed, 50% of funds drawn, and 50% of match requirement supplied; and
  iv) Twenty-four (24) months, 100% of funds must be committed, 100% of funds drawn, and 100% of matched supplied.

g) **Application Threshold Requirements**. The following threshold criteria listed in this subsection and in subsection (h) are mandatory requirements at the time of application submission, unless specifically indicated otherwise, and will be included in the written agreement if funds are awarded.
  i) **Cash Reserve**. Each awarded applicant will be required to expend funds according to program guidelines and request funds from the Department for eligible expenses. Applicants must evidence the ability to administer the program and commit cash reserves of at least $80,000 to facilitate administration of the program during the Department's disbursement process. Cash reserves are not permanently invested in the project but are used for short term deficits that are reimbursed by program funds. Evidence of this commitment and the amount of the commitment must be included in the Applicant's resolution and budget. Applicants must submit:

(1) Financial statements indicating adequate local unrestricted cash or cash equivalents to utilize as cash reserves; and
(2) A letter from the Applicant's bank(s) or financial institution(s) indicating that current account balances are sufficient; or
(3) Evidence of an available line of credit or equivalent of at least $80,000.

ii) **Resolution**. All applications submitted must include an original resolution signed and dated within the six (6) months preceding the application submission date from the Applicant's direct governing body which includes:
(1) Authorization of the submission of the Application;
(2) Commitment and amount of cash reserves for use during the contract period; source of funds for match obligation and match dollar amount;
(3) Name and title of the person authorized to represent the organization; and
(4) Signature authority to execute a contract.

iii) **Description of Demand**. All applicants must submit a narrative that describes in detail the demand evidenced for the proposed number of units to be assisted in the proposed service area which includes:
(1) Third Party source data (i.e. Census data);
(2) Calculations (i.e. amounts to be spent/contributed locally per project); and
(3) Assumptions.

iv) **Match**. Per 24 CFR §92.218, the Department will recognize eligible forms of matching contributions made from nonfederal resources. Match must equal at least 5% of the total project cost requested.

v) **Homebuyer Counseling**. Applicants must evidence that a minimum of 8 hours of homebuyer counseling to all eligible participants will be provided by a certified homebuyer counselor. This evidence must include:
(1) Documentation describing the level of homebuyer counseling proposed, including post purchase counseling;
(2) Applicant must state who will provide the homebuyer counseling;
(3) A copy of the curriculum; and
(4) A copy of the proposed written agreement with the service provider (if the applicant is not providing the service).

h) **Threshold Score**. In addition to the threshold requirements under subsection (g) of this section, the application must meet the **minimum threshold score of 10**. This score is tallied using points from the following categories:
i) **Affordable Housing Needs Score**. Points range from zero to seven, as published by the Department. (Maximum 7 points);
ii) **Additional Match**. Each full percentage point beyond the required 5% of total project cost that is contributed in eligible local match will result in an additional 5 points. (Maximum 10 points); and
iii) **Income Targeting**. In order to meet its annual goal of assisting very low to extremely low income families, the Department incentivizes application points for income targeting of households assisted The following table will be used to determine income targeting requirements and associated points. (Maximum 10 points).

Table 6. HBA Point Incentives for Income Targeting

Income Target	Points
5% to 29.99% of units at 60% AMFI	3
30% to 59.99% of units at 60% AMFI	7
60% to 100% of units at 60% AMFI	10

12) **Tenant-Based Rental Assistance (TBRA).** Approximately $3,888,595 of HOME funds released under this NOFA shall be used to administer a Tenant-Based Rental Assistance Program to provide eligible households rental subsidies, including security and utility deposits, to tenants earning 80% or less of the Area Median Family Income (AMFI) as defined by HUD. In accordance with 24 CFR §92.216, not less than 90% of the households assisted with respect to TBRA or rental units, must have incomes at or below 60% of the AMFI, as defined by HUD. Funds requested and awarded under this section must meet the requirements of this section.

   a) Maximum Award. In accordance with 10 TAC §53.47(a)(1) the maximum award amount for TBRA shall not exceed $336,000, including administrative costs, per Application. In accordance with §53.85(a)(1), for the TBRA program activity, funds for administrative costs cannot exceed 4% of the total project funds per year of the Contract term.

   b) Allocation Formula. Funds requested and awarded under section (12) and submitted in accordance with section (4)(a) of this NOFA are subject to the following Regional Allocation (Table 7).

Table 7. HBA Regional, Rural, and Urban Funding Amounts

Region	Place for Geographical Reference	Regional Funding Amount	Regional Funding %	Rural Funding Amount	Rural Funding %	Urban Funding Amount	Urban Funding %
1	Lubbock	$208,746	5.4%	$208,699	100.0%	$47	0.0%
2	Abilene	$142,318	3.7%	$138,340	97.2%	$3,978	2.8%
3	Dallas/Fort Worth	$761,988	19.6%	$221,188	29.0%	$540,799	71.0%
4	Tyler	$434,462	11.2%	$369,251	85.0%	$65,211	15.0%
5	Beaumont	$196,335	5.0%	$179,732	91.5%	$16,603	8.5%
6	Houston	$286,949	7.4%	$101,554	35.4%	$185,395	64.6%
7	Austin/Round Rock	$203,167	5.2%	$83,651	41.2%	$119,516	58.8%
8	Waco	$123,851	3.2%	$87,858	70.9%	$35,992	29.1%
9	San Antonio	$196,419	5.1%	$128,550	65.4%	$67,869	34.6%
10	Corpus Christi	$263,022	6.8%	$185,490	70.5%	$77,531	29.5%
11	Brownsville/Harlingen	$772,125	19.9%	$434,056	56.2%	$338,069	43.8%
12	San Angelo	$171,122	4.4%	$73,692	43.1%	$97,430	56.9%
13	El Paso	$128,091	3.3%	$93,512	73.0%	$34,579	27.0%
	Total	$3,888,595	100.0%	$2,305,576	59.3%	$1,583,019	40.7%

   c) Form of Assistance.
      i) Through the TBRA program, rental subsidy and security and utility deposit assistance is provided to tenants as a grant, in accordance with written tenant selection policies, for a

period not to exceed twenty-four (24) months, which shall include among its objectives the securing of a permanent source of affordable housing on or before the expiration of the rental subsidy. Security deposits and utility deposits may be provided in conjunction with rental assistance. A security deposit cannot exceed two (2) months rent for the unit.

ii) As per 10 TAC §53.33, the Household must comply with the following initial eligibility requirements:
   (1) Participate in an approved self-sufficiency program;
   (2) Maintain principal residency in the rental unit for which the subsidy is being provided;
   (3) Be an income eligible household; reside in a rental unit that is located within the Administrator's Service Area; and
   (4) Meet all other Program eligibility requirements as required by the Department.

iii) As defined in 10 TAC §53.33(d) the rental standard must not exceed HUD's "Fair Market Rent for the Housing Choice Voucher Program."

d) Period of Affordability. There is no period of affordability for TBRA projects.

e) Property Standards. As defined in 10 TAC § 53.33 (e), rental units must be inspected prior to occupancy and must comply with Housing Quality Standards established by HUD in 24 CFR §982.401.

f) Contract Terms. In accordance with 10 TAC §53.73(a)(3), the contract term for the TBRA Program shall not exceed thirty-six (36) months. Individual household assistance is limited to twenty-four (24) months and performance under the contract will be evaluated according to the following benchmarks:
   i) Six (6) months, exempt administrative environmental clearance must be complete and application intake complete for 30% for Households to be assisted;
   ii) Nine (9) months, application intake complete for 75% for Households to be assisted;
   iii) Twelve (12) months, 100% of funds must be committed to Households to be assisted and 25% of funds drawn;
   iv) Eighteen (18) months, 100% of funds already committed and 35% of funds drawn;
   v) Twenty-four (24) months, 100% of funds already committed and 50% of funds drawn; and
   vi) Thirty-six (36) months, 100% of funds already committed and 100% of funds drawn.

g) Application Threshold Requirements. The following threshold criteria listed in this subsection and in subsection (h) are mandatory requirements at the time of application submission unless specifically indicated otherwise and will be included in the written agreement, if awarded funds:
   i) **Cash Reserve**. Each awarded applicant will be required to expend funds according to program guidelines and request funds from the Department for eligible expenses. Every Applicant must evidence the ability to administer the program and commit adequate cash reserves of at least one (1) month of rent for the number of households proposed to serve as stated in the application to facilitate administration of the program during the Department's disbursement process. Cash reserves are not permanently invested in the project but are used for short term deficits that are reimbursed by program funds. Applicants must submit:

(1) Current financial statements indicating adequate local unrestricted cash or cash equivalents to utilize as cash reserves; and
(2) A letter from the Applicant's bank(s) or financial institution(s) indicating that current account balances are sufficient; or
(3) Evidence of an available line of credit for the total amount of cash reserves required.

ii) **Resolution**. All applications submitted must include an original resolution signed and dated within the six (6) months preceding the application submission date from the Applicant's direct governing body which includes:
(1) Authorization of the submission of the Application;
(2) Commitment and amount of cash reserves for use during the contract period;
(3) Name and title of the person authorized to represent the organization; and
(4) Signature authority to execute a contract.

iii) **Description of Demand**. All applicants must submit a narrative that describes in detail the demand evidenced for the proposed number of units to be assisted in the proposed service area which includes:
(1) Source data (i.e. Census data/availability of rental units),
(2) Calculations (i.e. amounts to be spent/contributed locally per project), and
(3) Assumptions.

iv) **Match**. There is no match requirement for TBRA Program activity.

v) **TBRA Self Sufficiency Program**. Applicants must submit a proposed detailed Self Sufficiency Plan, and must:
(1) Describe the process for the transition of households to permanent housing by the end of the 24-month rental assistance contract;
(2) Include documentation describing the necessary components for the overall plan proposed for transition of potential tenants;
(3) Detail, like a case management plan, the needs of the tenant, how these needs will be addressed including any agreements with service providers who shall assist the tenant at meeting these needs, and a proposed timeframe for completing those activities;
(4) Include a sample household budget which will utilize existing sources of income such as employment, disability payments and other types of support that details how the assisted household will afford to be self-sufficient by the end of the 24-month rental assistance;
(5) If additional income is required to attain self-sufficiency, include a plan for attaining the required education or training, or a job search plan;
(6) Include specific housing goals that will be completed on or before the end of the 24-month assistance period, including:
    (a) Finding permanently subsidized housing;
    (b) Acquiring affordable market housing; or
    (c) Other permanent housing solutions.
(7) Include the required steps, such as:
    (a) Completion of an application for affordable housing;
    (b) Approximate waiting time to acquire the type of housing desired; and
    (c) The cost of the housing to the tenant.

h) **Threshold Score**. The application must meet the **minimum threshold score of 15**. This score is tallied using points from the following categories:

i) **Affordable Housing Needs Score**. Points range from zero to seven, as published by the Department. (Maximum 7 points).

ii) **Income Targeting**. In order to meet its annual goal of assisting very low to extremely low income families, the Department incentivizes application points for income targeting of households assisted. The following table (Table 8) will be used to determine income targeting requirements and associated points. (Maximum 20 points).

Table 8. Point Incentives for Income Targeting (TBRA)

Income Target	Points
5% to 29.99 % of units at 50% AMFI	1
30% to 59.99 % of units at 50% AMFI	3
60% to 100 % of units at 50% AMFI	5
5% to 29.99% of units at 30% AMFI	+6
30% to 59.99% of units at 30% AMFI	+11
60% to 100% of units at 30% AMFI	+15

13) Review Process.

a) Pursuant to 10 TAC §53.48(a), each application will be handled on a first-come, first-served basis as further described in this section. Each application will be assigned a received date based on the date and time it is physically received by the Division. Each application will be reviewed on its own merits as applicable. Applications will be reviewed for applicant and activity eligibility, and threshold criteria as described in this NOFA. Applications proceeding in a timely fashion through a phase will take priority over applications that may have an earlier received date but that did not complete a phase of review in a timely manner.

b) The Department will ensure review of materials for eligibility and threshold criteria, and requirements of the NOFA and Application Submission Procedures Manual (ASPM), and will issue a notice of any Administrative Deficiencies within forty-five (45) days of the received date. Applicants who are able to resolve their Administrative Deficiencies within five (5) business days will continue the review process. Applications with Administrative Deficiencies not cured within five (5) business days will be terminated and must reapply for consideration of funds. Applications that have completed this phase will be reviewed for recommendation to the Board by the Executive Award and Review Advisory Committee (EARAC).

c) Because Applications are processed in the order they are received by the Department, it is possible that the Department will award all available HOME funds before an Application has been completely reviewed. If, on the date an Application is received by the Department, no funds are available under this NOFA, the Applicant will be notified that no funds exist under the NOFA and the Application will not be processed.

d) An applicant will be ineligible if they meet any of the criteria in 10 TAC §53.42 and will be terminated without being processed as an Administrative Deficiency.

e) The Department may decline to consider any Application if the proposed activities do not, in the Department's sole determination, represent a prudent use of the Department's funds. The Department is not obligated to proceed with any action pertaining to any Applications that are received, and may decide it is in the Department's best interest to refrain from pursuing any selection process. The Department reserves the right to negotiate individual elements of any Application.

f) All Applicants will be processed through the Department's Application Evaluation System, which includes a previous award and past performance evaluation. Poor past performance may disqualify an Applicant for a funding recommendation, or the recommendation may include conditions.

g) Funding recommendations of eligible Applicants will be presented to the Department's Governing Board of Directors based on eligibility. Recommendations are limited by the total amount of funds available under this NOFA and the maximum award amount.

h) In accordance with §2306.082, Texas Government Code and 10 TAC §53.6, it is the Department's policy to encourage the use of appropriate alternative dispute resolution procedures ("ADR") under the Governmental Dispute Resolution Act, Chapter 2009, Texas Government Code, to assist in resolving disputes under the Department's jurisdiction. As described in Chapter 154, Civil Practices and Remedies Code, ADR procedures include mediation. Except as prohibited by the Department's ex parte communications policy, the Department encourages informal communications between Department staff and Applicants, and other interested persons, to exchange information and informally resolve disputes. The Department also has administrative appeals processes to fairly and expeditiously resolve disputes. If at anytime an Applicant or other person would like to engage the Department in an ADR procedure, the person may send a proposal to the Department's Dispute Resolution Coordinator. For additional information on the Department's ADR Policy, see the Department's General Administrative Rule on ADR at 10 TAC §1.17.

i) An Applicant may appeal decisions made by staff in accordance with 10 TAC §1.7.

14) Application Submission.

a) All applications submitted under this NOFA must be received on or before 5:00 p.m. Thursday, April 30, 2010, regardless of method of delivery.

b) The Department will accept applications from 8 a.m. to 5 p.m. each business day, excluding federal and state holidays, from the date this NOFA is published on the Department's web site until the deadline. Question regarding this NOFA should be addressed to:

HOME Division
221 E. 11th Street
Austin, Texas 78701
E-mail: HOME@tdhca.state.tx.us

c) All applications must be submitted, and provide all documentation, as described in this NOFA and associated application materials.

d) Applicants must submit one complete original printed copy of all Application materials and one complete scanned copy on a disc of the Application materials as detailed in the Application Submission Procedures Manual (ASPM). All scanned copies must be scanned in accordance with the guidance provided in the ASPM.

e) All Application materials including manuals, NOFA, program guidelines, and all applicable HOME rules, will be available on the Department's website at www.tdhca.state.tx.us Applications will be required to adhere to the HOME Rule and threshold requirements in effect at the time of the Application submission. Applications must be on forms provided by the Department, and cannot be altered or modified and must be in final form before submitting them to the Department.

f) Applicants are required to remit a non-refundable Application fee payable to the Texas Department of Housing and Community Affairs in the amount of $30 per Application. Payment must be in the form of a check, cashier's check or money order. **Do not send cash.** Per §2306.147(b), Texas Government Code requires the Department to waive Application fees for nonprofit organizations that offer expanded services such as child care, nutrition programs, job training assistance, health services, or human services. These organizations must include proof of their exempt status and a description of their supportive services in lieu of the Application fee. The Application fee is not an allowable or reimbursable cost under the HOME Program.

g) This NOFA does not include text of the various applicable regulatory provisions that may be important to the HOME Program. For proper completion of the application, the Department strongly encourages potential applicants to review the State and Federal regulations, and contact the HOME Division for guidance and assistance.

h) Application Workshop. The Department will conduct application workshops in locations throughout the State which provide an overview of the HOME Program Activities eligible under this NOFA and also provide Application preparation and submission requirements, evaluation criteria, and state and federal program information.

i) Audit Requirements. An applicant is not eligible to apply for funds or any other assistance from the Department unless a past audit or Audit Certification Form has been submitted to the Department in a satisfactory format on or before the application deadline, per 10 TAC §1.3(b). This is a threshold requirement outlined in the application, therefore applications that have outstanding past audits will be disqualified. Staff will not recommend applications for funding to the Department's Governing Board unless all unresolved audit findings, questions or disallowed costs are resolved per 10 TAC §1.3(c).

Applications must be sent via overnight delivery to:

Texas Department of Housing and Community Affairs
HOME Division
221 East 11th Street
Austin, TX 78701-2410

Or via the U.S. Postal Service to:

Texas Department of Housing and Community Affairs
HOME Division
Post Office Box 13941
Austin, TX 78711-3941

Texas Department of Housing and Community Affairs
HOME Investment Partnerships Program

Rental Housing Development Program
Notice of Funding Availability (NOFA)

1) **Summary.** The Texas Department of Housing and Community Affairs ("the Department") announces the availability of approximately $11,590,030 in funding from the HOME Investment Partnerships Program for the development of affordable rental housing for low-income Texans. The availability and use of these funds is subject to the State HOME Rules at Title 10 Texas Administrative Code (10 TAC) Chapter 53 ("HOME Rules") in effect at the time Application is submitted, the Federal HOME regulations governing the HOME program (24 CFR Part 92), and Chapter 2306, Texas Government Code. Other Federal regulations may also apply such as, but not limited to, 24 CFR Parts 50 and 58 for environmental requirements, Davis-Bacon Act for labor standards, 24 CFR §§85.36 and 84.42 for conflict of interest and 24 CFR Part 5, Subpart A for fair housing. Applicants are encouraged to familiarize themselves with all of the applicable state and federal rules that govern the program.

2) **Allocation of HOME Funds.**
   a) These funds are made available through the Department's allocation of HOME funds from the U.S. Department of Housing and Urban Development (HUD). These HOME funds have been programmed for rental housing development activities involving new construction, rehabilitation, acquisition and rehabilitation of affordable housing. The funds made available under this NOFA are subject to the following set-asides.
      i) **CHDO Set-Aside.** At least $5,590,030 in funds are set-aside to eligible Community Housing Development Organizations (CHDOs) meeting the requirements of 10 TAC §53.50 and this NOFA.
      ii) **Persons with Disabilities Set-Aside.** $1,000,000 in funds are set-aside to fund Applications proposing all of their HOME units to be restricted for persons with disabilities and are subject to the Department's Integrated Housing Rule at 10 TAC §1.15. Funds requested and awarded under this set-aside may be located in any area of the state including within other Participating Jurisdictions. Funds requested and awarded under this set-aside are subject to a $500,000 per Application funding limit.
      iii) **General Set-Aside.** The remaining $5,000,000 in funds shall be available to all other Applications proposing Rental Housing Development that meet the requirements of this NOFA, the HOME Program Rule, and the Federal HOME regulations.
      iv) An Applicant may have only one active Application under at a time and may apply under one set-aside at a time. Additionally, the following processes will be followed for the review and award of Applications:
         (1) Once all funds from the CHDO has been awarded, all pending Applications remaining in this set-aside will be considered for funds under the General set-aside;

(2) Once all funds from the Persons with Disabilities Set-Aside have been awarded, pending Applications under this set-aside must reapply to be considered under the General or other set-asides due to the different statutory and NOFA requirements for these Applications; and
(3) The Department may complete the CHDO Certification process for Applications that originally applied under the CHDO set-aside but receiving funds from the General set-aside in order to meet the Department's future obligations to award funds CHDO activities.

b) In accordance with 10 TAC §53.48, this NOFA will be conducted as an open Application cycle and funding will be available on a first-come, first-served basis. Applications for funds under the CHDO or General Set-Asides, submitted prior to 5:00 p.m. on **July 20, 2009** are subject to the Regional Allocation Formula (RAF) as follows:

Table 1. CHDO Set-Aside Regional Allocation

Region	Place for Geographical Reference	Regional Funding Amount	Regional Funding %	Rural Funding Amount	Rural Funding %	Urban Funding Amount	Urban Funding %
1	Lubbock	$300,082	5.4%	$300,015	100.0%	$67	0.0%
2	Abilene	$204,588	3.7%	$198,870	97.2%	$5,718	2.8%
3	Dallas/Fort Worth	$1,095,392	19.6%	$317,968	29.0%	$777,423	71.0%
4	Tyler	$624,559	11.2%	$530,815	85.0%	$93,744	15.0%
5	Beaumont	$282,240	5.0%	$258,373	91.5%	$23,867	8.5%
6	Houston	$412,502	7.4%	$145,989	35.4%	$266,514	64.6%
7	Austin/Round Rock	$292,062	5.2%	$120,252	41.2%	$171,810	58.8%
8	Waco	$178,041	3.2%	$126,300	70.9%	$51,741	29.1%
9	San Antonio	$282,362	5.1%	$184,797	65.4%	$97,565	34.6%
10	Corpus Christi	$378,105	6.8%	$266,651	70.5%	$111,454	29.5%
11	Brownsville/Harlingen	$1,109,964	19.9%	$623,975	56.2%	$485,989	43.8%
12	San Angelo	$245,995	4.4%	$105,935	43.1%	$140,060	56.9%
13	El Paso	$184,137	3.3%	$134,428	73.0%	$49,709	27.0%
	Total	$5,590,030	100.0%	$3,314,369	59.3%	$2,275,661	40.7%

Table 2. General Set-Aside Regional Allocation

Region	Place for Geographical Reference	Regional Funding Amount	Regional Funding %	Rural Funding Amount	Rural Funding %	Urban Funding Amount	Urban Funding %
1	Lubbock	$268,408	5.4%	$268,348	100.0%	$60	0.0%
2	Abilene	$182,994	3.7%	$177,879	97.2%	$5,115	2.8%
3	Dallas/Fort Worth	$979,773	19.6%	$284,407	29.0%	$695,366	71.0%
4	Tyler	$558,636	11.2%	$474,787	85.0%	$83,849	15.0%
5	Beaumont	$252,450	5.0%	$231,102	91.5%	$21,348	8.5%
6	Houston	$368,963	7.4%	$130,580	35.4%	$238,383	64.6%
7	Austin/Round Rock	$261,234	5.2%	$107,559	41.2%	$153,675	58.8%
8	Waco	$159,249	3.2%	$112,969	70.9%	$46,279	29.1%
9	San Antonio	$252,558	5.1%	$165,291	65.4%	$87,267	34.6%
10	Corpus Christi	$338,196	6.8%	$238,506	70.5%	$99,690	29.5%
11	Brownsville/Harlingen	$992,807	19.9%	$558,115	56.2%	$434,693	43.8%
12	San Angelo	$220,030	4.4%	$94,754	43.1%	$125,277	56.9%
13	El Paso	$164,701	3.3%	$120,239	73.0%	$44,462	27.0%
	Total	$5,000,000	100.0%	$2,964,536	59.3%	$2,035,464	40.7%

Any funds not requested in an Application received by 5:00 p.m. **July 20, 2009**, will collapse into an open Application cycle with funding available statewide and not subject to the RAF. Applications for funds under the Persons with Disabilities Set-Aside are not subject to the Regional Allocation formula and are available statewide. Applicants are encouraged to review the Application process cited above and described herein. Applications that do not meet minimum threshold and financial feasibility will not be considered for funding. Based on the availability of funds, Applications for the statewide open Application cycle will be accepted until 5:00 p.m. **April 30, 2010.** The Department awards HOME funds, typically as a loan, to eligible recipients for the provision of housing for low, very low and extremely low-income individuals and families, pursuant to 10 TAC §53.41. Project funds awards are limited to no more than **$3,000,000** per Application except for Applications receiving funds from the Persons with Disabilities set-aside as provided in Section 2(a)(iii) of this NOFA.

c) Each CHDO that is awarded HOME funds may also be eligible to receive a grant for CHDO Operating Expenses. Applicants will be required to submit organizational operating budgets, audits and other financial and non-financial materials detailed in the HOME Application. The award amount for CHDO Operating Expenses shall not exceed $50,000. Awards for operating expenses will be drawn over a two-year period of time. The Department reserves the right to limit an Applicant to receive not more than one award of CHDO Operating Expenses during the same fiscal year and to further limit the award of CHDO Operating Expenses.

d) Developments involving rehabilitation must establish that the rehabilitation will substantially improve the condition of the housing and will involve at least $15,000 per unit in direct hard costs, unless the property is also being financed by the United States Department of Agriculture's Rural Development program. When HOME funds are used for a rehabilitation development the entire unit must be brought up to the applicable property standards, pursuant to 24 CFR §92.251(a)(1).

3) **Eligible and Prohibited Activities.**
   a) Eligible activities will include those permissible under the federal HOME Rule at 24 CFR §92.205, the State HOME Rules at 10 TAC §§53.34 and 53.50, which involve only the acquisition, rehabilitation or construction of affordable rental developments.

   b) Prohibited activities include those under federal HOME rules at 24 CFR §92.214 and 10 TAC §53.37.

   c) Rental development funds will not be eligible for use in a Participating Jurisdiction (PJ) except for Applications receiving funds under the Persons with Disabilities set-aside.

   d) Refinancing of federally financed properties or use of HOME funds for properties constructed within five (5) years of the submission of an Application for assistance will not be permissible.

4) **Eligible and Ineligible Applicants.**
   a) The Department provides HOME funding to qualified nonprofit organizations, for-profit entities, sole proprietors, public housing authorities and units of general local government.

   b) Applicants will be ineligible for funding if they meet any of the criteria listed in §53.42 of the Department's HOME rule or as provided in 10 TAC §49.5(a) excluding subsections (5) - (8). Applicants are encouraged to familiarize themselves with the Department's certification and debarment policies prior to Application submission.

5) **Matching Funds.** Applicants will be required to submit documentation on all financial resources to be used in the development that may be considered match to the Department's federal HOME requirements. Applicants must provide firm commitments as defined in accordance with the Federal HOME rules at 24 CFR §92.218 and the Department's Match Guide and will be provided with the appropriate forms and instructions on how to report eligible match.

6) **Affordability Requirements.**
   a) Applicants should be aware that there are minimum affordability standards necessary for HOME assisted rental developments. Unless further restricted, initial occupancy income restrictions require that at least 90% of the units are affordable to persons below 60% AMFI and that 20% of the units are affordable to person below 50% AMFI. Over the remaining affordability period at least 20% of HOME assisted units should be affordable to persons earning 50% or less than the AMFI, all remaining units must be affordable to persons earning 80% or less than the AMFI.

   b) Each development will have a two-tier affordability term to be structured as follows:
      i) The first tier will entail the federally required affordability term. For new construction or acquisition of new housing, this term is twenty (20) years. For rehabilitation or acquisition of existing housing, the term is five (5) years if the HOME investment is less than $15,000 per unit; 10 years if the HOME investment is $15,000 to $40,000 per unit; and fifteen (15) years if the HOME investment is greater than $40,000 per unit. This first tier is subject to all federal laws and regulations regarding HOME requirements, recapture, net proceeds and affordability.
      ii) The second tier of affordability is the additional number of years required to bring the total term of affordability up to thirty (30) years or the term of the loan agreement. For example, the second tier of affordability on a 10-year federal affordability term is twenty (20) additional years. The second tier, or remaining term, is subject only to state regulations and affordability requirements.

c) All Applicants will be required to enter into a contract with the Department and properties will be restricted under a Land Use Restriction Agreement ("LURA"), or other such instrument as determined by the Department for these terms. Among other restrictions, the LURA may require the owner of the property to continue to accept subsidies which may be offered by the federal government, prohibit the owner from exercising an option to prepay a federally insured loan, impose tenant income-based occupancy and rental restrictions, or impose any of these and other restrictions as deemed necessary at the sole discretion of the Department in order to preserve the property as affordable housing on a case-by-case basis.

d) Applications receiving funds from the Persons with Disabilities set-aside will be required to designate all HOME units as "fixed HOME units" as provided in 24 CFR §92.252(j). All other Applications are required to designate all HOME units as "floating HOME units" as provided in 24 CFR §92.252(j).

7) Site and Development Restrictions.

a) Pursuant to 24 CFR §92.251, housing that is constructed or rehabilitated with HOME funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. In the absence of a local code for new construction or rehabilitation, HOME-assisted new construction or rehabilitation must meet, as applicable, one of three model codes: Uniform Building Code (ICBO), National Building Code (BOCA), Standard (Southern) Building Code (SBCCI); or the Council of American Building Officials (CABO) one or two family code; or the Minimum Property Standards (MPS) in 24 CFR §200.925 or §200.926. To avoid duplicative inspections when Federal Housing Administration (FHA) financing is involved in a HOME-assisted property, a participating jurisdiction may rely on a Minimum Property Standards (MPS) inspection performed by a qualified person. Newly constructed housing must meet the current edition of the Model Energy Code published by the Council of American Building Officials.

b) All other HOME-assisted housing (e.g., acquisition) must meet all applicable State and local housing quality standards and code requirements and if there are no such standards or code requirements, the housing must meet the housing quality standards in 24 CFR §982.401. When HOME funds are used for a rehabilitation development the entire unit must be brought up to the applicable property standards, pursuant to 24 CFR §92.251(a) (1). All multifamily rehabilitation developments are subject to a Uniform Physical Conditions Standards inspection. All deficiencies identified in that inspection must be corrected before final retainage is released.

c) Housing developments must meet the accessibility requirements at 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794). Multifamily housing developments must meet the design and construction requirements at the Texas Administrative Code, Title 10, Chapter 60, Subchapter (B) 10 TAC §§60.201-211). Covered multifamily dwellings, as defined at 24 CFR §100.201 as well as common use facilities in developments with covered dwellings must meet the design and construction requirements at 24 CFR §100.205, which implement the Fair Housing Act (42 U.S.C. 3601–3619) and the design and construction requirements of the Fair Housing Act Design Manual. Additionally, pursuant to the 2009 Qualified Allocation Plan (QAP), 10 TAC §49.9(h)(4)(H), Developments involving New Construction (excluding New Construction of nonresidential buildings) where some Units are two-stories and are normally exempt from Fair Housing accessibility requirements, a minimum of 20% of each Unit type (i.e. one bedroom, two bedroom, three bedroom) must provide an accessible entry level and all common-use facilities in compliance with the design and construction requirements of the Fair Housing Act Design Manual, and include a minimum of one bedroom and one bathroom or powder room at the entry level. A compliance certification will be required after the Development is completed from an inspector, architect, or accessibility specialist. Any Developments designed as single family structures must also satisfy the requirements of §2306.514, Texas Government Code.

d) All Applications will be required to meet Section 8 Housing Quality Standards detailed under 24 CFR §982.401, Texas Minimum Construction Standards, as well as the Fair Housing Accessibility Standards and Section 504 of the Rehabilitation Act of 1973 as reflected in Subsection (c) of this Section. Developments must also meet all local building codes or standards that may apply. If the development is located within a jurisdiction that does not have building codes, developments must meet the most current International Building Code.

e) For funds being used for Rental Housing Developments, the Recipient must establish a reserve account consistent with §2306.186, Texas Government Code, and as further described in 10 TAC §1.37, pursuant to 10 TAC §53.45(c).

f) 10 TAC §49.6 of the Qualified Allocation Plan and Rules apply, except for subsections (d), (f), (g), (h), and (k).

g) Developments involving new construction will be limited to 252 Units. These maximum Unit limitations also apply to those Developments which involve a combination of rehabilitation and new construction. Developments that consist solely of acquisition/rehabilitation or rehabilitation only may exceed the maximum Unit restrictions. The minimum number of units shall be 4 units, pursuant to 10 TAC §53.45(b).

8) **Public Notification Requirements.** Evidence in the form of a certification of all of the notifications described in the subsections of this section is required. Such notices must be prepared in accordance with the "Public Notifications" certification provided in the Application.

a) Neighborhood Organizations Request. Evidence in the form of a certification that the Applicant met the requirements and deadlines identified in the clauses of this subsection and proof thereof is required. Notifications must not be older than three (3) months prior to the date the Application is submitted.

i) The Applicant must request a list of Neighborhood Organizations on record with the county and state whose boundaries include the proposed Development Site from local elected officials as follows:

(1) Not later than fourteen (14) days prior to submission of the Application, the Applicant must e-mail, fax or mail with registered receipt a completed "Neighborhood Organization Request" letter as provided in the Application materials to the local elected official for the city and county where the Development is proposed to be located. If the Development is located in an Area that has district based local elected officials, or both at-large and district based local elected officials, the request must be made to the city council member or county commissioner representing that district; if the Development is located an Area that has only at-large local elected officials, the request must be made to the mayor or county judge for the jurisdiction. If the Development is not located within a city or is located in the Extra Territorial Jurisdiction (ETJ) of a city, the county local elected official must be contacted. In the event that local elected officials refer the Applicant to another source, the Applicant must request Neighborhood Organizations from that source in the same format;

(2) If no reply letter is received from the local elected officials by seven (7) days prior to the submission of the Application, then the Applicant must certify to that fact in the "Application Notification Certification Form" provided in the Application materials;

(3) The Applicant must list all Neighborhood Organizations on record with the county or state whose boundaries include the proposed Development Site as outlined by the local elected officials, or that the Applicant has knowledge of as of the submission of the Application, in the "Application Notification Certification Form" provided in the Application.

b) Written Notification. Not later than the date the Application is submitted, Applicants are required to provide written notification by e-mail, fax or mail with registered receipt return or similar tracking mechanism in the format required in the "Application Notification Template" provided in the Application materials to each of the following persons or entities. Failure to provide written notifications not later that the date the Application is submitted, at a minimum, will cause an Application to be terminated. Applicants must provide notifications to:
   i) Neighborhood Organizations on record with the state or county whose boundaries include the proposed Development Site as identified in subsection (a) of this section.
   ii) Superintendent of the school district containing the Development;
   iii) Presiding officer of the board of trustees of the school district containing the Development;
   iv) Mayor of the Governing Body of any municipality containing the Development;
   v) All elected members of the Governing Body of any municipality containing the Development;
   vi) Presiding officer of the Governing Body of the county containing the Development;
   vii) All elected members of the Governing Body of the county containing the Development;
   viii) State senator of the district containing the Development; and
   ix) State representative of the district containing the Development.

c) Each such notice must include, at a minimum, all of the following:
   i) The Applicant's name, address, individual contact name and phone number;
   ii) The Development name, address, city and county;
   iii) A statement informing the entity or individual being notified that the Applicant is submitting a request for HOME funds with the Texas Department of Housing and Community Affairs;
   iv) Statement of whether the Development proposes New Construction, reconstruction, Adaptive Reuse or Rehabilitation;
   v) The type of Development being proposed (single family homes, duplex, apartments, townhomes, high-rise etc.) and population being served (family, Intergenerational Housing or elderly);
   vi) The approximate total number of Units and approximate total number of low-income Units;
   vii) The approximate percentage of Units serving each level of AMGI (e.g. 20% at 50% of AMGI, etc.) and the approximate percentage of Units that are market rate;
   viii) The number of Units and proposed rents (less utility allowances) for the low-income Units and the number of Units and the proposed rents for any market rate Units. Rents to be provided are those that are effective at the time of the Application, which are subject to change as annual changes in the area median income occur;
   ix) The expected completion date if funds are awarded; and
   x) Any other information required in the ASPM or 10 TAC §49.9(h)(8) of the Qualified Allocation Plan and Rules (QAP).

d) Signage on Property or Alternative. A Public Notification Sign shall be installed on the Development Site prior to the date the Application is submitted unless prohibited by local ordinance or code. Scattered site Developments must install a sign on each non-contiguous Development Site. Evidence submitted with the Application must include photographs of the site with the installed sign. The sign must be at least 4 feet by 8 feet in size and located within twenty feet of, and facing, the main road adjacent to the site. The sign shall be continuously maintained on the site until the day that the Board takes final action on the Application for the Development. The information and lettering on the sign must meet the minimum requirements identified in the Application materials. In areas where the Public Notification Sign is prohibited by local ordinance or code, an alternative to installing a Public Notification Sign and at the same required time, the Applicant shall, mail written notification to those addresses described in either paragraph (i) or (ii) of this subsection. This written notification must include the information otherwise required for the sign as provided in the Application materials. The Application must include a map of the proposed Development Site and mark the distance required by paragraph (i) or (ii) of this subsection, up to 1,000 feet, showing street names and addresses; a list of all addresses the notice was mailed to; an exact copy of the notice that was mailed; and a certification that the notice was mailed through the U.S. Postal Service and stating the date of mailing. If Public Notification Sign is prohibited by local ordinance or code, evidence of the applicable ordinance or code must be submitted in the Application.

i) All addresses required for notification by local zoning notification requirements. For example, if the local zoning notification requirement is notification to all those addresses within 200 feet, then that would be the distance used for this purpose; or
ii) For Developments located in communities that do not have zoning, communities that do not require a zoning notification or those located outside of a municipality, all addresses located within 1,000 feet of any part of the proposed Development Site.

e) If any of the Units in the Development are occupied at the time of Application, then the Applicant must certify that it has notified each tenant at the Development of all the information otherwise required on the sign, including the Department's public hearing schedule for comment on submitted Applications, if applicable.

9) Threshold Criteria. The following Threshold Criteria listed in this section are mandatory requirements at the time of Application submission unless specifically indicated otherwise.

a) **Uniform Requirements.** All the Threshold requirements in 10 TAC §49.9(h) of the Qualified Allocation Plan and Rules (QAP) in effect at the time of Application submission are requirements except as provided herein. For the purposes of receiving funds under this NOFA, the definition of Application Acceptance Period in the QAP shall be the date that the Application is submitted. For the purposes of receiving funds under this NOFA, the following subsections of 10 TAC §49.9(h) are not required:
i) §49.9(h)(4)(J) regarding General Contractor requirements for tax credit Applications;
ii) §49.9(h)(11) regarding nonprofit set-aside requirements for tax credit Applications;
iii) §49.9(h)(12) regarding acquisition tax credits;
iv) §49.9(h)(14)(G) regarding third-party report deadlines for tax credit Applications; and
v) §49.9(h)(15) regarding self scoring for competitive cycle tax credit Applications.

b) **Unit Restrictions.** Housing units subsidized by HOME funds must be affordable to low, very-low or extremely low-income persons. Mixed Income rental developments may only receive funds for units that meet the HOME program affordability standards. Additionally, each Application must meet the following requirements:
i) All Applications intended to serve persons with disabilities must adhere to the Department’s Integrated Housing Rule at 10 TAC §1.15.
ii) To encourage the inclusion of families and individuals with the highest need for affordable housing, Applicants must target a minimum of 5% of the total units for individuals or families earning 30% or less of area medium income for the development site. Additionally, 20% of the total units proposed must be HOME units. Developments with existing and

continuing USDA 515 program loans and rental assistance or project-based Section 8 are exempt from these minimum target requirements.

iii) All units targeting Extremely Low Income households at 30% or 40% of area median income must also restrict rents at comparable levels using the Housing Tax Credit program rents calculated annually by the Department and available on the Department's website (www.tdhca.state.tx.us). These additional restrictions will limit the tenant paid portion of the rent and any applicable utility allowance but will not limit the amount of any rental assistance unless required by Federal law.

iv) Applications requesting funds under the Persons with Disabilities Set-Aside are exempt from Paragraph (ii) of this subsection, but must restrict 5% of the HOME units set-aside for persons with disabilities at 30% of AMI and 100% of the HOME units set aside for persons with disabilities at 50% of AMI.

c) **Loan Terms.** All project funds awarded to eligible Applications under this NOFA will be structured as a loan(s), will be supported by documents required by 10 TAC §53.80, and will meet the following requirements at the time of Application and as underwritten:

i) The interest rate may be as low as 0% and may be adjusted by the Real Estate Analysis division in accordance with 10 TAC §1.32(d)(4);

ii) The Loan term will be no less than 15 years and no greater than 40 years and the amortization period will be no less than 20 years and no greater than 40 years;

iii) The Loan(s) will be structured with a regular payment due monthly based on the amortization period. Loan(s) will not be structured with contingent payments except as allowable for Applications meeting paragraph (vi) of this subsection or for Applications with first lien debt that is insured by HUD or the Federal Housing Administration (FHA) or for Applications with other lenders with which the Department has a Memorandum of Agreement permitting such contingent payment debt structures. All contingent payment loans must also meet the minimum debt coverage ratio requirements in the Real Estate Analysis Rules and Guidelines described in 10 TAC §1.32, including being underwritten at a minimum DCR of 1.15 inclusive of the funds requested under this NOFA.

iv) The lien position of the Department's loan(s) shall generally be based on the amount of the Department's loan(s) in relation to the other sources of debt. However, the Department may require a superior position to sources that are greater than the Department's funds if the lender is a related party to any member of the development team or if the other source of debt is structured with a contingent payment or without any regular payment.

v) The Department's loan(s) must close within 6 months of execution of the contract and each loan shall be structured with an 18 month development period. An extension to these timeframes may be requested as allowed in 10 TAC §53.74.

vi) If the Applicant elects to restrict 10% of all units for households at or below 30% of AMFI and at least 50% of all units for households at or below 50% of AMFI, and those units are not designated to serve very or extremely low-income households through another subsidy source with the exception of developments with existing and continuing USDA 515 program loans and rental assistance or project-based Section 8, the Department may allow up to 50% of the total HOME award to be structured as a deferred forgivable loan with a term equal to the affordability period. Developments layered with Housing Tax Credits are not eligible for this optional election unless the funds are deducted from eligible basis. Applications must still meet the requirements of the Real Estate Analysis (REA) Rules and Guidelines in 10 TAC §1.32.

d) **Leveraging of Other Public or Private Resources.** To encourage the involvement of other public agencies and private entities in affordable housing, Applicants must provide a minimum percentage of the total development costs in loans, in-kind contributions, or grants from third-party public or private entities. The maximum award may not exceed 90% of the Total Development Costs ("TDC") unless a resolution of support for the development is made by the local unit of government in which the proposed development resides and/or the proposed development is located in an area where the HUD Fair Market Rents are equal to the respective HOME Rent Limit for a one-bedroom unit but will be limited per Table 3:

Table 3. Maximum HOME Award as a Percentage of Total Development Cost ("TDC")

Rent	Resolution from Local Government	Max award as % of TDC	% of TDC from other sources
FMR greater than High Home	No	90%	10%
FMR greater than High Home	Yes	92%	8%
FMR equal to High Home	No	93%	7%
FMR equal to High Home	Yes	95%	5%
FMR equal to Low Home	No	96%	4%
FMR equal to Low Home	Yes	98%	2%

The remaining percentage of total development cost must be in the form of permanent loans with a maturity of at least twenty (20) years, in-kind contributions or grants from third-party private or public entities. Developments with USDA or other government-sponsored loans that will remain as permanent financing may be used to satisfy this requirement from a public or private entity. Loans or grants from the Department will not satisfy this requirement. The Department's underwriting guidelines in 10 TAC §1.32 will be used which set as a feasibility criterion a 1.15 debt coverage ratio minimum and 1.35 maximum.

e) **Funding Limits.** In addition to the limits per Application described in sections (2)(a)(ii) and (2)(b) of this NOFA, Applicant awards will be limited as follows:
   i) The Department will determine the maximum amount of HOME funds or minimum number of HOME units by pro-rating the total HOME eligible development costs of the project in accordance with 24 CFR 92.205(d). The total HOME funds as a percentage of total HOME eligible development costs may not exceed the total HOME restricted units as a percentage of the total units (For example: [total HOME funds / total HOME eligible cost] may not exceed [total HOME units / total units]). Applicants are encouraged to review "HOME eligible costs" in the HOME Final Rule, 24 CFR §§92.205 and 92.206.
   ii) The total HOME funding may not exceed the per-unit dollar limitations established under section 221(d)(3) of the National Housing Act (12 U.S.C. 17151(d)(3)), which are applicable to the area in which the development is located, and as published by HUD.
   iii) Funds awarded under this NOFA shall meet all other subsidy and funding limits required in the HOME Rule at 24 CFR Part 92.

f) **Financial Capacity.** If the Department's loan(s) amount to more than 50% of the total development cost, except for developments also financed through the USDA-515 program, the Application will include:
   i) A letter from a third party CPA verifying the capacity of the owner or developer to provide at least 10% of the total development cost as a short term loan for development; and
   ii) A letter from the developer's or owner's bank(s) confirming funds amounting to 10% of the total development cost are available; or
   iii) Evidence of a line of credit or equivalent tool equal to at least 10% of the total development cost from a financial institution that is available for use during the proposed development activities.

g) **Affirmative Marketing.** Documentation of compliance with the Affirmative Marketing requirements in the Fair Housing Act and TDHCA Compliance Rules at 10 TAC §60.112(d). Applicants will be required to use HUD form 935.2a to meet these requirements.

h) **Site and Neighborhood.** For Applications proposing new construction, documentation sufficient to meet the Site and Neighborhood Standards required in 24 CFR §92.202 and as required in the Final Application and Submission Procedures Manual (ASPM).

i) **Application Certifications.** All Applicants will be required to certify to compliance with the following:
   i) Davis-Bacon Act (24 CFR §92.354);
   ii) Environmental standards (24 CFR Parts 50 & 58);
   iii) Uniform Relocation Act (49 CFR Part 24); and
   iv) Lead Safe Housing Rule (24 CFR Part 35).
   v) Other certifications may be required as specifically stated in the ASPM current at the time of Application.
   vi) Audit Certification. An Applicant is not eligible to apply for funds or any other assistance from the Department unless audits are current at the time of Application or the Audit Certification Form has been submitted to the Department in a satisfactory format on or before the Application deadline for funds or other assistance per 10 TAC §1.3(b).
   vii) Per 10 TAC §53.44(c) all entities receiving funds of $25,000 or more must be registered in the federal Central Contractor Registration (CCR) and have a current Data Universal Numbering System (DUNS) number.

j) **CHDO Certification.** Requirements under this subsection must only be met for Applications considered for an award of funds from the CHDO Set-Aside. CHDO Certification will be awarded in accordance with the rules and procedures as set forth in the HOME rules at 10 TAC §53.50, Community Housing Development Organization (CHDO) Certification. CHDO Certification Applications must meet the requirements of 10 TAC §53.50 at the time of Application submission. Additionally, the following apply:
   i) CHDO Applicants must be the Sponsor, Owner or Developer of the proposed Development. Applicants who apply through a Limited Partnership will be required to provide evidence, at the time of CHDO certification and commitment, that the CHDO Applicant is the Managing General Partner of the partnership and has effective control (decision making authority) over the development and management of the property, pursuant to 24 CFR §92.300.
   ii) A separate Application process is required for CHDO Certification and to meet the CHDO set-aside requirements. Review and approval of the CHDO Certification occurs during the threshold review process, however Applicants will not receive a formal certification until the award of the HOME funds has been approved by the Department's Board.
   iii) A new Application for CHDO certification must be submitted to the Department with each new Application for HOME Development funds under the CHDO set aside. The CHDO Application package will be available with all other Application materials on the Department's website.

10) Review Process.

a) Pursuant to 10 TAC §53.48, each Application will be handled on a first-come, first-served basis as further described in this section. Each Application will be assigned a Received Date based on the date and time it is physically received by the Division. Then each Application will be reviewed on its own merits in three review phases, as applicable. Applications will continue to be prioritized for funding based on their Received Date unless they do not proceed into the next phase(s) of review. Applications proceeding in a timely fashion through a phase will take priority over Applications that may have an earlier Received Date but that did not timely complete a phase of review. Applications will be reviewed for Applicant and Activity Eligibility, Threshold Criteria, and Financial Feasibility as described in this NOFA.

i) Phase One will begin as of the Received Date and will include a review of eligibility and threshold criteria and all Application requirements. The Department will ensure review of materials required under the NOFA and ASPM and will issue a notice of any Administrative Deficiencies for threshold criteria and eligibility within forty-five (45) days of the Received Date. Applicants who are able to resolve their Administrative Deficiencies within five (5) business days will be forwarded into Phase Two, if applicable. Applications with Administrative Deficiencies not cured within five (5) business days, will be terminated and must reapply for consideration of funds.

ii) Phase Two will include a comprehensive review for financial feasibility. Financial feasibility reviews will be conducted by the Real Estate Analysis (REA) Division consistent with 10 TAC §1.32. REA will create an underwriting report identifying staff's recommended Loan terms, the Loan amount and any conditions to be placed on the Development. The Department will issue a notice of any Administrative Deficiencies within fourteen (45) days of the date the Application enters Phase Two. Applicants who are able to resolve their Administrative Deficiencies within five (5) business days will be forwarded into Phase Three, if applicable. Applications with Administrative Deficiencies not satisfied within five (5) business days, will be terminated and must reapply for consideration of funds. Applications that have completed this Phase and do not require additional review in Phase Three will be considered for placement on the next available Board meeting agenda.

iii) Phase Three will only entail the review of the CHDO Certification Application, if applicable. The Department will ensure review of these materials and issue notice of any Administrative Deficiencies on the CHDO Certification Application within thirty (30) days of the Application enters Phase Three. Applicants who are able to resolve their Administrative Deficiencies within five (5) business days will be forwarded into the final review phase of the Application process. Applications with Administrative Deficiencies not cured within five (5) business days, will be terminated and must reapply for consideration of funds or must elect to withdraw from the CHDO Set-Aside and withdraw the CHDO Certification Application. Only upon satisfaction of all Administrative Deficiencies will the Application be forwarded to the final phase of the Application process. Upon completion of the applicable final review phase, the Application will be considered for placement on the next available Board meeting agenda.

b) Because Applications are processed in the order they are received by the Department, it is possible that the Department will expend all available HOME funds before an Application has completed all phases of its review. In the case that all HOME funds are committed before an Application has completed all phases of the review process, the Department will notify the Applicant that their Application will remain active for ninety (90) days in its current phase. If new HOME funds become available, Applications will continue onward with their review without losing their Received Date priority. If HOME funds do not become available within ninety (90) days of the notification, the Applicant will be notified that their Application is no longer under consideration. The Applicant must reapply to be considered for future funding. If on the date an Application is received by the Department, no funds are available under this NOFA, the Applicant will be notified that no funds exist under the NOFA and the Application will not be processed.

c) Pursuant to the QAP and 10 TAC §53.42 if a submitted Application has an entire Volume of the Application missing; has excessive omissions of documentation from the Threshold Criteria or Uniform Application documentation; or is so unclear, disjointed or incomplete that a thorough review cannot reasonably be performed by the Department, as determined by the Department, the Application will be terminated with notice and rights to appeal but without being processed as an Administrative Deficiency. To the extent that a review was unable to be performed, specific reasons for the Department's determination of ineligibility will be included in the termination letter to the Applicant.

d) A site visit may be conducted as part of the HOME Program development feasibility review. Applicants must receive recommendation for approval from the Department to be considered for HOME funding by the Board.

e) The Department may decline to consider any Application if the proposed activities do not, in the Department's sole determination, represent a prudent use of the Department's funds. The Department is not obligated to proceed with any action pertaining to any Applications which are received, and may decide it is in the Department's best interest to refrain from pursuing any selection process. The Department strives, through its loan terms, to securitize its funding while ensuring the financial feasibility of a Development. The Department reserves the right to negotiate individual elements of any Application.

f) In accordance with §2306.082 Texas Government Code and 10 TAC §53.6, it is the Department's policy to encourage the use of appropriate Alternative Dispute Resolution procedures ("ADR") under the Governmental Dispute Resolution Act, Chapter 2009, Texas Government Code, to assist in resolving disputes under the Department's jurisdiction. As described in Chapter 154, Civil Practices and Remedies Code, ADR procedures include mediation. Except as prohibited by the Department's ex parte communications policy, the Department encourages informal communications between Department staff and Applicants, and other interested persons, to exchange information and informally resolve disputes. The Department also has administrative appeals processes to fairly and expeditiously resolve disputes. If at anytime an Applicant or other person would like to engage the Department in an ADR procedure, the person may send a proposal to the Department's Dispute Resolution Coordinator. For additional information on the Department's ADR Policy, see the Department's General Administrative Rule on ADR at 10 TAC §1.17.

g) An Applicant may appeal decisions made by staff in accordance with 10 TAC §1.7.

11) Administration.

a) All Applicants receiving an award under this NOFA will be required to enter into a contract with the Department and will be subject to the contract requirements in 10 TAC Chapter 53 Subchapters F and G. Additionally, Applicants are encouraged to review the Department's Rental Housing Development Manual for guidance on administration of rental housing development awards and contracts (www.tdhca.state.tx.us/home-division/manuals-rules.htm).

b) When Department funds have a first lien position and funds are used for new construction and/or rehabilitation, assurance of completion of the development in the form of payment and performance bonds in the full amount of the construction contract will be required or equivalent guarantee in the sole determination of the Department. Such assurance of completion will run to the Department as obligee and must be documented prior to closing. Applications also utilizing the USDA 515 program are exempt from this requirement but must meet the alternative requirements set forth by USDA.

12) Tie Breaker Factors. In the event that two or more Applications receive the same priority based upon the provisions of section 10 of this NOFA in any given Set-Aside category and are both practicable and economically feasible, the Department will utilize the factors in this section, in the order they are presented, to determine which Development will receive a preference in consideration for an awarded of funds.

a) Applications involving any Rehabilitation or Reconstruction of existing Units will win this first tier tie breaker over Applications involving solely New Construction or Adaptive Reuse.

b) The Application with the least amount of HOME funds per HOME restricted unit will win this second tier tie breaker.

13) Application Submission.

a) All Applications submitted under this NOFA must be received on or before **5:00 p.m. on April 30, 2010.** The Department will accept Applications from 8 a.m. to 5 p.m. each business day, excluding federal and state holidays from the date this NOFA is published on the Department's web site until the deadline. For questions regarding this NOFA please contact Cameron Dorsey at 512-475-2669 or via e-mail at cameron.dorsey@tdhca.state.tx.us.

b) If an Application is submitted to the Department that requests funds from two separate housing finance programs, the Application will be handled in accordance with the guidelines for each housing program. The Applicant is responsible for adhering to the deadlines and requirements of both programs.

c) All Applications must be submitted, and provide all documentation, as described in this NOFA and associated Application materials.

d) Applicants must submit the Application materials as detailed in the Final ASPM in effect at the time the Application is submitted. All scanned copies must be scanned in accordance with the guidance provided in the Final ASPM in effect at the time the Application is submitted.

e) The Application consists of several parts as described in the Final ASPM. A complete Application for each proposed development must be submitted in an electronic PDF format on a recordable compact disc (CD-R). Incomplete Applications or improperly compiled Applications will not be accepted. Applicants must submit the Application materials as detailed in the Final ASPM in effect at the time the Application is submitted.

f) Third Party Reports. If all applicable third party reports are not received at the time of Application submission, the Application will be terminated.

g) If a development has an existing Housing Tax Credit allocation or HOME contract with the Department and construction on the development has not begun, an abbreviated Application for a HOME award or for an increase in the existing HOME award can be submitted under this NOFA. If additional funds are sought, such an Application may also request that the terms for the additional HOME funds also apply for the funds in an existing HOME Contract. The entire amount of HOME funds received from the Department may not exceed the maximum award per development as reflected in this NOFA for the respective set-aside. An Application qualifying for the abbreviated Application process may be considered by staff to have already met the threshold requirements in sections (8) and (9)(a) of this NOFA without additional review unless staff determines additional documentation is required in accordance with Paragraph (h) below.

h) The requirements of the abbreviated Application will be reflected in the Application Submission Procedures Manuel (ASPM). In addition to the Application requirements in the ASPM, staff may use discretion to determine if additional information that is typically required in the full Application (including third party reports) is necessary or prudent in order to review for compliance with state or federal rules or due to changes in the market since last reviewed by the Department. Full Application and an amendment may be required for any Application that includes changes to the previous Board approved Application beyond those that are directly related to the development costs, financing structure or additional HOME program related requirements or that affect an existing allocation of Housing Tax Credits.

i) All Application materials including manuals, NOFA, program guidelines, and all applicable HOME rules, will be available on the Department's website at www.tdhca.state.tx.us. Applications will be required to adhere to the HOME Rule and threshold requirements in effect at the time of the Application submission. Applications must be on forms provided by the Department, and cannot be altered or modified and must be in final form before submitting them to the Department.

j) Applicants are required to remit a non-refundable Application fee payable to the Texas Department of Housing and Community Affairs in the amount of $500.00 per Application. Payment must be in the form of a check, cashier's check or money order. Do not send cash. Section 2306.147(b) of the Texas Government Code requires the Department to waive Application fees for nonprofit organizations that offer expanded services such as child care, nutrition programs, job training assistance, health services, or human services. These organizations must include proof of their exempt status and a description of their supportive services in lieu of the Application fee. An Application fee is not required for Applications submitted pursuant to Paragraph (g) above and that have an existing HOME Contract with the Department. The Application fee is not a reimbursable cost under the HOME Program.

k) Applications must be sent via overnight delivery to:

HOME Division
Texas Department of Housing and Community Affairs
Attn: Barbara Skinner
221 East 11th Street
Austin, TX 78701-2410

or via the U.S. Postal Service to:

HOME Division
Texas Department of Housing and Community Affairs
Attn: Barbara Skinner
Post Office Box 13941
Austin, TX 78711-3941

NOTE: *This NOFA does not include the text of the various applicable regulatory provisions that may be important to the particular HOME Rental Housing Development Program. For proper completion of the Application, the Department strongly encourages potential Applicants to review all applicable State and Federal regulations.*

Texas Department of Housing and Community Affairs

HOME Investment Partnerships Program

Colonia Model Subdivision and Single-Family Development Program
Community Housing Development Organization (CHDO)
Notice of Funding Availability (NOFA)

1) Summary

The Texas Department of Housing and Community Affairs ("the Department") announces the availability of approximately $3,000,000 in funding from the HOME Investment Partnerships Program for Community Housing Development Organizations (CHDOs) to develop new single-family housing for Texans with low-incomes. The availability and use of these funds is subject to the Department's HOME Program Rule at Title 10 Texas Administrative Code (10 TAC) Chapter 53 in effect at the time the application is submitted, the Federal HOME regulations governing the HOME program (24 CFR Part 92), and Chapter 2306, Texas Government Code. Other federal regulations may also apply such as, but not limited to, 24 CFR parts 50 and 58 for environmental requirements, Davis-Bacon Act for labor standards, 24 CFR §85.36 and 84.42 for conflict of interest and 24 CFR part 5, subpart A for fair housing. Applicants are encouraged to familiarize themselves with all of the applicable state and federal rules that govern the program.

2) Allocation of HOME Funds

a) These funds are made available through the Department's allocation of HOME funds from the U. S. Department of Housing and Urban Development (HUD). The program is designed to create housing options affordable to individuals and families of low income who would otherwise move into substandard housing. All funds released under this NOFA are to be used for the creation of affordable housing for low-income Texans earning 60 percent or less of the Area Median Family Income (AMFI).

b) In accordance with 10 TAC §53.48, this NOFA will be conducted as an open application cycle and funding will be available on a first-come, first-served basis. Funding made available under this NOFA is subject to the Regional Allocation Formula (RAF) and will be available as described in subsection (c) of this section. Applicants are encouraged to review the application process cited above and described herein. Applications that do not meet minimum threshold and financial feasibility will not be considered for funding. Based on the availability of funds, applications will be accepted until 5:00 p.m. on **January 29, 2010.**

c) Funds made available under this NOFA shall be subject to the Regional Allocation Formula (RAF) until **July 20, 2009** as follows (Table 1):

Table 1. Regional Allocation

Region	Place for Geographical Reference	Regional Funding Amount	Regional Funding %	Rural Funding Amount	Rural Funding %	Urban Funding Amount	Urban Funding %
1	Lubbock	$161,045	5.4%	$161,009	100.0%	$36	0.0%
2	Abilene	$109,796	3.7%	$106,728	97.2%	$3,069	2.8%
3	Dallas/Fort Worth	$587,864	19.6%	$170,644	29.0%	$417,220	71.0%
4	Tyler	$335,182	11.2%	$284,872	85.0%	$50,309	15.0%
5	Beaumont	$151,470	5.0%	$138,661	91.5%	$12,809	8.5%
6	Houston	$221,378	7.4%	$78,348	35.4%	$143,030	64.6%
7	Austin/Round Rock	$156,741	5.2%	$64,536	41.2%	$92,205	58.8%
8	Waco	$95,549	3.2%	$67,782	70.9%	$27,768	29.1%
9	San Antonio	$151,535	5.1%	$99,175	65.4%	$52,360	34.6%
10	Corpus Christi	$202,918	6.8%	$143,103	70.5%	$59,814	29.5%
11	Brownsville/Harlingen	$595,684	19.9%	$334,869	56.2%	$260,816	43.8%
12	San Angelo	$132,018	4.4%	$56,852	43.1%	$75,166	56.9%
13	El Paso	$98,821	3.3%	$72,144	73.0%	$26,677	27.0%
	Total	$3,000,000	100.0%	$1,778,722	59.3%	$1,221,278	40.7%

d) Funds made available under this NOFA and not requested under subsection (c) of this section shall be available only to applications proposing activities located entirely within a Colonia until **October 30, 2009**. After this date funds will be available statewide except for within areas served by other Participating Jurisdictions in accordance with section (3)(c) of this NOFA.
   i) In accordance with 10 TAC §53.2(20), "Colonia" in section (2)(c) of this NOFA means a geographic area that is located in a county some part of which is within 150 miles of the international border of this state, that consists of 11 or more dwellings that are located in close proximity to each other in an area that may be described as a community or neighborhood, and that:
      (I) Has a majority population composed of individuals and families of low income and very low income, based on the federal Office of Management and Budget poverty index, and meets the qualifications of an economically distressed area under Section 17.921, Water Code; or
      (II) Has the physical and economic characteristics of a colonia, as determined by the Department.

e) The Department awards HOME funds, typically as a loan, to eligible recipients for the provision of housing for low, very low and extremely low-income individuals and families, pursuant to 10 TAC §53.41. Award amounts are limited to no more than $1 million per application and per CHDO.

f) Each CHDO that is awarded HOME funds may also be eligible to receive a grant for CHDO Operating Expenses, which are defined in 24 CFR §92.208 as including salaries, wages, and other employee compensation and benefits; employee education, training, and travel; rent; utilities; communication costs; taxes; insurance; and equipment, materials, and supplies. Applicants will be required to submit organizational operating budgets, audits and other financial and non-financial materials detailed in the HOME application. The award amount for CHDO Operating Expenses shall not exceed $50,000 in accordance with 10 TAC §53.47(a)(4). Awards for operating expenses will be drawn over a two-year period of time. The Department reserves the right to limit an Applicant to receive not more than one award of CHDO Operating Expenses during the same fiscal year and to further limit the award of CHDO Operating Expenses.

3) Eligible and Prohibited Activities

a) Eligible activities will include those permissible under the federal HOME Rule at 24 CFR §92.205 and 92.254 and the State HOME Rules at 10 TAC §53.50 and 53.35, which involve the construction of affordable developments.

b) Prohibited activities include those under federal HOME rules at 24 CFR §92.214 and 10 TAC §53.37.

c) Development funds will not be eligible for use in a Participating Jurisdiction (PJ). Any HOME funds available for serving households in a PJ will only be made available under a separate NOFA for Persons with Disabilities as described in the State of Texas Consolidated Plan One-Year Action Plan.

d) A portion of funds for single-family development are set-aside for eligible CHDOs and may be used for pre-development costs, land acquisition, lot development, on-site infrastructure, construction, and down payment assistance to qualified homebuyers. Onsite infrastructure includes costs for individual service lines, approved septic installation, sidewalks, curbs and site improvements. Examples of excluded infrastructure costs are water, sewer, electrical, main or transfer lines, streets and other improvements that serve the whole community.

e) CHDO Applicants must be the developer, Contract Administrator, and construction loan borrower for the proposed development. Partnerships between CHDOs and other developers may be allowable provided the CHDO remains actively engaged and is the primary contact and any other developer partner or affiliate/related party to the partner does not also have current ownership of the property to be used for development. The Applicant must demonstrate compliance with this requirement if requested by the Department.

f) Applicants may be ineligible for funding if they meet any of the criteria listed in §53.42 of the Department's HOME rule, and ineligibility with any requirements under 10 TAC §49.5 of this title excluding subsections (5) thru (8). Applicants are encouraged to familiarize themselves with the Department's certification and debarment policies prior to application submission.

4) Documenting Sources of Funds

Applicants will be required to submit documentation on all financial resources to be used in the development that may be considered match to the Department's federal HOME requirements. Applicants must provide firm commitments as defined in accordance with the Federal HOME rules at 24 CFR §92.218 and the Department's Match Guide and will be provided with the appropriate forms and instructions on how to report eligible match as applicable.

5) Affordability Requirements

a) The affordability period for each newly-developed unit is based on the amount of HOME funds invested pursuant to 24 CFR 92.254. In the event that the housing unit is sold, the Department will recapture the shared net proceeds available based on the requirements of 24 CFR §92.254 and the housing unit must be sold for an amount not less than the current appraised value as then appraised by the appropriate governmental authority unless the balance on the Loan will be paid at closing.

6) **Site and Development Restrictions**

a) Pursuant to 24 CFR §92.251, single family new construction housing that is constructed with HOME funds must meet all applicable local building codes (plus any amendments) and building and zoning ordinances in effect at the time of project completion. In the absence of a locally adopted building code for new construction, HOME-assisted new construction must meet the building code and version (plus any amendment) that is adopted by the county seat in which the development is located. Home-assisted new construction located in counties that have not adopted building codes must meet the 2000 International Residential Code (IRC) applicable to non-electrical aspects of residential construction, and for electrical aspects of residential construction, the 1999 National Electrical Code (NEC). Developments in unincorporated areas and counties without code enforcement procedures must have construction inspections performed as required by the Texas Residential Construction Commission (TRCC).

b) Accessibility requirements of §2306.514, Texas Government Code apply to all newly-developed units. To the extent that a prospective buyer of a unit requests specific accessible modifications in addition to those required under §2306.514, the special modification must meet the accessibility requirements at 24 CFR part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and the technical design requirements of the Uniform Federal Accessibility Standards (UFAS). All applications intended to serve persons with disabilities must adhere to the Department's Integrated Housing Rule at 10 TAC §1.15.

c) Newly-constructed homes must also meet energy standards as verified by RESCHECK ™ certification and the energy conservation sections of the 2003 International Residential Code (IRC) and the 2003 International Energy Conservation Code, if applicable, as required by Chapter 388 of the Health and Safety Code, as applicable. Housing assisted with HOME funds must have passed an environmental review in accordance with 24 CFR Part 58. Single Family Accessibility Standards must also be met when applicable.

d) Housing that is constructed with HOME funds within the Designated Catastrophe Area (Texas first tier coastal counties and certain areas located in Harris County east of HWY 146) must meet the stricter of either the locally adopted building code (plus any amendment) or the 2006 International Residential Code (IRC) with Texas Revisions. At the completion of construction all developments must be certified for windstorm insurability by a physical engineer licensed and registered in Texas. Note that an engineer's design and an engineer's during-construction inspections will be necessary to receive the windstorm certification.

7) Public Notifications. The Department will notify all persons and organizations regarding the proposed development as required by 10 TAC §53.8 within 14 Days of Application receipt. In order to meet this requirement, the Applicant must request a list of Neighborhood Organizations on record with the county and state whose boundaries include the proposed Development Site from local elected officials as follows:

a) Not later than fourteen (14) days prior to submission of the Application, the Applicant must e-mail, fax or mail with registered receipt a completed "Neighborhood Organization Request" letter as provided in the Application to the local elected official for the city and county where the Development is proposed to be located. If the Development is located in an Area that has district based local elected officials, or both at-large and district based local elected officials, the request must be made to the city council member or county commissioner representing that district; if the Development is located an Area that has only at-large local elected officials, the request must be made to the mayor or county judge for the jurisdiction. If the Development is not located within a city or is located in the Extra Territorial Jurisdiction (ETJ) of a city, the county local elected official must be contacted. In the event that local elected officials refer the Applicant to another source, the Applicant must request Neighborhood Organizations from that source in the same format;

b) If no reply letter is received from the local elected officials by seven (7) days prior to the submission of the Application, then the Applicant must certify to that fact in the "Application Notification Certification Form" provided in the Application;

c) The Applicant must list all Neighborhood Organizations on record with the county or state whose boundaries include the proposed Development Site as outlined by the local elected officials, or that the Applicant has knowledge of as of the submission of the Application, in the "Application Notification Certification Form" provided in the Application.

8) Application and Threshold Criteria. The following Threshold Criteria listed in this section are mandatory requirements at the time of Application submission unless specifically indicated otherwise:

a) **Uniform Application.** Completion and submission of the entire uniform application applicable to the program and any other supplemental documentation that may be required by the Department.

b) **Unit Amenities.** A certification that each home will have all of the following amenities:
   i) Wired with RG-6 COAX or better and CAT3 phone cable or better to each bedroom and living room;
   ii) Blinds or window coverings for all windows;
   iii) Disposal and Energy-Star or equivalently rated dishwasher;
   iv) Oven/Range;
   v) Exhaust/vent fans (vented to the outside) in bathrooms;
   vi) Energy-Star or equivalently rated lighting in all rooms, which may include compact florescent bulbs. The living room and each bedroom must contain at least one ceiling lighting fixture and wiring must be capable of supporting ceiling fans;
   vii) Paved off-street parking for each unit to accommodate at least one mid-sized car and access to on-street parking for a second car.

c) **Unit Sizes.** A certification that each home will meet the minimum applicable unit size as provided in the following clauses of this subsection.
   i) No unit shall contain less than two bedrooms. Each unit must contain complete physical facilities and fixtures for living, sleeping, eating, cooking, and sanitation.
   ii) Each bedroom must be no less than 100 square feet; have a length or width no less than 8 feet; be self contained with a door; have at lest one window that provides exterior access; and have at least one closet that is not less than 2 feet deep and 3 feet wide and high enough to contain at least 5 feet of hanging space;
   iii) No less than 800 total net square feet for a two bedroom home;
   iv) No less than 1000 total net square feet for a three bedroom and two bathroom home; and
   v) No less than 1200 total net square feet for a four bedroom and two bathroom home.

d) **Design Items.** All of the architectural drawings identified in this subsection must contain an accurate and legible scale or dimensions (full size construction quality plans are not required).
   i) A site plan for each lot or set of contiguous lots with the unit and paved parking area reflected (the actual unit reflected on a particular lot may change based on the home buyer’s final selection of one of the units provided under paragraph (2) of this subsection);

- ii) A floor plan and front exterior elevation for each proposed unit which reflects the exterior building composition. Unit plans should be consistent with other documentation in the application;
- iii) A FEMA Issued Flood Map that includes that location of the subject site or sites. An Applicant must identify the location of each site on the Flood Map(s).

e) **Households Served.** All units must be constructed for households at or below 60% of AMI and households at or below 60% of AMI are eligible to receive 100% of the purchase price (less ineligible costs) in the form of a 0% interest first lien mortgage amortized over 30 years and up to $15,000 in down payment assistance structured as a deferred forgivable second lien.

f) **Unit Cost Limits.** Each unit must meet the following requirements:
- i) The total hard construction cost does not exceed $73.00 per square foot;
- ii) The total development cost and purchase price do not exceed the 95% of the Single Family Mortgage Limits under Section 203(b) of the National Housing Act as required in 24 CFR §92.252(a)(2);
- iii) The sales price may not exceed the per square foot valuation documented in the appraisal.

g) **Financing Documentation.** All Applicants must provide evidence of the estimated development costs and sources of financing as described in the following paragraphs of this subsection.
- i) A written narrative describing the financing plan for the units including the funding sources for the construction of the units. Bona fide commitment letters or term sheets for all sources of construction financing must be provided. If other sources of down payment assistance are proposed, commitment letters evidencing these sources must be provided;
- ii) The "Development Cost Schedule" provided in the application. This schedule must be completed with the estimated mix of units and the Department may place restrictions on the funding based upon this mix in order to ensure that the approved funding is sufficient to complete the total number of proposed units;
- iii) An "Affordability Analysis" for each unit based upon the proposed down payment assistance and estimated permanent mortgage terms;

h) **Evidence of Property Control.** All Applicants are required to document control of each lot that is proposed to be used under this program, as follows:
- i) A recorded warranty deed with corresponding executed settlement statement; or
- ii) A contract or option for the purchase of the proposed lots that is valid for at least 120 days from the date of application submission.
- iii) The appraisal required subsection (n)(i) of this section must also include the "as vacant" value of at least one of the proposed lots if one of the following is true:
  - (1) The Applicant has an Identity of Interest with the seller or current owner of the property; or
  - (2) Any of the proposed property is part of a newly developed or under-development subdivision in which at least three other third-party sales cannot be evidenced.
- iv) If any lot proposed for use in the program is already owned by the person(s) that will own the completed home, the current owner must sign a certification indicating that they understand that ownership of the lot will be relinquished during the period that construction and development occurs.
- v) The purchase price of any lot in which the current owner has an Identity of Interest with the Applicant cannot exceed the lesser of the following:
  - (1) The original third-party acquisition cost plus verifiable costs of owning, holding, or improving the property since the date of original acquisition; and
  - (2) The appraised value of the lot or comparable lot as reflected in the required appraisal.

vi) Evidence that the property is zoned for the proposed use.

i) **Evidence of Adequate Utilities.** The Applicant must provide letters from local utility providers, on company letterhead, confirming each site has access to the following services: water and wastewater, sewer, electricity, garbage disposal and natural gas, if applicable.

j) **Development Team.** The Applicant must provide essential contact information and Tax Identification Numbers (TINs) each organization participating in the activities identified in the application. The Applicant and owners of the Applicant must also provide documentation of any previous participation with the Department's programs.

k) **Financial Capacity.** If the Department's loan(s) amount to more than 50% of the total development cost, the Application will include:
  i) A letter from a third party CPA verifying the capacity of the owner or developer to provide at least 10% of the total development cost as a short term loan for development; and
  ii) A letter from the developer's or owner's bank(s) confirming funds amounting to 10% of the total development cost are available; or
  iii) Evidence of a line of credit or equivalent source of credit equal to at least 10% of the total development cost from a financial institution that is available for use during the proposed development activities.

l) **Resolution.** A resolution from the Applicant's direct governing body authorizing the submission of the application and designating a person or persons authorized to executed legal documents on the Applicant's behalf.

m) **Colonia Evidence.** If submitted under section (2)(d) of this NOFA, a map and any other documentation required in the Application to evidence that the proposed development meets the definition in section (2)(d)(i) of this NOFA regarding location of development entirely within a Colonia.

n) **Third Party Reports.** The following third party reports must be submitted with the application unless specifically indicated otherwise.
  i) Appraisal report. An "as complete" Appraisal for at least one unit that is:
    (1) Prepared by a qualified Third Party;
    (2) Dated not more than 6 months from the date that the application is submitted; and
    Prepared in accordance with the Uniform Standards of Professional Appraisal Practice and 10 TAC §1.34, as applicable. Appraisal requirements identified in 10 TAC §1.34 that are generally only applicable for income producing property must not be met.
  ii) Phase I Environmental Site Assessment. If any unit(s) is/are proposed to be located on currently unimproved property (without infrastructure), a Phase 1 Environmental Site Assessment is required and must meet be:
    (1) Prepared by a qualified Third Party;
    (2) Dated not more than 12 months from the date that the application is submitted; and
    (3) Prepared in accordance with 10 TAC §1.35 of the Real Estate Analysis Rules and Guidelines.

o) **Application Certifications.** All Applicants may be required to certify to compliance with the following:
  i) Affirmative Marketing (24 CFR §92.351);
  ii) Davis-Bacon Act (24 CFR §92.354);
  iii) Environmental standards (24 CFR Parts 50 & 58);

iv) Uniform Relocation Act (49 CFR Part 24); and

v) Lead Safe Housing Rule (24 CFR Part 35).

vi) Other certifications may be required as specifically stated in the ASPM current at the time of Application.

vii) Audit Certification. An Applicant is not eligible to apply for funds or any other assistance from the Department unless audits are current at the time of Application or the Audit Certification Form has been submitted to the Department in a satisfactory format on or before the Application deadline for funds or other assistance per 10 TAC §1.3(b).

viii) Per 10 TAC §53.44(c) all entities receiving funds of $25,000 or more must be registered in the federal Central Contractor Registration (CCR) and have a current Data Universal Numbering System (DUNS) number.

p) **CHDO Certification.** Requirements under this subsection must only be met for Applications considered for an award of funds from the CHDO Set-Aside. CHDO Certification will be awarded in accordance with the rules and procedures as set forth in the HOME rules at 10 TAC §53.50, Community Housing Development Organization (CHDO) Certification. CHDO Certification Applications must meet the requirements of 10 TAC §53.50 at the time of Application submission. Additionally, the following apply:

i) CHDO Applicants must be the Sponsor, Owner or Developer of the proposed Development. Applicants who apply through a Limited Partnership will be required to provide evidence, at the time of CHDO certification and commitment, that the CHDO Applicant is the Managing General Partner of the partnership and has effective control (decision making authority) over the development of the property, pursuant to 24 CFR §92.300.

ii) A separate Application process is required for CHDO Certification. Review and approval of the CHDO Certification occurs during the threshold review process, however Applicants will not receive a formal certification until the award of the HOME funds has been approved by the Department's Board.

iii) A new Application for CHDO certification must be submitted to the Department with each new Application for HOME Development funds. The CHDO Application package will be available with all other Application materials on the Department's website.

9) Review Process

a) Pursuant to 10 TAC §53.48, each application will be handled on a first-come, first-served basis as further described in this section. Each application will be assigned a Received Date based on the date and time it is physically received by the Division. Then each application will be reviewed on its own merits in three review phases, as applicable. Applications will continue to be prioritized for funding based on their Received Date unless they do not proceed into the next phase(s) of review. Applications proceeding in a timely fashion through a phase will take priority over applications that may have an earlier Received Date but that did not timely complete a phase of review. Applications will be reviewed for Applicant and Activity Eligibility, Threshold Criteria, and Financial Feasibility as described in this NOFA.

Phase One will begin as of the Received Date and will include a review of eligibility and threshold criteria and all Application requirements. The Department will ensure review of materials required under the NOFA and Application Submission Procedures Manual (ASPM) and will issue a notice of any Administrative Deficiencies for threshold criteria and eligibility within 45 days of the Received Date. Applicants who are able to resolve their Administrative Deficiencies within five (5) business days will be forwarded into Phase Two, if applicable. Applications with Administrative Deficiencies not cured within five (5) business days, will be terminated and must reapply for consideration of funds.

Phase Two will include a comprehensive review for financial feasibility. Financial feasibility reviews will be conducted by the Real Estate Analysis (REA) Division consistent with §1.32 of this title. REA will create an underwriting report identifying staff's recommended Loan terms, the Loan or Grant amount and any conditions to be placed on the Development. The Department will issue a notice of any Administrative Deficiencies within 45 days of the date the Application enters Phase Two. Applicants who are able to resolve their Administrative Deficiencies within five (5) business days will be forwarded into Phase Three, if applicable. Applications with Administrative Deficiencies not satisfied within five (5) business days, will be terminated and must reapply for consideration of funds. Applications that have completed this Phase and do not require additional review in Phase Three will be considered for placement on the next available Board meeting agenda.

Phase Three will only entail the review of the CHDO Certification Application. The Department will ensure review of these materials and issue notice of any Administrative Deficiencies on the CHDO Certification Application within 30 days of the Application enters Phase Three. Applicants who are able to resolve their Administrative Deficiencies within five (5) business days will be forwarded into the final review phase of the Application process. Applications with Administrative Deficiencies not cured within five (5) business days, will be terminated and must reapply for consideration of funds. Only upon satisfaction of all Administrative Deficiencies will the Application be forwarded to the final phase of the Application process. Upon completion of the applicable final review phase, the Application will be considered for placement on the next available Board meeting agenda.

Because Applications are processed in the order they are received by the Department, it is possible that the Department will expend all available HOME funds before an Application has completed all phases of its review. In the case that all HOME funds are committed before an Application has completed all phases of the review process, the Department will notify the applicant that their application will remain active for ninety (90) days in its current phase. If new HOME funds become available, Applications will continue onward with their review without losing their Received Date priority. If HOME funds do not become available within ninety (90) days of the notification, the Applicant will be notified that their Application is no longer under consideration. The Applicant must reapply to be considered for future funding. If on the date an Application is received by the Department, no funds are available under this NOFA, the Applicant will be notified that no funds exist under the NOFA and the Application will not be processed.

b) Pursuant to the HOME Rule §53.42 if a submitted Application has an entire Volume of the application missing; has excessive omissions of documentation from the Threshold Criteria or Uniform Application documentation; or is so unclear, disjointed or incomplete that a thorough review cannot reasonably be performed by the Department, as determined by the Department, will be terminated with notice and rights to appeal but without being processed as an Administrative Deficiency. To the extent that a review was unable to be performed, specific reasons for the Department's determination of ineligibility will be included in the termination letter to the Applicant.

c) A site visit will be conducted as part of the HOME Program development feasibility review. Applicants must receive recommendation for approval from the Department to be considered for HOME funding by the Board.

d) The Department may decline to consider any Application if the proposed activities do not, in the Department's sole determination, represent a prudent use of the Department's funds. The Department is not obligated to proceed with any action pertaining to any Applications which are received, and may decide it is in the Department's best interest to refrain from pursuing any selection process. The Department strives, through its loan terms, to securitize its funding while ensuring the financial feasibility of a Development. The Department reserves the right to negotiate individual elements of any Application.

e) In accordance with §2306.082 Texas Government Code and 10 TAC §53.6, it is the Department's policy to encourage the use of appropriate alternative dispute resolution procedures ("ADR") under the Governmental Dispute Resolution Act, Chapter 2009, Texas Government Code, to assist in resolving disputes under the Department's jurisdiction. As described in Chapter 154, Civil Practices and Remedies Code, ADR procedures include mediation. Except as prohibited by the Department's ex parte communications policy, the Department encourages informal communications between Department staff and Applicants, and other interested persons, to exchange information and informally resolve disputes. The Department also has administrative appeals processes to fairly and expeditiously resolve disputes. If at anytime an Applicant or other person would like to engage the Department in an ADR procedure, the person may send a proposal to the Department's Dispute Resolution Coordinator. For additional information on the Department's ADR Policy, see the Department's General Administrative Rule on ADR at 10 Texas Administrative Code §1.17.

f) An Applicant may appeal decisions made by staff in accordance with 10 TAC §1.7.

10) Administration.

a) All Applicants receiving an award under this NOFA will be required to enter into a contract with the Department and will be subject to the contract requirements in 10 TAC Chapter 53 Subchapters F and G. Additionally, Applicants are encouraged to request the Department's Manual for guidance on administration of awards and contracts made under this NOFA. This manual will also be posted to the Department's website (www.tdhca.state.tx.us/home-division/manuals-rules.htm).

b) Financing structure. There are two separate loan closing processes in the Department's Singe-Family Development Program, as follows:
   i) Construction Loan(s). The first closing is on the Lot Acquisition and Interim Construction (LAIC) Loan for both the lot purchase and construction costs. The LAIC loan (from the Department to the Applicant/Contract Administrator) will equal the total development cost of the property, excluding the developer fee and any conventional construction financing, as applicable. The following clauses must be met prior to this closing:
      (1) A qualified homebuyer must be identified for each home included in the closing and a sales contract must be executed with the homebuyer;
      (2) Executed construction agreement between the contractor and the Contract Administrator; and
      (3) All necessary and customary pre-closing due diligence identified by the Department
   ii) The construction loan may be for the construction of one or multiple homes provided that all other paragraphs of this subsection will be met.
   iii) Developer fee or profit will be equal to the lesser of the amount approved by the Department's Governing Board, 15% of the total development costs less the fee itself and all other costs identified in 10 TAC §1.32(e)(7)(C), or the difference between the sales price and

the construction financing attributed to a home and is paid at closing on the permanent homebuyer mortgage.

iv) Homebuyer Mortgage and Down Payment Assistance. The second closing is on the loan between the Department and homebuyer, who will be identified and qualified by the Contract Administrator to purchase the home. To ensure that the home is affordable, the Department will enter into one and/or two loans with the homebuyer depending on the family's income and use of a conventional mortgage. The loans will be structured as follows:

(1) The **First Lien Loan** will be 30-year amortizing loan with total estimated housing payment (including principal, interest, property taxes, and insurance) shall be no less than 25% and no greater than 30% of the homebuyer's gross income. Should the estimated housing payment be less than 25%, the Department shall reduce the amount of downpayment assistance and/or charge an interest rate to the homebuyer such that the total estimated housing payment is no less than 25% of the homebuyer's gross income. In no instance shall the interest rate charged to the homebuyer exceed 5% or the current "unassisted" rate available through the Department's Texas First Time Homebuyer Program, whichever is greater. The Department shall use to the income certification described in subsection (c)(i) of this section to make this determination, which may be adjusted only if the income certification described in subsection (c)(ii) reflects a material decrease in gross income.

(2) The **Down Payment Assistance** would be a 15-year deferred forgivable second lien that makes up the difference between the amount of the first lien loan and the purchase price. For example, for a $92,000 home and a qualified homebuyer with a monthly payment of $225, the first lien loan will be $81,000 ($225 x 360 payments) at zero percent interest. The second lien loan in this example would be $11,000 ($92,000 - $81,000) as a deferred forgivable. If a prospective homebuyer for the same home can afford a payment of $300 per month they will not have a second lien loan. In this example, their income is enough to payoff a first lien loan of zero percent interest over 30 years.

v) Applicants may collect an escrow fee of no more than $500 as a homebuyer's commitment. All of the fee will be credited to the homebuyer at closing against ineligible closing costs and the first housing payments. All other closing costs shall be paid by the Applicant and the funds awarded under this NOFA may be used to pay such reasonable and customary closing costs. The Applicant should include these costs in the Development Cost Schedule, as applicable.

c) Homebuyer qualifications. Eligible homebuyers will be qualified based on gross household, verification of consistent income, satisfactory completion of a certified homebuyer counseling program, and a certification that all recurring debt payments [including expected principal, taxes, and insurance (PITI) to own the home] are less than or equal to 45% of the homebuyer's gross income. The applicant will certify homeowner eligibility twice, as follows:

i) Prior to executing a sales contract and development of the home in accordance with 24 CFR Part 92; and

ii) Prior to closing the homebuyer's loan. The purpose of this second certification is to ensure that the homeowner's income and debt load have not changed during construction of the home such that the homebuyer's ability service the repayable debt is significantly adversely impacted.

d) If a homebuyer should become ineligible or otherwise cease participation and a new buyer is not located within 90 days of the end of the construction period, all additional funding closings and draws on the award will cease and the Department will require the Applicant to repay any outstanding construction debt in full.

e) Draws. Consistent with HOME Program regulations, funding draws will be made on a reimbursement basis as completion occurs. The Applicant must provide a progress inspection from a third-party inspector, photos, lien waivers from the contractor and subcontractors (or a down-date endorsement), an itemization of actual costs incurred for each interim construction draw and in accordance with all applicable provisions of 10 TAC §53.

f) Performance benchmarks. The Contract term will not exceed 32 months. Performance under the contract will be based on the following benchmarks:
   i) 6 months, environmental clearance must be complete for 25% of the units;
   ii) 8 months, lot acquisition and interim construction loans must be closed for 25% of the units;
   iii) 14 months, construction must be completed for 25% of the units; environmental clearance must be complete for 50% of the units;
   iv) 16 months, lot acquisition and interim construction loans must be closed for 50% of the units;
   v) 22 months, construction must be completed for 50% of the units; environmental clearance must be complete for 100% of the units;
   vi) 24 months, lot acquisition and interim construction loans must be closed for 100% of the units;
   vii) 30 months, construction must be completed for 100% of the units;
   viii) 32 months, 100% of funds must be drawn.

11) Application Submission

a) All applications submitted under this NOFA must be received on or before 5:00 p.m. on **January 29, 2010**. The Department will accept applications from 8 a.m. to 5 p.m. each business day, excluding federal and state holidays from the date this NOFA is published on the Department's web site until the deadline. For questions regarding this NOFA please contact Cameron Dorsey at 512-475-2669 or via e-mail at cameron.dorsey@tdhca.state.tx.us.

b) Applicants must submit the Application materials as detailed in the Final ASPM in effect at the time the application is submitted. All scanned copies must be scanned in accordance with the guidance provided in the Final ASPM in effect at the time the application is submitted.

c) The application consists of several parts as further described in the Final ASPM. A complete application for each proposed development must be submitted in an electronic PDF format on a recordable compact disc (CD-R). Incomplete applications or improperly compiled applications will not be accepted. Applicants must submit the application materials as detailed in the Final ASPM in effect at the time the application is submitted.

d) Third party reports – If all applicable third party reports are not received at the time of application submission, the Application will be terminated.

e) All Application materials including manuals, NOFA, program guidelines, and all applicable HOME rules, will be available on the Department's website at www.tdhca.state.tx.us. Applications will be required to adhere to the HOME Rule and threshold requirements in effect at the time of the Application submission. Applications must be on forms provided by the Department, and cannot be altered or modified and must be in final form before submitting them to the Department.

f) Applicants are required to remit a non-refundable Application fee payable to the Texas Department of Housing and Community Affairs in the amount of $300.00 per Application. Payment must be in the form of a check, cashier's check or money order. Do not send cash.

§2306.147(b) of the Texas Government Code requires the Department to waive Application fees for nonprofit organizations that offer expanded services such as child care, nutrition programs, job training assistance, health services, or human services. These organizations must include proof of their exempt status and a description of their supportive services in lieu of the Application fee. The Application fee is not a reimbursable cost under the HOME Program.

g) Application Workshops. The Department will present several one-day HOME Program application workshops to provide an overview of the Single-Family Development Program, application preparation and submission, evaluation criteria, and information about the major Federal and State requirements that would impact the development. The workshop schedule and registration will be posted on the Department's website at www.tdhca.state.tx.us/home-division/sf-home/index.htm.

h) Applications must be sent via overnight delivery to:

HOME Division
Texas Department of Housing and Community Affairs
Attn: Barbara Skinner
221 East 11th Street
Austin, TX 78701-2410

or via the U.S. Postal Service to:

HOME Division
Texas Department of Housing and Community Affairs
Attn: Barbara Skinner
Post Office Box 13941
Austin, TX 78711-3941

NOTE: *This NOFA does not include the text of the various applicable regulatory provisions that may be important to the particular HOME CHDO Program. For proper completion of the application, the Department strongly encourages potential applicants to review all applicable State and Federal regulations.*

BOND FINANCE DIVISION

BOARD ACTION REQUEST
May 21, 2009

Action Item

Presentation, discussion and approval of Resolution No. 09-040 authorizing the Department to enter into substitute liquidity facilities provided by the Comptroller of Public Accounts of the State of Texas for the 2004 Series A Jr. Lien, 2004 Series B, 2004 Series D, 2005 Series A and 2005 Series C Single Family Variable Rate Mortgage Revenue Bonds and approving amendments to their Supplemental Indentures, approving reoffering documents, canceling bond and swap insurance and amendments to swap agreements where applicable along with a change in remarketing agent for the 2005 Series C Single Family Variable Rate Taxable Mortgage Revenue Bonds and amendment to the 2004 Series D Single Family Variable Rate Mortgage Revenue Bond remarketing agreement.

Required Action

Approval of Resolution No. 09-040 authorizing the Department to enter into substitute liquidity facilities provided by the Comptroller of Public Accounts of the State of Texas for the 2004 Series A Jr. Lien, 2004 Series B, 2004 Series D, 2005 Series A and 2005 Series C Single Family Variable Rate Mortgage Revenue Bonds and approving amendments to their Supplemental Indentures, approving reoffering documents, canceling bond and swap insurance and amendments to swap agreements where applicable along with a change in remarketing agent for the 2005 Series C Single Family Variable Rate Taxable Mortgage Revenue Bonds and amendment to the 2004 Series D Single Family Variable Rate Mortgage Revenue Bond remarketing agreement.

Background

At the November 13, 2008 Board meeting, the Board was informed that due to the unusual circumstances whereby current liquidity providers are not offering new liquidity to housing issuers at this time, TDHCA is unable to select liquidity providers through a normal request for proposal process. At the March 12, 2009 Board meeting the Board approved replacing one of our two liquidity providers, DEPFA Bank (**De**utsche **Pfa**ndbriefanstalt), with the Comptroller of Public Accounts of the State of Texas and on March 26, 2009 that transaction was successfully completed.

Staff is now requesting approval of the terms of substitute liquidity facilities to be provided by the Comptroller of Public Accounts of the State of Texas to replace Standby Bond Purchase Agreements (SBPA) with our second liquidity provider DEXIA (Dexia Banque Internationale) totaling $189.3 million. TDHCA continues to pay higher reset rates because of the DEXIA downgrade by Standard and Poor's and Moody's. Currently, DEXIA is holding $4.1 million in bank bonds of the $189.3 million. With the approval of this resolution, TDHCA anticipates the remaining DEXIA bank bonds to be remarketed on June 17, 2009 and the remarketing rate with the Comptroller as liquidity provider will be much improved.

Staff is also requesting that the Board approve amendments to the Supplemental Indentures, approve reoffering documents, along with canceling bond and swap insurance and amendments to swap agreements where applicable for the 2004 Series A Jr. Lien, 2004 Series B, 2004 Series D, 2005 Series A and 2005 Series C Single Family Variable Rate Mortgage Revenue Bonds. The amendments to the Supplemental Indentures will eliminate the requirement that liquidity agreements have a term of at least 364 days, identify the Comptroller of Public Accounts as an authorized provider of liquidity and clarify the definition of Maximum Rate for the Bonds as requested by the rating agencies. The liquidity agreements with the Texas Comptroller of Public Accounts will terminate on August 31, 2009. The Comptroller, at its sole discretion, can extend the Agreement for consecutive terms up to 90 days. TDHCA continues to work with other Liquidity Providers to provide liquidity which will help diversify our liquidity portfolio.

As mentioned earlier, TDHCA has $4.1 million in bank bonds which are two taxable structures. The first structure is the 2004 Series A Jr. Lien which has $800,000 in bank bonds out of $3.9M remarketed by J.P. Morgan. The second structure is the 2005 Series C which has $3.3 million in bank bonds out of $6.6M remarketed by Citigroup. Staff along with RBC Capital Markets, our Financial Advisor, believes that consolidating the remarketing agents of these two taxable structures will be beneficial to ensure a smooth transition during the substitution of liquidity. Of the total $189.3 million in total DEXIA Variable Rate Demand Bonds (VRDBs), J.P. Morgan is currently remarketing $147.7 million in VRDBs, Citigroup is currently remarketing $6.6 million and Piper Jaffray is currently remarketing $35.0 million. By approving this resolution, Piper Jaffray will remarket $35.0 million and J.P. Morgan will remarket $154.3 million.

To ensure a smooth closing, J.P. Morgan will be the remarketing agent for all of the Comptroller of Texas liquidity facilities and will thus be the initial remarketing agent for the 2004 Series D Single Family Variable Rate Mortgage Revenue Bonds that Piper Jaffray is currently remarketing. Piper Jaffray will continue to be the remarketing agent following the initial remarketing of the 2004 Series D Single Family Variable Rate Mortgage Revenue Bonds.

Recommendation

Approval of Resolution No. 09-040 authorizing the Department to enter into substitute liquidity facilities provided by the Comptroller of Public Accounts of the State of Texas for the 2004 Series A Jr. Lien, 2004 Series B, 2004 Series D, 2005 Series A and 2005 Series C Single Family Variable Rate Mortgage Revenue Bonds and approving amendments to their Supplemental Indentures, approving reoffering documents, canceling bond and swap insurance and amendments to swap agreements where applicable along with a change in remarketing agent for the 2005 Series C Single Family Variable Rate Taxable Mortgage Revenue Bonds and amendment to the 2004 Series D Single Family Variable Rate Mortgage Revenue Bond remarketing agreement.

Resolution No. 09-040

RESOLUTION APPROVING SUBSTITUTE LIQUIDITY FACILITIES, AMENDMENTS TO THE SUPPLEMENTAL INDENTURES AND REOFFERING CIRCULARS FOR THE DEPARTMENT'S SINGLE FAMILY VARIABLE RATE MORTGAGE REVENUE REFUNDING BONDS, 2004 SERIES B, TAXABLE JUNIOR LIEN SINGLE FAMILY VARIABLE RATE MORTGAGE REVENUE BONDS, SERIES 2004A, SINGLE FAMLY VARIABLE RATE MORTGAGE REVENUE BONDS, 2004 SERIES D, SINGLE FAMILY VARIABLE RATE MORTGAGE REVENUE REFUNDING BONDS, 2005 SERIES A, AND TAXABLE SINGLE FAMILY VARIABLE RATE MORTGAGE REVENUE REFUNDING BONDS, 2005 SERIES C; APPROVING THE CANCELLATION OF MUNICIPAL BOND INSURANCE POLICIES FOR CERTAIN OF THE FOREGOING BONDS AND FINANCIAL GUARANTY INSURANCE POLICIES FOR CERTAIN INSURED SWAP TRANSACTIONS AND APPROVING AMENDMENTS TO SWAP TRANSACTIONS; APPROVING THE REMOVAL OF THE REMARKETING AGENT AND THE APPOINTMENT OF A SUCCESSOR REMARKETING AGENT FOR THE 2005 SERIES C BONDS AND REMARKETING AGREEMENTS AND AMENDMENTS FOR THE REMAINING SERIES OF BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS AND INSTRUMENTS RELATING TO THE FOREGOING; MAKING CERTAIN FINDINGS AND DETERMINATIONS IN CONNECTION THEREWITH; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

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

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

WHEREAS, the Department has previously issued its (i) Single Family Variable Rate Mortgage Revenue Refunding Bonds, 2004 Series B (the "2004 Series B Bonds") pursuant to the certain Single Family Mortgage Revenue Bond Trust Indenture dated as of October 1, 1980 between the Department, as successor to the Agency, and The Bank of New York Mellon Trust Company, N.A., as successor trustee (the "Trustee"), as supplemented and amended (collectively, the "Single Family Indenture"), and the Thirty-Seventh Supplemental Single Family Mortgage Revenue Bond Trust Indenture dated as of April 1, 2004 between the Department and the Trustee (the "Thirty-Seventh Supplemental Indenture"); (ii) Taxable Junior Lien Single Family Variable Rate Mortgage Revenue Bonds, Series 2004A (the "Series 2004A Junior Lien Bonds") pursuant to that certain Junior Lien Trust Indenture dated as of May 1, 1994 between the Department and the Trustee, as amended and supplemented, and the Fourth Supplemental Junior Lien Trust Indenture (Series Supplement 2004A) between the Department and the Trustee (the "Fourth Supplemental Junior Lien Indenture"); (iii) Single Family Variable Rate Mortgage Revenue Bonds, 2004 Series D (the 2004 Series D Bonds") pursuant to the Single Family Indenture and the Thirty-Ninth

Supplemental Single Family Mortgage Revenue Bond Trust Indenture dated as of October 1, 2004 between the Department and the Trustee (the "Thirty-Ninth Supplemental Indenture"); (iv) Single Family Variable Rate Mortgage Revenue Refunding Bonds, 2005 Series A (the "2005 Series A Bonds") pursuant to the Single Family Indenture and the Forty-Second Supplemental Single Family Mortgage Revenue Bond Trust Indenture dated as of April 1, 2005 between the Department and the Trustee (the "Forty-Second Supplemental Indenture"); and (v) Taxable Single Family Variable Rate Mortgage Revenue Refunding Bonds, 2005 Series C (the "2005 Series C Bonds") pursuant to the Single Family Indenture and the Forty-Fourth Supplemental Single Family Mortgage Revenue Bond Trust Indenture dated as of December 1, 2005 between the Department and the Trustee (the "Forty-Fourth Supplemental Indenture"); and

WHEREAS, the 2004 Series B Bonds, the Series 2004A Junior Lien Bonds, the 2004 Series D Bonds, the 2005 Series A Bonds and the 2005 Series C Bonds are hereinafter collectively referred to as the "Variable Rate Bonds" and the Thirty-Seventh Supplemental Indenture, the Fourth Supplemental Junior Lien Indenture, the Thirty-Ninth Supplemental Indenture, the Forty-Second Supplemental Indenture and the Forty-Fourth Supplemental Indenture pursuant to which such Variable Rate Bonds were issued are hereinafter collectively referred to as the "Variable Rate Supplemental Indentures"; and

WHEREAS, liquidity support for the Variable Rate Bonds is currently provided by Dexia Credit Local, acting through its New York Branch ("Dexia"), pursuant to separate standby bond purchase agreements (the "Existing Liquidity Facilities"); and

WHEREAS, in accordance with the respective Variable Rate Supplemental Indentures, the Board now desires to authorize the replacement of the Existing Liquidity Facilities with liquidity agreements provided by the Comptroller of Public Accounts of the State of Texas (the "Comptroller") for each series of the Variable Rate Bonds in substantially the forms attached hereto (collectively, the "Liquidity Agreements"); and

WHEREAS, in connection with the original issuance of the Variable Rate Bonds, the Department purchased municipal bond insurance policies (collectively, the "Bond Insurance Policies") from Financial Security Assurance Inc. ("FSA"); and

WHEREAS, the Department entered into separate interest rate swap transactions with Goldman Sachs Bank USA ("Goldman Sachs"), successor to Goldman Sachs Capital Markets, L.P., with respect to the 2004 Series D Bonds (the "2004 Series D Swap"), and JPMorgan Chase Bank, N.A. ("JPMorgan"), assignee of Bear Stearns Financial Products Inc., with respect to the 2005 Series A Bonds (the "2005 Series A Swap" and together with the 2004 Series D Swap, collectively, the "Swap Transactions"); and

WHEREAS, in connection with the Swap Transactions, the Department purchased financial guaranty insurance policies (collectively, the "Swap Insurance Policies" and together with the Bond Insurance Policies, other than the policies relating to the 2004 Series B Bonds, collectively, the "Policies") from FSA; and

WHEREAS, the Department has determined that in the current market the Policies no longer produce an interest rate savings to the Variable Rate Bonds and the Swap Transactions, as appropriate, and the Board now desires to cancel the Policies; and

WHEREAS, FSA has agreed to cancel the Policies upon the condition that the Department execute and deliver an Insurance Policy Cancellation Agreement substantially in the form attached hereto (the "Cancellation Agreement"); and

WHEREAS, the Board further desires to authorize the execution and delivery of (i) a First Amendment to Thirty-Seventh Supplemental Single Family Mortgage Revenue Bond Trust Indenture between the Department and the Trustee, (ii) a First Amendment to Fourth Supplemental Junior Lien Trust Indenture (Series Supplement 2004A), (iii) a First Amendment to Thirty-Ninth Supplemental Single Family Mortgage Revenue Bond Trust Indenture between the Department and the Trustee, (iv) a First Amendment to Forty-Second Supplemental Single Family Mortgage Revenue Bond Trust Indenture between the Department and the Trustee, and (v) a First Amendment to Forty-Fourth Supplemental Single Family Mortgage Revenue Bond Trust Indenture between the Department and the Trustee, in substantially the forms attached hereto (collectively, the "First Amendments") for the purpose of conforming certain provisions of the respective Variable Rate Supplemental Indenture to the respective Liquidity Agreement and to delete references in the Supplemental Indentures to “Bond Insurance” and the “Bond Insurer”; and

WHEREAS, pursuant to the Act and Chapter 1371 of the Texas Government Code, the Board further desires to authorize the execution and delivery of (i) a Revised Confirmation with Goldman Sachs with respect to the 2004 Series D Swap and (ii) a Second Amended and Restated Schedule and a Revised Confirmation with JPMorgan with respect to the 2005 Series A Swap and the swap transaction pertaining to the Department’s Single Family Mortgage Revenue Bonds, 2007A (collectively, the “Swap Amendments”) for the purpose of amending the respective Swap Transactions in connection with the cancellation of the Swap Insurance Policies; and

WHEREAS, the Board has been presented with drafts of separate reoffering circulars to be used in the remarketing of the Variable Rate Bonds in connection with the replacement of the liquidity facilities and cancellation of the Policies (collectively, the “Reoffering Circulars”); and

WHEREAS, in accordance with the Variable Rate Supplemental Indentures, the Department has appointed “Remarketing Agents” to perform various duties with respect to the Variable Rate Bonds to be remarketed from time to time; and

WHEREAS, the Board further desires to authorize the execution and delivery of (i) an amendment to the remarketing agreement with Piper Jaffray & Co. with respect to the 2004 Series D Bonds and (ii) a remarketing agreement with J.P. Morgan Securities Inc. as initial remarketing agent for the reoffering of the Series D Bonds (collectively, the “2004 Series D Remarketing Agreements”); and

WHEREAS, the Board further desires to authorize (i) the removal of Citigroup Global Markets Inc. as Remarketing Agent for the 2005 Series C Bonds and approve the appointment of J.P. Morgan Securities Inc. as successor Remarketing Agent and (ii) the execution and delivery of a remarketing agreement with J.P. Morgan Securities Inc. with respect to the 2005 Series C Bonds (the “2005 Series C Remarketing Agreement”); and

WHEREAS, the Board further desires to enter into separate amendments to the remarketing agreements with J.P. Morgan Securities Inc., as Remarketing Agent for the 2004 Series B Bonds, the Series 2004A Junior Lien Bonds and the 2005 Series A Bonds (collectively, the “Remarketing Agreement Amendments”) to reflect a change to the fee payable to the Remarketing Agent; and

WHEREAS, the Board further desires to approve the forms of the Liquidity Agreements, the Cancellation Agreement, the First Amendments, the Swap Amendments, the 2004 Series D Remarketing Agreements, the 2005 Series C Remarketing Agreement and the Remarketing Agreement Amendments, the execution and delivery of such documents and the taking of such other actions as may be necessary or convenient to carry out the purposes of this Resolution and to approve the Reoffering Circulars; NOW, THEREFORE,

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

ARTICLE I

APPROVAL OF DOCUMENTS AND CERTAIN ACTIONS

Section 1.1--Approval of Liquidity Agreements. The form and substance of the Liquidity Agreements are hereby approved, and the authorized representatives of the Department named in this Resolution are each hereby authorized and empowered to execute the Liquidity Agreements and to deliver the Liquidity Agreements to the Comptroller.

Section 1.2--Approval of Cancellation Agreement. The form and substance of the Cancellation Agreement are hereby approved, and the authorized representatives of the Department named in this Resolution are each hereby authorized and empowered to execute the Cancellation Agreement and to deliver the Cancellation Agreement to FSA, the Trustee and any other parties thereto.

Section 1.3--Approval of First Amendments. The form and substance of the First Amendments are hereby approved, and the authorized representatives of the Department named in this Resolution are each hereby authorized and empowered to execute the First Amendments and to deliver the First Amendments to the Trustee.

Section 1.4--Approval of Swap Amendments. The form and substance of the Swap Amendments are hereby approved, and the authorized representatives of the Department named in this Resolution are each hereby authorized and empowered to execute the Swap Amendments and to deliver the Swap Amendments to the respective provider.

Section 1.5--Approval of Reoffering Circulars. The Reoffering Circulars for use in the remarketing of the Variable Rate Bonds in connection with the replacement of the liquidity facilities and the cancellation of the Policies, in substantially the forms presented to the Board, are hereby approved; the authorized representatives of the Department named in this Resolution, acting for and on behalf of the Board, are each hereby authorized and directed to finalize the Reoffering Circulars for distribution by the respective remarketing agents to prospective purchasers of the Variable Rate Bonds, with such changes therein as the authorized representatives of the Department named in this Resolution may approve, such approval to be conclusively evidenced by the distribution of such Reoffering Circulars.

Section 1.6--Removal of Remarketing Agent for 2005 Series C Bonds and Approval of Successor Remarketing Agent. The Board approves the removal of Citigroup Global Markets Inc. as Remarketing Agent for the 2005 Series C Bonds and approves the appointment of J.P. Morgan Securities Inc. as successor Remarketing Agent.

Section 1.7--Approval of 2004 Series D Remarketing Agreements, 2005 Series C Remarketing Agreement and Remarketing Agreement Amendments. The form and substance of the 2004 Series D Remarketing Agreements, the 2005 Series C Remarketing Agreement and the Remarketing Agreement Amendments (collectively, the "Remarketing Agreements") are hereby approved, and the authorized representatives of the Department named in this Resolution are each hereby authorized and empowered to execute the Remarketing Agreements and to deliver the Remarketing Agreements to the respective Remarketing Agent.

Section 1.8--Execution and Delivery of Other Documents. The authorized representatives of the Department named in this Resolution are each hereby authorized to execute and deliver all agreements, certificates, contracts, documents, instruments, releases, financing statements, letters of instruction, notices, written requests and other papers, whether or not mentioned herein, as may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution.

Section 1.9--Power to Revise Form of Documents. Notwithstanding any other provision of this Resolution, the authorized representatives of the Department named in this Resolution are each hereby authorized to make or approve such revisions in the form of the documents attached hereto as exhibits as, in the judgment of such authorized representative, and in the opinion of Vinson & Elkins L.L.P., Bond Counsel to the Department, may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution, such approval to be evidenced by the execution of such documents by the authorized representatives of the Department named in this Resolution.

Section 1.10--Exhibits Incorporated Herein. All of the terms and provisions of each of the documents listed below as an exhibit shall be and are hereby incorporated into and made a part of this Resolution for all purposes:

Exhibit A	-	Liquidity Agreements
Exhibit B		Cancellation Agreement
Exhibit C	-	First Amendments
Exhibit D		Swap Amendments
Exhibit E	-	Reoffering Circulars
Exhibit F		Remarketing Agreements

Section 1.11--Authorized Representatives. The following persons are each hereby named as authorized representatives of the Department for purposes of executing and delivering the documents and instruments referred to in this Article I: the Chairman of the Board; the Vice Chair of the Board; the Secretary to the Board; the Executive Director or any Acting Executive Director of the Department; the Chief of Agency Administration of the Department; and the Director of Bond Finance of the Department.

Section 1.12--Submission to the Attorney General of Texas. The Board hereby ratifies the submission by the Department's Bond Counsel to the Attorney General of Texas, for his approval, of a transcript of the legal proceedings relating to the authorization of the Liquidity Agreements.

Section 1.13--Ratifying Other Actions. All other actions taken or to be taken by the Executive Director and the Department's staff in connection with the Liquidity Agreements, the Cancellation Agreement, the First Amendments, the Swap Amendments and the Remarketing Agreements are hereby ratified and confirmed.

ARTICLE II
GENERAL PROVISIONS

Section 2.1--Effective Date. That this Resolution shall be in full force and effect from and upon its adoption.

Section 2.2--Notice of Meeting. Written notice of the date, hour and place of the meeting of the Board at which this Resolution was considered and of the subject of this Resolution was furnished to the Secretary of State and posted on the Internet for at least seven (7) days preceding the convening of such meeting; that during regular office hours a computer terminal located in a place convenient to the public in the office of the Secretary of State was provided such that the general public could view such posting; that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof was discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended; and that written notice of the date, hour and place of the meeting of the Board and of the subject of this Resolution was published in the Texas Register at least seven (7) days preceding the convening of such meeting, as required by the Administrative Procedure and Texas Register Act, Chapters 2001 and 2002, Texas Government Code, as amended. Additionally, all of the materials made available to the Board relevant to the subject of this Resolution were posted on the Department's website not later than the third day before the date of the meeting of the Board at which this Resolution was considered, and any documents made available to the Board by the Department on the day of the meeting were also made available in hard-copy format to the members of the public in attendance at the meeting, as required by Section 2306.032, Texas Government Code, as amended.

[Execution page follows]

PASSED AND APPROVED this 21st day of May, 2009.

Chairman, Governing Board

ATTEST:

Secretary to the Governing Board

(SEAL)

BOND FINANCE DIVISION

BOARD ACTION REQUEST
May 21, 2009

Action Item

Presentation, discussion and approval of statewide monetization of the First-Time Homebuyer Tax Credit under the American Recovery and Reinvestment Act of 2009, authorizing the Department to utilize a portion of the Supplemental Bond Contingency Reserve Fund to provide statewide down payment assistance to eligible first-time homebuyers.

Required Action

Approval of statewide monetization of the First-Time Homebuyer Tax Credit under the American Recovery and Reinvestment Act of 2009, authorizing the Department to utilize a portion of the Supplemental Bond Contingency Reserve Fund to provide statewide down payment assistance to eligible first-time homebuyers. Upon completion of this program on December 1, 2009, funds, including second lien loan repayments, will be returned to the Supplemental Bond Contingency Reserve Fund.

Background

In an effort to help Texas families take advantage of the tremendous opportunity made available by recent Congressional action and to help them overcome the obstacle of saving up for a down payment, staff is proposing a statewide down payment assistance program utilizing up to $5 million in Supplemental Bond Contingency Reserve Funds. Down payment assistance would be provided in the form of a second lien repayable loan. The funds will be available only on qualifying purchases made by December 1, 2009 to eligible borrowers on a first come first served basis. Since the Department has limited funds available to set-aside for this purpose, and to serve the maximum number of consumers with the greatest benefit, a structure that results in borrowers repaying the Department as promptly as possible will enable the Department to re-use repaid funds, enabling other Texans to take advantage of this beneficial program.

To this end, TDHCA is proposing to provide second lien loans up to a maximum of $7,000 to assist in covering down payment and/or closing costs. A $250 administrative fee will be charged. To ensure the maximum number of consumers take advantage of the program, borrowers will be given an incentive to repay the loan assistance by offering 0% interest for 90 days. Additionally, program materials will provide clear, easy to follow guidance to help consumers obtain these credits so that that they may quickly pay off their loans.

In order for families to take advantage of the program and repay the Department, borrowers must be eligible to claim the federal first time homebuyer tax credit and may do so by completing IRS Form 5405 and by filing an amended 2008 IRS federal tax return. Tax refunds are generally processed within 8 to 12 weeks, giving the borrower sufficient time to repay the TDHCA down payment assistance loan and take advantage of early repayment incentives. As pay-offs are received, TDHCA will recycle those funds in the program. If the down payment assistance loan is not paid in full within 90 days, the loan term will be 2 years with a 10% interest rate. Using this scenario, a homebuyer purchasing a $120,000 home would have a second lien note of approximately $323 per month. The program is intended to allow the consumer to take advantage of this recent legislation by receiving a short term loan, enabling them to access their credits in a manner that will be used as down payment assistance, thereby making homeownership possible.

To qualify for the first-time homebuyer tax credit, a home purchase must occur on or after January 1, 2009, and before December 1, 2009. The law defines a first time homebuyer as a buyer who has not owned a principal residence during the last three year period prior to the purchase. The tax credit is equal to 10 percent of the home's purchase price up to a maximum of $8,000. The income limit for single taxpayers is $75,000; the limit is $150,000 for married taxpayers filing a joint return. The tax credit amount is reduced for buyers with a modified adjusted gross income (MAGI) of more than $75,000 for single taxpayers and $150,000 for married taxpayers filing a joint return. The phase out range for the tax credit program is equal to $20,000. That is, the tax credit amount is reduced to zero for taxpayers with MAGI of more than $95,000 (single) or $170,000 (married) and is reduced proportionally for taxpayers with MAGIs between these amounts. The tax credit must be repaid to IRS if the borrower sells or moves from the home within three years.

The Department will be finalizing this program in accordance with instructions and guidance received from the issuance of a Mortgagee Letter from the Federal Housing Administration (FHA) regarding monetization of the federal homebuyer tax credit for down payment and closing cost assistance.

Recommendation

Approval of statewide monetization of the First-Time Homebuyer Tax Credit under the American Recovery and Reinvestment Act of 2009, authorizing the Department to utilize a portion of the Supplemental Bond Contingency Reserve Fund to provide statewide down payment assistance to eligible first-time homebuyers. Upon completion of this program on December 1, 2009, funds, including second lien loan repayments, will be returned to the Supplemental Bond Contingency Reserve Fund.

MULTIFAMILY FINANCE PRODUCTION DIVISION

BOARD ACTION REQUEST
May 21, 2009

Action Item

Housing Tax Credit Amendments.

Requested Action

Approve, amend or deny the requests for amendments.

Background and Recommendations

§2306.6712, Texas Government Code, indicates that the Board should determine the disposition of a requested amendment if the amendment is a "material alteration," would materially alter the development in a negative manner or would have adversely affected the selection of the application in the application round. The statute identifies certain changes as material alterations and the requests presented below include material alterations.

The requests and pertinent facts about the affected developments are summarized below. The recommendation of staff is included at the end of each write-up.

Limitations on the Approval of Amendment Requests

The approval of a request to amend an application does not exempt a development from the requirements of Section 504 of the Rehabilitation Act of 1973, fair housing laws, local and state building codes or other statutory requirements that are not within the Board's purview. Notwithstanding information that the Department may provide as assistance, the development owner retains the ultimate responsibility for determining and implementing the courses of action that will satisfy applicable regulations.

Penalties for Amendment Requests

§49.9(c), 2009 Qualified Allocation Plan and Rules, entitled, "Adherence to Obligations," states in part:

> If a Development Owner does not produce the Development as represented in the Application; does not receive approval for an amendment to the Application by the Department prior to implementation of such amendment; or does not provide the necessary evidence for any points received by the required deadline:
>
> (1) The Development Owner must provide a plan to the Department, for approval and subsequent implementation, that incorporates additional amenities to compensate for the non-conforming components; and
>
> (2) The Board will opt either to terminate the Application and rescind the Commitment Notice, Determination Notice or Carryover Allocation Agreement as applicable or the Department must:
>
> (A) Reduce the score for Applications for Competitive Housing Tax Credits that are submitted by an Applicant or Affiliate related to the Development Owner of the non-conforming Development by up to ten points for the two Application Rounds concurrent to, or following, the date that the non-conforming aspect, or lack of financing, was recognized by the Department of the need for the amendment; the placed in service date; or the date the amendment is accepted by the Board.
>
> (B) Prohibit eligibility to apply for Housing Tax Credits for a Tax-Exempt Bond Development that are [sic] submitted by an Applicant or Affiliate related to the Development Owner of the non-conforming Development for up to 24 months from the date that the non-conforming aspect, or lack of financing, was recognized by the Department of the need for the amendment; the placed in service date; or the date the amendment is accepted by the Board, less any time delay caused by the Department.

(C) In addition to, or in lieu of, the penalty in subparagraph (A) or (B) of this paragraph, the Board may assess a penalty fee of up to $1,000 per day for each violation.

HTC No. 04463, Lakeside Manor Senior Community

Summary of Request: This amendment request was brought before the Board at the April meeting. At that meeting a disturbing letter from State Representative Crownover was read into the record. The letter cited many problems and issues with this development. The Board tabled the decision to the May Board meeting to have the developer present to explain his position to the Board.

This request is regarding a determination notice for low income housing tax credits related to private activity bonds through a local issuer and no other TDHCA funds were part of this transaction. While a determination notice is required for most bond/tax credit developments by state law and provides the applicant and financial partners some degree of assurance that tax credits will ultimately be issued, it does not carry the same level of mutual obligation as a carryover allocation or regulatory agreement. The amount of the tax credits for a private activity bond transaction is not considered allocated by the IRS through a determination notice but the notice serves as a benchmark for and proxy for the allocation which is evidenced by the issuance of IRS forms 8609 through the cost certification process which this applicant has yet to complete.

The owner has completed the development and is now requesting approval for the reduction of two two-bedroom units targeted for tenants at the 60% of AMGI level of income. The original application proposed 178 units comprised of 144 one-bedroom units and 34 two-bedroom units. The development was built with 176 units comprised of 144 one-bedroom units and 32 two-bedroom units. The owner stated that all of the units proposed could not be built because the Town of Little Elm, contrary to the owner's expectations, would not allow a variance to the parking requirements of the development code. The request indicated that the site plan was changed to comply with the parking requirements by reducing the number of residential buildings from 31 to 26. In spite of the loss of units, the total net rentable area increased.

The original application included 40 garages, 50 carports and 177 open spaces all of which were built as originally proposed. The owner stated that an additional 126 open spaces were built to meet code, bringing the total number of parking spaces actually built to 393. As the owner explained, increasing the number of parking spaces required a change in the site plan and the architect was only able to fit 176 of the proposed 178 units into the final plan. It appears that the original site plan included in the application may have reflected unrealistically small buildings given the size of the property and the size of the parking. The revised site plan reflects an intensely packed site with no identifiable room to include the additional two units or six parking spaces.

To mitigate the loss of units, the owner's letter cited a number of features that were built above and beyond the features proposed in the original application. The additional features included granite (instead of laminate as proposed) counter tops in the kitchen, wall-mounted granite shelves above pedestal sinks in the bathrooms, an enclosed spa (within the clubhouse instead of by the swimming pool), dual-flush (water-saving) toilets, tile (instead of fiberglass as proposed) walk-in showers, tankless recirculating water heaters, decorative concrete pool deck (appeared to be masonry pavers), faux wood blinds, card-control access into clubhouse, irrigation system for landscaping, and the 126 additional parking spaces noted above.

The final sizes of the units built were larger than originally proposed. The total net rentable area (NRA) actually built was 145,808 square feet versus 137,510 square feet as originally proposed.

As proposed and as built, the buildings were all indicated to be one-story in height and all units were designed with vaulted ceilings. Converting the design to include two-story buildings would have affected the ceilings as originally proposed and would have required elevators both of which would have affected total development cost more significantly than the what was ultimately constructed.

Staff from the Compliance Division re-inspected the property on May 1, 2009 at the Board's request. Compliance staff noted that some of the features described by the owner as above and beyond are the norm for most new construction properties in the portfolio. For example, the pool decorative decking; wide-slat window blinds and card control access are commonly found in new tax credit developments. In addition, the dual-flush toilets and sprinkler irrigation system, which have been the major source of complaint due to poor functionality, appear to be less desirable amenities at this particular development. The owner was present the day of the inspection and is actively working with residents to resolve concerns.

Owner:	OHC/Little Elm, Ltd.
General Partner:	Outreach Housing Corporation (Nonprofit)
Developers:	Harvest Hill Development
Principals/Interested Parties:	Shaw Family Trust; Richard Shaw (Guarantor)
Syndicator:	WNC & Associates, Inc.
Construction Lender:	Washington Mutual
Permanent Lender:	Washington Mutual
Other Funding:	Tax-Exempt Bond Financing
City/County:	Little Elm/Denton
Set-Aside:	Tax-Exempt Bond Development – Denton County Housing Finance Corporation
Type of Area:	Urban/Exurban
Region:	3
Type of Development:	New Construction
Population Served:	Elderly Population
Units:	178 HTC units
2004 Allocation:	$428,143
Allocation per HTC Unit:	$2,405
Prior Board Actions:	7/04 – Approved award of tax credits
Underwriting Reevaluation:	Complete cost documentation has not been provided nor has a complete cost certification package. It is possible that a downward adjustment to the recommended credit amount will result but it is not anticipated to be more than 10%. A re-evaluation is pending receipt of additional information.
Staff Recommendation:	**Staff recommends approval of the request because the reduction in units would not have impacted the original decision to allocate credits. In addition the extra amenities and increased net rentable area provide some measure of compensation for the reduction of the two units.** **Staff further recommends the issuance of the IRS Forms 8609 be held until all issues with the development are corrected to the satisfaction of the Department.**
Penalty Assessment:	**Staff recommends the assessment of appropriate penalties because the request is made after the implementation of the change.**

HTC No. 08195, Chateau Village Apartments

Summary of Request: The development is the rehabilitation of an existing apartment complex. The owner requested to be released from a condition of the Commitment Notice requiring that the development's cost certification provide evidence of the receipt of a 50% property tax exemption from the Harris County Central Appraisal District.

Owner:	Houston Leased Housing Associates I, LP
General Partner:	Housing Services Incorporated (Nonprofit)
Developers:	Housing Services Incorporated
Principals/Interested Parties:	Lee Anderson, Executive Director of the Nonprofit
Syndicator:	Alliant Capital Corporation
Permanent Lender:	Dougherty Mortgage, LLC Department of Housing and Urban Development City of Houston HOME Funds
Other Funding:	NA
City/County:	Houston/Harris
Set-Aside:	At-Risk
Type of Area:	Urban
Region:	6
Type of Development:	Acquisition/Rehabilitation
Population Served:	General Population
Units:	150 HTC units
2008 Allocation:	$1,219,712 (original plus supplemental allocations)
Allocation per HTC Unit:	$8,131
Prior Board Actions:	7/08 – Approved award of tax credits
Underwriting Reevaluation:	The development is financially feasible without the property tax exemption
Staff Recommendation:	**Staff recommends approval of the amendment.**
Penalty Assessment:	**Staff recommends no assessment of penalties.**

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Memorandum

To: Multifamily Finance Production Division

From: Audrey Martin, Real Estate Analysis

cc: File

Date: April 6, 2009

Re: Amendment for Lakeside Manor Seniors Community, TDHCA #04463

Background

The development is a 4% / Tax-Exempt Bond development that was originally underwritten during 2004 and approved for a tax credit award not to exceed $428,143 annually. The Owner reported that the development placed in service in 2006, but the Owner has not submitted a cost certification.

Amendment Request

In an amendment request letter dated October 28, 2008, and received by the Department on January 5, 2009, the Owner requested a reduction of the total number of units from 178 to 176. In addition, the Owner has identified several amenities that have been added to compensate for the reduction in the number of units. The Owner stated that the reduction in units was necessary because the Town of Little Elm denied the parking variance application submitted by the developer. Because of this, the site had to be reconfigured to provide the required amount of parking, and the result was that two of the 60% two-bedroom, two-bathroom units had to be eliminated. Per the revised site plan there are 40 garages, 50 carports, and 303 uncovered parking spaces which satisfies the parking requirements of the Town of Little Elm. The number of garages and carports has not changed since application; however, the number of uncovered parking spaces has increased from 177 at application.

The amendment request identifies several amenities currently existing within the development as substitutions for the two units that were excluded: granite counter tops in kitchen, 35 seat theater room, country store, indoor spa, health care office, walk-in showers with glass enclosure, water saving commodes, two inch faux wood blinds, decorative concrete pool deck, card access controls for residents clubhouse entry, tankless water heaters on each building, vaulted ceilings, irrigation system, additional parking spaces, a community garden, and a central trash compactor. In addition, pedestal sinks with a granite shelf placed nearby were installed in lieu of a traditional cabinet-style sink in order to create better access for potential tenants with wheel chairs.

The amendment request materials included the following updated exhibits: rent schedule, utility allowances, annual operating expenses, building / unit type configuration, 30 year proforma, development cost schedule, sources and uses, site plan, building plans, and unit plans. The Underwriter evaluated all of the new information.

Conclusions

The Underwriter's review of the amendment request indicates that the requested changes do not have a material effect on underwriting of the transaction. Based on the amenities provided as substitutions for the lost units, it seems reasonable that the cost increases as a result of the amenities were greater than the cost reduction associated with the loss of the two units. However, staff cannot evaluate the full extent of the effect of the amendment on the transaction until the cost certification is submitted to the Department. Staff does not recommend an adjustment to the tax credit allocation prior to the finalization of the cost certification review.

MULTIFAMILY COMPARATIVE ANALYSIS

Lakeside Manor Senior Community, Little Elm, 4% HTC - 2004 #04463

Type of Unit	Number	Bedrooms	No. of Baths	Size in SF	Gross Rent Lmt.	Rent Collected	Applicant	Rent per Month	Rent per SF	Tnt-Pd Util	WH, W, S, & T
TC 50%	89	1	1	737	$623	$560	$560.00	$49,840	$0.76	$63.00	$82.00
TC 60%	55	1	1	737	$748	$685	$685.00	$37,675	$0.93	$63.00	$82.00
TC 60%	32	2	2	923	$898	$816	$817.00	$26,112	$0.88	$82.00	$96.00
TOTAL:	176		**AVERAGE:**	771		$646		$113,627	$0.84	$82.36	$84.55

INCOME	Total Net Rentable Sq Ft:	135,664			**TDHCA-Amend**	**TDHCA-App**	**APPLICANT-App**	**APPLICANT-Amend**	COUNTY	IREM REGION	COMPT. REGION
POTENTIAL GROSS RENT					$1,363,524	$1,410,891	$1,381,824	$1,361,412	Denton	Dallas	3
Secondary Income		Per Unit Per Month:		$15.00	31,680	32,040	32,040	31,680	$15.00	Per Unit Per Month	
Other Income: Garages, W/D, cable/telephone, carports				$4.90	10,349	10,464	92,280	84,480	$40.00	Per Unit Per Month	
POTENTIAL GROSS INCOME					$1,405,553	$1,453,395	$1,506,144	$1,477,572			
Vacancy & Collection Loss		% of Potential Gross Income:		-7.50%	(105,416)	(109,005)	(75,312)	(110,820)	-7.50%	of Potential Gross Income	
Employee or Other Non-Rental Units or Concessions					0	0	0	0			
EFFECTIVE GROSS INCOME					$1,300,136	$1,344,390	$1,430,832	$1,366,752			
EXPENSES		% OF EGI	PER UNIT	PER SQ FT					PER SQ FT	PER UNIT	% OF EGI
General & Administrative		3.41%	$252	0.33	$44,270	$70,082	$18,500	$10,500	$0.08	$60	0.77%
Management		5.00%	369	0.48	65,007	67,220	70,000	67,200	0.50	382	4.92%
Payroll & Payroll Tax		11.49%	849	1.10	149,404	140,496	145,000	123,600	0.91	702	9.04%
Repairs & Maintenance		5.34%	394	0.51	69,398	62,370	40,200	26,700	0.20	152	1.95%
Utilities		4.26%	314	0.41	55,323	24,423	27,000	39,000	0.29	222	2.85%
Water, Sewer, & Trash		4.97%	367	0.48	64,555	58,401	55,000	59,500	0.44	338	4.35%
Property Insurance		2.40%	178	0.23	31,265	34,378	38,000	33,600	0.25	191	2.46%
Property Tax	2.33573	4.82%	356	0.46	62,691	114,771	110,000	62,691	0.46	356	4.59%
Reserve for Replacements		2.74%	202	0.26	35,600	35,600	35,600	35,200	0.26	200	2.58%
TDHCA Compliance Fees		0.34%	25	0.03	4,400	4,450	4,450	4,500	0.03	26	0.33%
Other: Security		0.19%	14	0.02	2,500	4,200	4,250	2,500	0.02	14	0.18%
TOTAL EXPENSES		44.95%	$3,321	$4.31	$584,414	$616,391	$548,000	$464,991	$3.43	$2,642	34.02%
NET OPERATING INC		55.05%	$4,067	$5.28	$715,723	$727,999	$882,832	$901,761	$6.65	$5,124	65.98%
DEBT SERVICE											
Tax-Exempt Bond Financing		51.71%	$3,820	$4.96	$672,340	672,266	719,470	487,350	$3.59	$2,769	35.66%
Taxable Tail		0.00%	$0	$0.00	0	0	0	34,600	$0.26	$197	2.53%
Additional Financing		0.00%	$0	$0.00	0	0	0	0	$0.00	$0	0.00%
NET CASH FLOW		3.34%	$246	$0.32	$43,383	$55,733	$163,362	$379,811	$2.80	$2,158	27.79%
AGGREGATE DEBT COVERAGE RATIO					1.06	1.08	1.23	1.73			
RECOMMENDED DEBT COVERAGE RATIO					1.15	1.10					

CONSTRUCTION COST

Description	Factor	% of TOTAL	PER UNIT	PER SQ FT	**TDHCA-Amend**	**TDHCA-App**	**APPLICANT-App**	**APPLICANT-Amend**	PER SQ FT	PER UNIT	% of TOTAL
Acquisition Cost (site or bldg)		8.35%	$7,168	$9.30	$1,261,522	$1,242,651	$1,180,000	$1,261,522	$9.30	$7,168	8.88%
Off-Sites		0.00%	0	0.00	0	0	0	0	0.00	0	0.00%
Sitework		9.60%	8,239	10.69	1,450,000	1,169,500	1,169,500	1,450,000	10.69	8,239	10.21%
Direct Construction		47.62%	40,875	53.03	7,194,073	6,585,068	6,285,000	6,512,711	48.01	37,004	45.85%
Contingency	0.00%	0.00%	0	0.00	0	387,728	450,000	0	0.00	0	0.00%
Contractor's Fees	13.04%	7.46%	6,405	8.31	1,127,299	1,020,365	1,040,000	1,127,299	8.31	6,405	7.94%
Indirect Construction		4.06%	3,482	4.52	612,868	480,500	480,500	612,868	4.52	3,482	4.31%
Ineligible Costs		4.20%	3,603	4.67	634,124	536,076	397,599	555,476	4.09	3,156	3.91%
Developer's Fees	14.48%	10.90%	9,356	12.14	1,646,640	1,550,000	1,550,000	1,646,640	12.14	9,356	11.59%
Interim Financing		6.54%	5,618	7.29	988,731	1,172,401	1,172,401	988,731	7.29	5,618	6.96%
Reserves		1.27%	1,088	1.41	191,541	294,296	200,000	50,000	0.37	284	0.35%
TOTAL COST		100.00%	$85,834	$111.35	$15,106,797	$14,438,585	$13,925,000	$14,205,247	$104.71	$80,712	100.00%
Construction Cost Recap		*64.68%*	***$55,519***	***$72.03***	***$9,771,372***	***$9,162,661***	***$8,944,500***	***$9,090,010***	***$67.00***	***$51,648***	*63.99%*

SOURCES OF FUNDS				$0.092	$609,005			RECOMMENDED	
First Lien - Conv Loan WaMu	3.31%	$2,841	$3.69	$500,000	$500,000	$500,000	$500,000	$9,251,658	Developer Fee Available
Mortgage Revenue Bonds - WaMu	62.89%	$53,977	$70.03	9,500,000	9,500,000	9,500,000	9,500,000	0	$1,646,640
HTC Syndication Proceeds - WNC	24.35%	$20,902	$27.12	3,678,705	3,505,745	3,505,745	3,678,705	3,651,021	% of Dev. Fee Deferred
Deferred Developer Fees	3.49%	$2,992	$3.88	526,542	419,255	419,255	526,542	1,302,568	79%
Additional (Excess) Funds Req'd	5.97%	$5,122	$6.65	901,550	513,585	0	0	(0)	15-Yr Cumulative Cash Flow
TOTAL SOURCES				$15,106,797	$14,438,585	$13,925,000	$14,205,247	$14,205,247	$3,153,533

Lakeside Manor Senior Community, Little Elm, 4% HTC - 2004 #04463

DIRECT CONSTRUCTION COST ESTIMATE

Marshall & Swift Residential Cost Handbook **9/1/2008 Version**

Average Quality Multiple Residence Basis

CATEGORY	FACTOR	UNITS/SQ FT	PER SF	AMOUNT
Base Cost			$58.54	$7,942,045
Adjustments				
Exterior Wall Finish			$0.00	$0
Elderly	3.00%		1.76	238,261
9-Ft. Ceilings			0.00	0
Roofing			0.00	0
Subfloor			(2.47)	(335,090)
Floor Cover			2.43	329,664
Breezeways/Balconies	$19.81	30,080	4.39	595,885
Plumbing Fixtures	$835	(80)	(0.49)	(66,800)
Rough-ins	$410	176	0.53	72,160
Built-In Appliances	$1,800	176	2.34	316,800
Exterior Stairs	$1,800	0	0.00	0
Carports	$9.90	9600	0.70	95,040
Heating/Cooling			1.90	257,762
Garages	$26.83	8,000	1.58	214,640
Comm &/or Aux Bldgs	$69.44	5,500	2.82	381,906
Other: fire sprinkler	$1.95	0	0.00	0
SUBTOTAL			74.02	10,042,272
Current Cost Multiplier	1.01		0.74	100,423
Local Multiplier	0.90		(7.40)	(1,004,227)
TOTAL DIRECT CONSTRUCTION COSTS			$67.36	$9,138,468
Plans, specs, survy, bld prm	3.90%		($2.63)	($356,400)
Interim Construction Interes	3.38%		(2.27)	(308,423)
Contractor's OH & Profit	11.50%		(7.75)	(1,050,924)
NET DIRECT CONSTRUCTION COSTS			$54.71	$7,422,720

PAYMENT COMPUTATION

Primary	$10,000,000	Amort	360
Int Rate	5.38%	DCR	1.06

Secondary	$0	Amort	0
Int Rate	0.00%	Subtotal DCR	1.06

Additional	$3,678,705	Amort	0
Int Rate		Aggregate DCR	1.06

RECOMMENDED FINANCING STRUCTURE:

Primary Debt Service	$622,026
Secondary Debt Service	0
Additional Debt Service	0
NET CASH FLOW	$93,697

Primary	$9,251,658	Amort	360
Int Rate	5.38%	DCR	1.15

Secondary	$0	Amort	0
Int Rate	0.00%	Subtotal DCR	1.15

Additional	$3,678,705	Amort	0
Int Rate	0.00%	Aggregate DCR	1.15

OPERATING INCOME & EXPENSE PROFORMA: RECOMMENDED FINANCING STRUCTURE

INCOME at 3.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
POTENTIAL GROSS RENT	$1,363,524	$1,404,430	$1,446,563	$1,489,959	$1,534,658	$1,779,090	$2,062,452	$2,390,948	$3,213,234
Secondary Income	31,680	32,630	33,609	34,618	35,656	41,335	47,919	55,551	74,656
Other Income: Garages, W/D, ca	10,349	10,659	10,979	11,308	11,648	13,503	15,653	18,147	24,388
POTENTIAL GROSS INCOME	1,405,553	1,447,719	1,491,151	1,535,885	1,581,962	1,833,928	2,126,025	2,464,645	3,312,277
Vacancy & Collection Loss	(105,416)	(108,579)	(111,836)	(115,191)	(118,647)	(137,545)	(159,452)	(184,848)	(248,421)
Employee or Other Non-Rental	0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME	$1,300,136	$1,339,140	$1,379,315	$1,420,694	$1,463,315	$1,696,383	$1,966,573	$2,279,797	$3,063,856
EXPENSES at 4.00%									
General & Administrative	$44,270	$46,041	$47,883	$49,798	$51,790	$63,011	$76,662	$93,271	$138,064
Management	65,007	66,957	68,966	71,035	73,166	84,819	98,329	113,990	153,193
Payroll & Payroll Tax	149,404	155,380	161,596	168,059	174,782	212,649	258,720	314,772	465,940
Repairs & Maintenance	69,398	72,174	75,061	78,064	81,186	98,776	120,176	146,212	216,430
Utilities	55,323	57,535	59,837	62,230	64,720	78,741	95,801	116,556	172,532
Water, Sewer & Trash	64,555	67,137	69,822	72,615	75,520	91,881	111,788	136,007	201,324
Insurance	31,265	32,516	33,817	35,169	36,576	44,500	54,141	65,871	97,506
Property Tax	62,691	65,199	67,807	70,519	73,340	89,229	108,561	132,080	195,511
Reserve for Replacements	35,600	37,024	38,505	40,045	41,647	50,670	61,648	75,004	111,024
Other	6,900	7,176	7,463	7,762	8,072	9,821	11,949	14,537	21,519
TOTAL EXPENSES	$584,414	$607,140	$630,756	$655,297	$680,798	$824,097	$997,773	$1,208,302	$1,773,042
NET OPERATING INCOME	$715,723	$732,000	$748,559	$765,397	$782,517	$872,286	$968,800	$1,071,495	$1,290,815
DEBT SERVICE									
First Lien Financing	$622,026	$622,026	$622,026	$622,026	$622,026	$622,026	$622,026	$622,026	$622,026
Second Lien	0	0	0	0	0	0	0	0	0
Other Financing	0	0	0	0	0	0	0	0	0
NET CASH FLOW	$93,697	$109,975	$126,533	$143,372	$160,491	$250,260	$346,774	$449,470	$668,789
DEBT COVERAGE RATIO	1.15	1.18	1.20	1.23	1.26	1.40	1.56	1.72	2.08

HTC ALLOCATION ANALYSIS -Lakeside Manor Senior Community, Little Elm, 4% HTC - 2004 #04463

CATEGORY	APPLICANT'S TOTAL AMOUNTS	TDHCA TOTAL AMOUNTS	APPLICANT'S REHAB/NEW ELIGIBLE BASIS	TDHCA REHAB/NEW ELIGIBLE BASIS
Acquisition Cost				
Purchase of land	$1,261,522	$1,261,522		
Purchase of buildings				
Off-Site Improvements				
Sitework	$1,450,000	$1,450,000	$1,450,000	$1,450,000
Construction Hard Costs	$6,512,711	$7,194,073	$6,512,711	$7,194,073
Contractor Fees	$1,127,299	$1,127,299	$1,114,780	$1,127,299
Contingencies				
Eligible Indirect Fees	$612,868	$612,868	$612,868	$612,868
Eligible Financing Fees	$988,731	$988,731	$988,731	$988,731
All Ineligible Costs	$555,476	$634,124		
Developer Fees			$1,601,863	
Developer Fees	$1,646,640	$1,646,640		$1,646,640
Development Reserves	$50,000	$191,541		
TOTAL DEVELOPMENT COSTS	$14,205,247	$15,106,797	$12,280,953	$13,019,611

Deduct from Basis:			
All grant proceeds used to finance costs in eligible basis			
B.M.R. loans used to finance cost in eligible basis			
Non-qualified non-recourse financing			
Non-qualified portion of higher quality units [42(d)(3)]			
Historic Credits (on residential portion only)			
TOTAL ELIGIBLE BASIS		$12,280,953	$13,019,611
High Cost Area Adjustment		100%	100%
TOTAL ADJUSTED BASIS		$12,280,953	$13,019,611
Applicable Fraction		100%	100%
TOTAL QUALIFIED BASIS		$12,280,953	$13,019,611
Applicable Percentage		3.46%	3.46%
TOTAL AMOUNT OF TAX CREDITS		$424,921	$450,479
Syndication Proceeds	**0.8592**	**$3,651,021**	**$3,870,617**

Total Tax Credits (Eligible Basis Method)	**$424,921**	**$450,479**
Syndication Proceeds	**$3,651,021**	**$3,870,617**
Approved Tax Credits	**$428,143**	
Syndication Proceeds	**$3,678,705**	
Requested Tax Credits	**$446,176**	
Syndication Proceeds	**$3,833,649**	
Gap of Syndication Proceeds Needed	**$4,953,589**	
Total Tax Credits (Gap Method)	**$576,519**	
Reconciled Tax Credits	**$424,921**	
Syndication Proceeds	**$3,651,021**	

TEXAS DEPARTMENT of HOUSING and COMMUNITY AFFAIRS

MULTIFAMILY UNDERWRITING ANALYSIS

DATE: 11/3/2004 **PROGRAM:** 4% HTC **FILE NUMBER:** 04463

DEVELOPMENT NAME

Lakeside Manor Senior Community

APPLICANT

Name:	OHC/LITTLE ELM LTD	**Type:**	For-profit w/non-profit general partner
Address:	16200 Dallas Parkway, Suite 190	**City:**	Dallas **State:** TX
Zip:	75248 **Contact:** Richard Shaw	**Phone:**	(972) 733-0096 **Fax:** (972) 733-1864

PRINCIPALS of the APPLICANT/ KEY PARTICIPANTS

Name:	Outreach Housing Coporation (Nonprofit)	**(%):**	0.005	**Title:**	Managing General Partner/Developer/21% owner of SLP
Name:	Harvest Hill Development	**(%):**	0.005	**Title:**	Special Limited Partner
Name:	Shaw Family Trust	**(%):**	N/A	**Title:**	79% owner of SLP
Name:	Richard Shaw	**(%):**	N/A	**Title:**	Guarantor

PROPERTY LOCATION

Location:	FM 720 and Lobo Lane		☐ **QCT**		☐ **DDA**
City:	Little Elm	**County:**	Denton	**Zip:**	75068

REQUEST

Amount	Interest Rate	Amortization	Term
$438,218 (10/06/2004)	N/A	N/A	N/A

Other Requested Terms: Annual ten-year allocation of housing tax credits

Proposed Use of Funds: New construction **Property Type:** Multifamily

Special Purpose (s): Elderly

RECOMMENDATION

☒ RECOMMEND APPROVAL OF A HOUSING TAX CREDIT ALLOCATION NOT TO EXCEED $428,143 ANNUALLY FOR TEN YEARS, SUBJECT TO CONDITIONS.

CONDITIONS

1. Acceptance by the Board of the anticipated likely redemption of up to $155K in bonds at the conversion to permanent;
2. Should the terms and rates of the proposed debt or syndication change, the transaction should be re-evaluated and an adjustment to the credit amount may be warranted.

REVIEW of PREVIOUS UNDERWRITING REPORTS

No previous reports.

DEVELOPMENT SPECIFICATIONS

IMPROVEMENTS

Total Units: 178 **# Rental Buildings** 31 **# Non-Res. Buildings** 2 **# of Floors** 1 **Age:** N/A yrs **Vacant:** N/A at / /

Net Rentable SF: 137,510 **Av Un SF:** 773 **Common Area SF:** 5,857 **Gross Bldg SF:** 143,367

STRUCTURAL MATERIALS

The structure will be wood frame on a post-tensioned slab. According to the plans provided in the application the exterior will be comprised as follows: 80% brick veneer and 20% cement fiber siding. The interior wall surfaces will be drywall and the pitched roof will be finished with composite shingles.

APPLIANCES AND INTERIOR FEATURES

The interior flooring will be faux wood. Each unit will include: range & oven, hood & fan, garbage disposal, dishwasher, refrigerator, fiberglass tub/shower, washer & dryer connections, ceiling fans, laminated counter tops, central boiler water heating system, individual heating and air conditioning, and high-speed internet access.

ON-SITE AMENITIES

A 5,500-square foot community building will include an activity room, management offices, fitness, laundry facilities, a kitchen, a dining room, restrooms, a computer/business center, a beauty salon, a health center, an arts and crafts room, and a central mailroom. The community building, swimming pool, barbecue area and gardens are located at the entrance to the property. In addition, perimeter fencing and a stand-alone 357-square foot maintenance building are planned.

Uncovered Parking: 177 spaces **Carports:** 50 spaces **Garages:** 40 spaces

PROPOSAL and DEVELOPMENT PLAN DESCRIPTION

Description: Lakeside Manor Senior Community is a relatively dense (17 units per acre) new construction development of affordable/mixed income housing located in east Denton County. The development is comprised of 31 evenly distributed one-story residential buildings as follows:

- Six buildings with four one-bedroom and three two-bedroom units;
- Nine buildings with four one-bedroom units;
- Eight buildings with eight one-bedroom units;
- Two buildings with four two-bedroom units;
- Three buildings with four one-bedroom and two two-bedroom units;
- Two buildings with three one-bedroom units; and
- One building with two one-bedroom and two two-bedroom units.

Architectural Review: The unit floorplans appear to offer adequate living and storage space. The exterior of the buildings reflect design elements that are typical of new construction developments. An area of slight concern to the Underwriter is the distance from the a portion of the units located at the back of the site to the community building.

SITE ISSUES

SITE DESCRIPTION

Size: 10.6 acres 461,736 square feet **Zoning/ Permitted Uses:** MF-2

Flood Zone Designation: Zone X **Status of Off-Sites:** Fully improved

SITE and NEIGHBORHOOD CHARACTERISTICS

Location: Little Elm is located North of the Dallas/Fort Worth Metroplex in Denton County. The site is located near FM 720 on Lobo Lane. This area of Little Elm is surrounded on three sides by Lake Lewisville.

Adjacent Land Uses:

- **North:** shopping strip, Taco Delite, and Sonic Restaurant, across FM 720: City Park (baseball field);
- **South:** residences;
- **East:** across Lobo Lane: Johnny Joe's gas station, self storage, daycare center, and school; and
- **West:** Express Chicken and post office.

Site Access: Direct access to the property is from Lobo Lane, which leads to FM 720 to the north. FM 720 provides access to other major roads and highways throughout the Dallas/Fort Worth area.

Public Transportation: The availability of public transportation near the site was not identified in the application materials.

Shopping & Services: Little Elm residents make use of the shopping and services available in Denton, which is located 12 miles north, and the Dallas/Fort Worth Metroplex, which is located south of the town.

Site Inspection Findings: TDHCA staff performed a site inspection on September 1, 2004 and found the location to be acceptable for the proposed development.

HIGHLIGHTS of SOILS & HAZARDOUS MATERIALS REPORT(S)

A Phase I Environmental Site Assessment report dated September 18, 2002 and updated August 28, 2004 was prepared by Envirocare Associates, Inc and contained the following findings and recommendations: "Based on the site visit, historical search, review of databases, interviews with individuals, and without conducting any sampling, no direct evidence was found to indicate environmental impairment at the subject site. No additional work is recommended at this time" (p. ii).

POPULATIONS TARGETED

Income Set-Aside: The Applicant has elected the 40% at 60% or less of area median gross income (AMGI) set-aside. As a Priority 1 private activity bond lottery development the Applicant has also elected the 50% at 50% / 50% at 60% option. All of the units (100% of the total) will be reserved for low-income/elderly tenants.

MAXIMUM ELIGIBLE INCOMES

	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons
60% of AMI	$27,960	$31,920	$35,940	$39,900	$43,080	$46,260

MARKET HIGHLIGHTS

A market feasibility study dated August 31, 2004, with corrections made on October 23, 2004, was prepared by Jack Poe Company ("Market Analyst") and highlighted the following findings:

Definition of Primary Market Area (PMA): "The primary Market is north of Dallas, Texas and is delineated by US 380 to the north, IH 35 to the west, Dallas County to the south, and US 75 to the east…These boundaries encompass MP/F's submarkets #31, #44, #47, #81, #82 and #85" (p. 23). This area encompasses approximately 346.24 square miles (equivalent to a circle with a radius of 10.5 miles) and is very large, but somewhat typical for a seniors development.

Population: The estimated 2003 population of the PMA was 617,027 and is expected to increase to approximately 833,394 by 2008. Within the primary market area there were estimated to be 234,207 households in 2003. There are an estimated 45,076 senior households in 2004 in the PMA.

Total Primary Market Demand for Rental Units: The Market Analyst calculated a total demand based on 2.1% to 3.1% income and age qualified households, 33% to 50% renter households, and existing rental housing supply of 60,000 units. The Market Analyst used an income band of $15,000 to $35,000.

ANNUAL AGE & INCOME-ELIGIBLE PRIMARY MARKET DEMAND SUMMARY				
	Market Analyst		Underwriter	
Type of Demand	**Units of Demand**	**% of Total Demand**	**Units of Demand**	**% of Total Demand**
Household Growth	205	23%	175	12%
Resident Turnover			1,321	88%
Other Sources: pent-up demand	701	77%		
TOTAL ANNUAL DEMAND	**906**	**100%**	**1,496**	**100%**

Ref: p. 31-32

Inclusive Capture Rate: The Market Analyst calculated a capture rate for proposed and unstabilized HTC developments targeting seniors at 28% (p. 48). However, the Market Analyst excluded a seniors development awarded tax credits in 2004 with 250 units in the corrected version of the market study. Including these 250 units in the calculation results in a capture rate of 56%, which is within the maximum of 100% allowed for development's targeting senior households. Using a different methodology to calculate demand (including an income band of $21,360 to $35,000), the Underwriter was also able to verify an inclusive capture rate for the development of less than 100%.

Market Rent Comparables: The Market Analyst surveyed eight comparable apartment projects totaling 1,751 units in the market area. Four of the eight properties are HTC developments; however, it should be noted the tax credit comparable units have higher rents on average than the market comparable units. "D/FW area monthly rents (excluding electricity) averaged $0.804 per square foot per month as of the second quarter of 2004…The primary Market rents are higher than the greater Dallas/Fort Worth apartment market average in all cohorts except complexes built after 1990 and before 1970 in Dallas" (p. 26).

RENT ANALYSIS (net tenant-paid rents)					
Unit Type (% AMI)	**Proposed**	**Program Max**	**Differential**	**Est. Market**	**Differential**
1-Bedroom (50%)	$573	$573	$0	$750	-$177
1-Bedroom (60%)	$675	$698	-$23	$750	-$75
2-Bedroom (60%)	$795	$830	-$35	$900	-$105

(NOTE: Differentials are amount of difference between proposed rents and program limits and average market rents, e.g., proposed rent =$500, program max =$600, differential = -$100)

Primary Market Occupancy Rates: "Average apartment occupancy, at 91.2%, in the primary market, is greater than the D/FW area average of 90.1%" (p. 28).

Absorption Projections: "…new LIHTC apartments in the Secondary Market (Dallas/Fort Worth Metroplex) are leasing between 25 and 35 units per month…Thus, a lease-up rate of 30 units per month is inferred from the market data" (p. 51). Conversation with a representative of the owner of Corinth Autumn Oaks revealed the development has been in lease-up for 14 months and has yet to reach a 90% occupancy level. The Market Analyst did further research and found that Corinth Autumn Oaks is currently 95% leased according to the onsite manager. Assuming the lease-up period lasted a minimum of 14 months, the 72 occupied units leased at an average of 5 units per month. This would equate to a 36 month lease-up period for the subject 178 units.

Existing/Planned Housing Stock: "The 2004 TDHCA Inventory lists two tax credit awards for qualified elderly developments in the submarket. They are the Villas of Mission Bend (98101) and Evergreen at Plano (04409)…neither complex is within one mile of the subject" (p. 29). A proposed 4% HTC development, Primrose at McDermott, is also located within the defined Primary Market Area. However, the subject development has priority over Primrose at McDermott based on their respective bond reservation dates. Finally, the Market Analyst does not include Corinth Autumn Oaks (9% HTC #01144) in the analysis of the Primary Market Area. The mixed-income development offers 76 tax credit units for senior residents and has not reached and maintained a 90% occupancy rate for 12 consecutive months. Therefore, Corinth Autumn Oaks is an unstabilized comparable development for capture rate purposes. Corrections to the Market Study include the addition of the 76 tax credit units at Corinth Autumn Oaks in the inclusive capture rate calculation. A 2001 4% HTC development, Primrose at Sequoia was not considered in the demand analysis for the subject development because Primrose does not specifically target senior households.

Market Study Analysis/Conclusions: The Underwriter found the market study provided sufficient information on which to base a funding recommendation.

OPERATING PROFORMA ANALYSIS

Income: The Applicant assumed a gross rent for the units set-aside to be affordable to households earning 60% or less of AMGI at a level below the maximum gross rent limit. The Underwriter used the maximum gross rents in calculating the net rents as they are supported by the market rent conclusions in the Market Study.

Secondary income attributable to "Telephone" will be earned from the Owner's services as a marketing representative for the local residential telecommunication provider. A contract entered into by an affiliate of the Applicant and Southwestern Bell Telephone, LP (SWBT) indicates SWBT will pay a commission for a period of seven years based on a Performance Commission Rate (PCR) of 4.50%. The amount of commission paid to the owner each month is determined by multiplying the PCR and the total billed revenue less taxes, special fees, franchise and/or governmental fees, installation charges, late payment charges, uncollectables, charges for equipment and business service charges.

Secondary income attributable to "Cable" will be earned from the Owner's services as a marketing representative for the local cable television provider. A contract entered into by an affiliate of the Applicant and Comcast indicates a one time fee plus a quarterly commission will be paid on a step system based on the percentage of service penetration.

The sample contracts support secondary income above the current $15 per unit per month maximum guideline; however, the returns are based upon the number of tenants that choose to sign up for the optional services. The Applicant also plans to charge for garages and carports (allowing one free parking space per unit), but was unable to substantiate the proposed rental rate. The underwriting analysis includes additional secondary income of $4.90 per unit per month based on the average of actual collections at seven HTC developments located in Region 3.

The Applicant also proposes a vacancy and collection loss rate of 5% rather than the Departments' standard of 7.5%. The lower vacancy and collection rate is not supported by the Market Analyst's occupancy rate conclusions. As a net result of these differences, the Applicant's effective gross income is $86K, or 6%, higher than the Underwriter's estimate.

Expenses: The Applicant's operating expense projection is $68K, or 11% less than the Underwriter's estimate. The Underwriter's line-item expense estimates are based on the TDHCA database and IREM data as well as an operating statement for Trails of Sanger (4% HTC 02455 - Family) submitted by the Applicant and an operating statement for Corinth Autumn Oaks (9% HTC #01144 - Seniors). The Applicant's line-item projections that varied significantly when compared to the Underwriter's estimates include: general & administrative ($52K higher) and repairs & maintenance ($22K lower). It should be noted, because the General Partner is a nonprofit entity, the development may qualify for a tax exemption. However, the submitted application materials did not indicate the Applicant will seek an exemption and the Underwriter was able to verify the Applicant's projected property tax expense based on the actual expense experienced by comparable developments within the same region.

Conclusion: The Applicant's effective gross income, total operating expense and net operating income projections are each outside the 5% tolerance range when compared to the Underwriter's estimates. Therefore, the Underwriter's proforma will be used to determine the development's debt service capacity. The development is not able to support the proposed financing structure at a minimum 1.10 debt coverage ratio based on the Underwriter's NOI. Therefore, it may be necessary to reduce the proposed permanent loan amount. This will be further discussed in the conclusion to the Financing Structure Analysis section of this report.

ACQUISITION VALUATION INFORMATION

ASSESSED VALUE

Land:	$205,600	**Assessment for the Year of:**	2003
Building:	N/A	**Valuation by:**	Denton County Appraisal District
Total Assessed Value:	$205,600	**Tax Rate:**	2.37697

EVIDENCE of SITE or PROPERTY CONTROL

Type of Site Control:	Contract to Purchase Real Estate (10.78 acres)		
Contract Expiration Date:	11/ 16/ 2004	**Anticipated Closing Date:**	11/ 30/ 2004
Acquisition Cost:	$1,203,800	**Other Terms:**	+$38,850.50 paving reimbursement; Access easement for benefit of seller
Seller:	Lake Shore Crossing LP	**Related to Development Team Member:**	No

CONSTRUCTION COST ESTIMATE EVALUATION

Acquisition Value: The Applicant has indicated a site acquisition cost of only $1,180,000, while the purchase contract indicates a total price of $1,242,651. The difference does not detrimentally affect the development's feasibility as there is adequate developer fee to defer if needed.

Sitework Cost: The Applicant's claimed sitework cost of $6,570 per unit is within the Department's current guideline.

Direct Construction Cost: The Applicant's direct construction cost estimate is $300K less than the Underwriter's Marshall & Swift *Residential Cost Handbook*-derived estimate, but within 5%. It should be noted, the Applicant did not include costs for proposed garages and carports in the development's eligible basis. The Applicant plans to charge for the covered parking and, therefore, the garages and carports could be viewed as retail space which is not eligible for tax credits.

Interim Financing Fees: The Underwriter reduced the Applicant's eligible interim financing fees by $162K to reflect an apparent overestimation of eligible construction loan interest, to bring the eligible interest expense down to one year of fully drawn interest expense. This results in an equivalent reduction to the Applicant's eligible basis estimate.

Fees: The Applicant's contractor general requirements, contractor general and administrative fees, and contingencies exceed the 6%, 2%, and 5% maximums allowed by HTC guidelines by $121K based on their own construction costs. Consequently the Applicant's eligible fees in these areas have been reduced by the same amount with the overage effectively moved to ineligible costs.

Conclusion: The Applicant's total development cost is within 5% of the Underwriter's estimate; therefore, the Applicant's cost schedule, as adjusted by the Underwriter for overstated interim financing costs, general contractor fees, and contingencies, will be used to estimate eligible basis and determine the development's need for permanent funds. An eligible basis of $12,026,486 results in annual tax credits of $428,143. This figure will be compared to the Applicant's request and the tax credits resulting from the development's gap in need for permanent funds to determine the recommended allocation.

FINANCING STRUCTURE

INTERIM TO PERMANENT BOND FINANCING

Source: Washington Mutual **Contact:** Mahesh S Aiyer

Tax-Exempt Amount: $9,900,000 **Interest Rate:** 5.3%

Taxable Amount: $500,000 **Interest Rate:** 7.28%

Additional Information: Issuer: Denton County Housing Finance Corporation; Blended rate: 5.38%

Amortization: 30 yrs **Term:** 17 ½ yrs **Commitment:** ☒ LOI ☐ Firm ☐ Conditional

Annual Payment: $674,100 **Lien Priority:** 1st **Commitment Date** 10/ 06/ 2004

TAX CREDIT SYNDICATION

Source: WNC & Assocaites, Inc **Contact:** David C Turek

Net Proceeds: $3,678,706 **Net Syndication Rate (per $1.00 of 10-yr HTC)** 85¢

Commitment ☒ LOI ☐ Firm ☐ Conditional **Date:** 08/ 20/ 2004

Additional Information: Revised 08/24/2004

APPLICANT EQUITY

Amount: $419,255 **Source:** Deferred Developer Fee

FINANCING STRUCTURE ANALYSIS

Interim to Permanent Bond Financing: The tax-exempt bonds are to be issued by the Denton County Housing Finance Corporation and to be placed with Washington Mutual. The permanent financing letter of interest proposes terms that result in a lower total annual debt service than projected by the Applicant. The difference may be attributable to the Applicant's original intent to place the bonds with MMA Financial.

Because both tax exempt and taxable bond proceeds will be used to finance the development, the Underwriter has utilized a blended interest rate for the total amount of permanent financing to account for priority repayment of the taxable bonds at a higher interest rate. The calculated blended interest rate utilized is 5.38% based on the lender's current underwriting terms.

HTC Syndication: The tax credit syndication letter of interest is slightly inconsistent with the terms reflected in the sources and uses of funds listed in the application. While the Applicant anticipates an annual tax credit allocation of $438,218, the syndicator expected only $432,832. Any adjustments to the limited partner contribution will be made based on the proposed syndication rate of $0.85 per dollar.

Deferred Developer's Fees: The Applicant's proposed deferred developer's fees of $419,255 amount to 27% of the total proposed fees.

Financing Conclusions: As stated above, the Applicant's cost schedule, as adjusted by the Underwriter for overstated interim financing costs, contractor fees, and contingencies, is used to estimate eligible basis and determine the development's need for permanent funds. However, the resulting tax credits of $428,143 is the recommended annual allocation as it is lower than both the Applicant's request and the tax credits resulting from the gap in need for permanent funds. Based on the syndication commitment to contribute $0.85 per tax credit dollar available to the limited partner, syndication proceeds in the amount of $3,638,851 are anticipated.

Based on the Underwriter's proforma, the development cannot service the debt resulting from the proposed financing structure with an initial minimum DCR of 1.10. It is likely the permanent loan amount will be reduced to $9,845,000 through a mandatory redemption of the taxable mortgage revenue bonds. To fill the remaining gap in permanent funds, it is likely the developer will defer $441,149 in fees. This amount appears to be repayable from development cashflow within five years of stabilized operation.

DEVELOPMENT TEAM

IDENTITIES of INTEREST

The Applicant, Developer, General Contractor, Property Manager, and the Supportive Services Provider are all related entities. These are common relationships for HTC-funded developments.

APPLICANT'S/PRINCIPALS' FINANCIAL HIGHLIGHTS, BACKGROUND, and EXPERIENCE

Financial Highlights:

- The Applicant is a single-purpose entity created for the purpose of receiving assistance from TDHCA and therefore has no material financial statements.
- Outreach Housing Corporation, the nonprofit General Partner of the Applicant submitted an unaudited financial statement as of August 17, 2004 reporting total assets of $7.9M consisting of $385K in cash, $3.1M in receivables, $4.3M in real property, and $78K in office fixtures. Contingent liabilities totaled $1.4M, resulting in net assets of $7.9M.

Background & Experience: Multifamily Production Finance Staff have verified that the Department's experience requirements have been met and Portfolio Management and Compliance staff will ensure that the proposed owners have an acceptable record of previous participation.

SUMMARY OF SALIENT RISKS AND ISSUES

- The Applicant's estimated income, operating expenses, and net operating income are more than 5% outside of the Underwriter's verifiable ranges.
- The development would need to capture a majority of the projected market area demand (i.e., capture rate exceeds 50%).
- The significant financing structure changes being proposed have not been reviewed/accepted by the Applicant, lenders, and syndicators, and acceptable alternative structures may exist.

Underwriter:	*Lisa Vecchietti*	**Date:**	November 3, 2004
Director of Real Estate Analysis:	*Tom Gouris*	**Date:**	November 3, 2004

MULTIFAMILY COMPARATIVE ANALYSIS

Lakeside Manor Senior Community, Little Elm, 4% HTC #04463

Type of Unit	Number	Bedrooms	No. of Baths	Size in SF	Gross Rent Lmt.	Net Rent per Unit	Rent per Month	Rent per SF	Utilities	Wtr, Swr, Trsh
TC 50%	89	1	1	737	$623	$573	$50,985	$0.78	$54.48	$47.06
TC 60%	55	1	1	737	748	698	38,382	0.95	54.48	47.06
TC 60%	34	2	2	923	898	830	28,207	0.90	73.92	65.28
TOTAL:	178		AVERAGE:	773	$714	$661	$117,574	$0.86	$58.19	$50.54

INCOME	Total Net Rentable Sq Ft:	137,510	TDHCA	APPLICANT		Comptroller's Region	3
POTENTIAL GROSS RENT			$1,410,891	$1,381,824		IREM Region	Dallas
Secondary Income	Per Unit Per Month:	$15.00	32,040	32,040	$15.00	Per Unit Per Month	
Garage, Carport, Washer and Dryer, Cable and Telephone	Per Unit Per Month:	$4.90	10,464	92,280	$43.20	Per Unit Per Month	
POTENTIAL GROSS INCOME			$1,453,395	$1,506,144			
Vacancy & Collection Loss	% of Potential Gross Income:	-7.50%	(109,005)	(75,312)	-5.00%	of Potential Gross Rent	
Employee or Other Non-Rental Units or Concessions			0				
EFFECTIVE GROSS INCOME			$1,344,390	$1,430,832			

EXPENSES		% OF EGI	PER UNIT	PER SQ FT	TDHCA	APPLICANT	PER SQ FT	PER UNIT	% OF EGI
General & Administrative		5.21%	$394	0.51	$70,082	$18,500	$0.13	$104	1.29%
Management		5.00%	378	0.49	67,220	70,000	0.51	393	4.89%
Payroll & Payroll Tax		10.45%	789	1.02	140,496	145,000	1.05	815	10.13%
Repairs & Maintenance		4.64%	350	0.45	62,370	40,200	0.29	226	2.81%
Utilities		1.82%	137	0.18	24,423	27,000	0.20	152	1.89%
Water, Sewer, & Trash		4.34%	328	0.42	58,401	55,000	0.40	309	3.84%
Property Insurance		2.56%	193	0.25	34,378	38,000	0.28	213	2.66%
Property Tax	2.37697	8.54%	645	0.83	114,771	110,000	0.80	618	7.69%
Reserve for Replacements		2.65%	200	0.26	35,600	35,600	0.26	200	2.49%
Supportive Services, Compliance, Security		0.64%	49	0.06	8,650	8,700	0.06	49	0.61%
TOTAL EXPENSES		45.85%	$3,463	$4.48	$616,390	$548,000	$3.99	$3,079	38.30%
NET OPERATING INC		54.15%	$4,090	$5.29	$728,000	$882,832	$6.42	$4,960	61.70%
DEBT SERVICE									
Tax-Exempt Bond Financing		50.01%	$3,777	$4.89	$672,266	$719,470	$5.23	$4,042	50.28%
Taxable Bond Financing		0.00%	$0	$0.00	0	0	$0.00	$0	0.00%
Additional Financing		0.00%	$0	$0.00	0	0	$0.00	$0	0.00%
NET CASH FLOW		4.15%	$313	$0.41	$55,735	$163,362	$1.19	$918	11.42%
AGGREGATE DEBT COVERAGE RATIO					1.08	1.23			
RECOMMENDED DEBT COVERAGE RATIO					1.10				

CONSTRUCTION COST

Description	Factor	% of TOTAL	PER UNIT	PER SQ FT	TDHCA	APPLICANT	PER SQ FT	PER UNIT	% of TOTAL
Acquisition Cost (site or bldg)		8.61%	$6,981	$9.04	$1,242,651	$1,180,000	$8.58	$6,629	8.47%
Off-Sites		0.00%	0	0.00	0	0	0.00	0	0.00%
Sitework		8.10%	6,570	8.50	1,169,500	1,169,500	8.50	6,570	8.40%
Direct Construction		45.61%	36,995	47.89	6,585,068	6,285,000	45.71	35,309	45.13%
Contingency	5.00%	2.69%	2,178	2.82	387,728	450,000	3.27	2,528	3.23%
General Req'ts	6.00%	3.22%	2,614	3.38	465,274	480,000	3.49	2,697	3.45%
Contractor's G & A	2.00%	1.07%	871	1.13	155,091	160,000	1.16	899	1.15%
Contractor's Profit	5.16%	2.77%	2,247	2.91	400,000	400,000	2.91	2,247	2.87%
Indirect Construction		3.33%	2,699	3.49	480,500	480,500	3.49	2,699	3.45%
Ineligible Costs		3.71%	3,012	3.90	536,076	397,599	2.89	2,234	2.86%
Developer's G & A	3.24%	2.42%	1,966	2.55	350,000	350,000	2.55	1,966	2.51%
Developer's Profit	11.10%	8.31%	6,742	8.73	1,200,000	1,200,000	8.73	6,742	8.62%
Interim Financing		8.12%	6,587	8.53	1,172,401	1,172,401	8.53	6,587	8.42%
Reserves		2.04%	1,653	2.14	294,296	200,000	1.45	1,124	1.44%
TOTAL COST		100.00%	$81,116	$105.00	$14,438,586	$13,925,000	$101.27	$78,230	100.00%
Recap-Hard Construction Costs		*63.46%*	***$51,476***	***$66.63***	***$9,162,662***	***$8,944,500***	***$65.05***	***$50,250***	*64.23%*

SOURCES OF FUNDS

				TDHCA	APPLICANT	RECOMMENDED	
Tax-Exempt Bond Financing	65.80%	$53,371	$69.09	$9,500,000	$9,500,000	$9,845,000	Developer Fee Available
Taxable Bond Financing	3.46%	$2,809	$3.64	500,000	500,000	0	$1,550,000
HTC Syndication Proceeds	24.28%	$19,695	$25.49	3,505,745	3,505,745	3,638,851	% of Dev. Fee Deferred
Deferred Developer Fees	2.90%	$2,355	$3.05	419,255	419,255	441,149	28%
Additional (excess) Funds Require	3.56%	$2,885	$3.73	513,586	0	0	15-Yr Cumulative Cash Flow
TOTAL SOURCES				$14,438,586	$13,925,000	$13,925,000	$2,742,058

MULTIFAMILY COMPARATIVE ANALYSIS (continued)

Lakeside Manor Senior Community, Little Elm, 4% HTC #04463

DIRECT CONSTRUCTION COST ESTIMATE

Residential Cost Handbook

Average Quality Multiple Residence Basis

CATEGORY	FACTOR	UNITS/SQ FT	PER SF	AMOUNT
Base Cost			$46.36	$6,374,543
Adjustments				
Exterior Wall Finish	6.40%		$2.97	$407,971
Elderly/9-Ft. Ceilings	5.00%		2.32	318,727
Roofing			0.00	0
Subfloor			(2.03)	(279,145)
Floor Cover			1.93	265,394
Porches/Balconies	$16.36	22128	2.63	362,014
Plumbing	$605	102	0.45	61,710
Built-In Appliances	$1,650	178	2.14	293,700
Carports	$8.20	10,000	0.00	0
Floor Insulation			0.00	0
Heating/Cooling			1.53	210,390
Garages	$26.45	8,000	0.00	0
Comm &/or Aux Bldgs	$59.29	5,500	2.37	326,079
Maintenance	$46.36	357	0.12	16,549
SUBTOTAL			60.78	8,357,932
Current Cost Multiplier	1.08		4.86	668,635
Local Multiplier	0.89		(6.69)	(919,373)
TOTAL DIRECT CONSTRUCTION COSTS			$58.96	$8,107,194
Plans, specs, survy, bld prm	3.90%		($2.30)	($316,181)
Interim Construction Interes	3.38%		(1.99)	(273,618)
Contractor's OH & Profit	11.50%		(6.78)	(932,327)
NET DIRECT CONSTRUCTION COSTS			$47.89	$6,585,068

PAYMENT COMPUTATION

Primary	$10,000,000	Term	360
Int Rate	5.38%	DCR	1.08

Secondary		Term	360
Int Rate		Subtotal DCR	1.08

Additional	$3,505,745	Term	
Int Rate		Aggregate DCR	1.08

RECOMMENDED FINANCING STRUCTURE:

Primary Debt Service	$661,845
Secondary Debt Service	0
Additional Debt Service	0
NET CASH FLOW	$66,155

Primary	$9,845,000	Term	360
Int Rate	5.38%	DCR	1.10

Secondary	$0	Term	360
Int Rate	0.00%	Subtotal DCR	1.10

Additional	$3,505,745	Term	0
Int Rate	0.00%	Aggregate DCR	1.10

OPERATING INCOME & EXPENSE PROFORMA: RECOMMENDED FINANCING STRUCTURE

INCOME at 3.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
POTENTIAL GROSS RENT	$1,410,891	$1,453,218	$1,496,814	$1,541,719	$1,587,970	$1,840,893	$2,134,099	$2,474,006	$3,324,857
Secondary Income	32,040	33,001	33,991	35,011	36,061	41,805	48,463	56,182	75,504
Garage, Carport, Washer and I	10,464	10,777	11,101	11,434	11,777	13,653	15,827	18,348	24,658
POTENTIAL GROSS INCOME	1,453,395	1,496,997	1,541,906	1,588,164	1,635,809	1,896,350	2,198,390	2,548,536	3,425,020
Vacancy & Collection Loss	(109,005)	(112,275)	(115,643)	(119,112)	(122,686)	(142,226)	(164,879)	(191,140)	(256,876)
Employee or Other Non-Renta	0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME	$1,344,390	$1,384,722	$1,426,263	$1,469,051	$1,513,123	$1,754,124	$2,033,511	$2,357,396	$3,168,143
EXPENSES at 4.00%									
General & Administrative	$70,082	$72,886	$75,801	$78,833	$81,986	$99,749	$121,360	$147,653	$218,562
Management	67,220	69,236	71,313	73,453	75,656	87,706	101,676	117,870	158,407
Payroll & Payroll Tax	140,496	146,116	151,960	158,039	164,360	199,970	243,294	296,004	438,158
Repairs & Maintenance	62,370	64,865	67,459	70,158	72,964	88,772	108,005	131,404	194,510
Utilities	24,423	25,399	26,415	27,472	28,571	34,761	42,292	51,455	76,166
Water, Sewer & Trash	58,401	60,737	63,166	65,693	68,321	83,122	101,131	123,041	182,131
Insurance	34,378	35,753	37,183	38,670	40,217	48,930	59,531	72,428	107,211
Property Tax	114,771	119,362	124,137	129,102	134,266	163,355	198,747	241,806	357,932
Reserve for Replacements	35,600	37,024	38,505	40,045	41,647	50,670	61,648	75,004	111,024
Other	8,650	8,996	9,356	9,730	10,119	12,312	14,979	18,224	26,976
TOTAL EXPENSES	$616,390	$640,373	$665,296	$691,194	$718,108	$869,347	$1,052,661	$1,274,889	$1,871,078
NET OPERATING INCOME	$728,000	$744,349	$760,968	$777,857	$795,015	$884,777	$980,850	$1,082,507	$1,297,066
DEBT SERVICE									
First Lien Financing	$661,845	$661,845	$661,845	$661,845	$661,845	$661,845	$661,845	$661,845	$661,845
Second Lien	0	0	0	0	0	0	0	0	0
Other Financing	0	0	0	0	0	0	0	0	0
NET CASH FLOW	$66,155	$82,503	$99,122	$116,012	$133,170	$222,932	$319,005	$420,662	$635,220
DEBT COVERAGE RATIO	1.10	1.12	1.15	1.18	1.20	1.34	1.48	1.64	1.96

LIHTC Allocation Calculation - Lakeside Manor Senior Community, Little Elm, 4% HTC #04463

CATEGORY	APPLICANT'S TOTAL AMOUNTS	TDHCA TOTAL AMOUNTS	APPLICANT'S REHAB/NEW ELIGIBLE BASIS	TDHCA REHAB/NEW ELIGIBLE BASIS
(1) Acquisition Cost				
Purchase of land	$1,180,000	$1,242,651		
Purchase of buildings				
(2) Rehabilitation/New Construction Cost				
On-site work	$1,169,500	$1,169,500	$1,169,500	$1,169,500
Off-site improvements				
(3) Construction Hard Costs				
New structures/rehabilitation hard costs	$6,285,000	$6,585,068	$6,285,000	$6,585,068
(4) Contractor Fees & General Requirements				
Contractor overhead	$160,000	$155,091	$149,090	$155,091
Contractor profit	$400,000	$400,000	$400,000	$400,000
General requirements	$480,000	$465,274	$447,270	$465,274
(5) Contingencies	$450,000	$387,728	$372,725	$387,728
(6) Eligible Indirect Fees	$480,500	$480,500	$480,500	$480,500
(7) Eligible Financing Fees	$1,172,401	$1,172,401	$1,172,401	$1,172,401
(8) All Ineligible Costs	$397,599	$536,076		
(9) Developer Fees				
Developer overhead	$350,000	$350,000	$350,000	$350,000
Developer fee	$1,200,000	$1,200,000	$1,200,000	$1,200,000
(10) Development Reserves	$200,000	$294,296		
TOTAL DEVELOPMENT COSTS	$13,925,000	$14,438,586	$12,026,486	$12,365,563

Deduct from Basis:			
All grant proceeds used to finance costs in eligible basis			
B.M.R. loans used to finance cost in eligible basis			
Non-qualified non-recourse financing			
Non-qualified portion of higher quality units [42(d)(3)]			
Historic Credits (on residential portion only)			
TOTAL ELIGIBLE BASIS		$12,026,486	$12,365,563
High Cost Area Adjustment		100%	100%
TOTAL ADJUSTED BASIS		$12,026,486	$12,365,563
Applicable Fraction		100%	100%
TOTAL QUALIFIED BASIS		$12,026,486	$12,365,563
Applicable Percentage		3.56%	3.56%
TOTAL AMOUNT OF TAX CREDITS		$428,143	$440,214
Syndication Proceeds	**0.8499**	**$3,638,851**	**$3,741,445**

Total Credits (Eligible Basis Method)	**$428,143**	**$440,214**
Syndication Proceeds	**$3,638,851**	**$3,741,445**
Requested Credits	**$438,218**	
Syndication Proceeds	**$3,724,481**	
Gap of Syndication Proceeds Needed	**$4,080,000**	
Credit Amount	**$480,048**	

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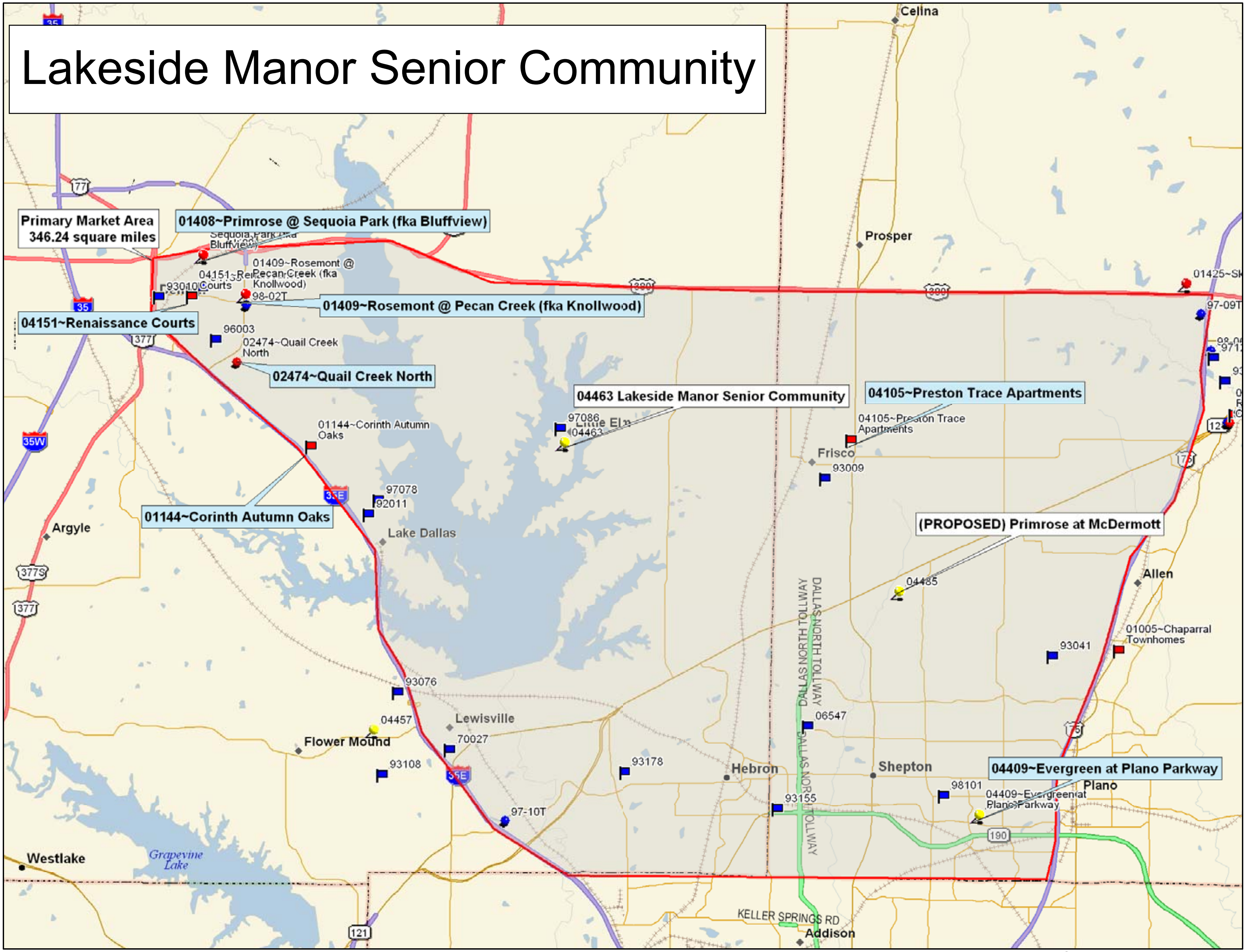

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TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Memorandum

To: File

From: Audrey Martin, Real Estate Analysis

cc: Multifamily Finance Production Division

Date: March 31, 2009

Re: Amendment for Chateau Village Apartments, #08195

Background
This is a 9% HTC, HUD Mark-to-Market transaction. The development was originally underwritten during the 2008 9% HTC cycle and approved for a tax credit award of $1,093,892 annually. The development also received an additional allocation of credits pursuant to the TDHCA Board's approval at the November 13, 2008 meeting to increase the applicable percentage to 9% and to increase direct construction and site work costs by 10%. As a result the development has received a commitment for a total annual tax credit allocation of $1,219,712.

Amendment Request
In a request letter dated February 17, 2009, the Owner requested the deletion of one of the conditions of the underwriting report: "Receipt, review, and acceptance, by cost certification, of documentation that the development has received a 50% property tax exemption from the Harris County Central Appraisal District." The Owner submitted amended information related to the financing structure, development costs, income, and expenses in the amendment request.

Conclusions
The Underwriter has evaluated all of the submitted information and has determined that the development is feasible without a 50% property tax exemption. Rents approved by HUD for the development have increased by approximately 25% since initial underwriting, increasing income enough to more than offset the loss of the property tax exemption. Based on the revised operational information, as adjusted by the Underwriter, the development's DCR is 1.32, which falls within the Department's guidelines.

For rehabilitation developments such as this, the recommended tax credit allocation, using both the eligible basis and gap method for allocating credits, is based on the Underwriter's estimate of costs. Using the Underwriter's estimate costs of hard costs, which are based on the original

PCA, in addition to an increased assumption of reserves required by HUD, the development is oversourced by $4,677. This would result in a reduction to the annual tax credit allocation of $589 under the gap method of allocating tax credits. The Underwriter’s costs are lower than the Owner’s current estimate, which is based on the general contractor’s bid. In addition, the development's DCR exceeds the Department's guidelines when the HOME loan is not considered to be amortized. However, when the HOME loan is considered to amortize, consistent with the original underwriting of the transaction, the DCR falls to 1.32, which is within Department guidelines.

However, a reduction to the tax credit allocation based on the gap method for allocating credits is not recommended at this time. This recommendation is consistent with other 2008 9% HTC developments that have received an administrative amendment following award. In allocating additional tax credits to 2008 9% HTC developments in November, the Board sought to enable owners to weather anticipated increases in construction costs. Consistent with the Board’s direction, staff does not recommend a reduction to the tax credit allocation prior to the completion of construction, and review of the final certified costs at the time of cost certification. This recommendation is intended to preserve the additional tax credits that would be recommended to be reduced, and which are insignificant, in the event that the cost increases do in fact occur. To the extent that anticipated cost increases do not occur, a reduction to the tax credit allocation may be recommended at the time of cost certification.

The Underwriter recommends that the conditions of the Underwriting Report and Commitment Notice for the development be updated to reflect the following:

1. Receipt, review, and acceptance, by cost certification, of HUD approval of the proposed rent increase to the Ontra, Inc. model “Exception Rents.”
2. Receipt, review, and acceptance, by cost certification, of a detailed attorney or CPA analysis and opinion clearly establishing that the proposed second and third liens to HUD, and the proposed HOME loan from Houston are valid debt and reasonably expected to be repaid in full.
3. Receipt, review, and acceptance, by cost certification, of a CPA opinion, including IRS references, as to the amount and eligibility of the imputed expenses claimed.
4. Should the second lien note from HUD be transferred or forgiven at any time during the initial affordability period a recapture of the credit is likely to be required.
5. If the terms and rates of the proposed financing change, the transaction should be reevaluated, and an adjustment to any allocation may be warranted.

MULTIFAMILY COMPARATIVE ANALYSIS

Chateau Village, Houston, 9% HTC #08195

Type of Unit	Number	Bedrooms	No. of Baths	Size in SF	2008 Gross Rent Lmt.	Rent Collected		UW Net Rents	2% Incr. from Rent Collected	2% Decr. from Rent Collected	Rent per Month		Rent per SF	Tnt-Pd Util	WS&T
TC 30%	8	1	1	674	$344	$504		$402	$514	$494	$4,032		$0.75	$96	$53
TC 50%	32	1	1	674	$573	$504		$402	$514	$494	$16,128		$0.75	$96	$53
TC 50%/LH	2	1	1	674	$573	$504		$402	$514	$494	$1,008		$0.75	$96	$53
TC 60%/HH	6	1	1	674	$687	$504		$402	$514	$494	$3,024		$0.75	$96	$53
TC 50%	19	2	1	830	$687	$591		$469	$603	$579	$11,229		$0.71	$123	$64
TC 60%	63	2	1	830	$825	$591		$469	$603	$579	$37,233		$0.71	$123	$64
TC 60%	16	3	1.5	1,028	$953	$800		$664	$816	$784	$12,800		$0.78	$147	$74
TC 60%	4	4	2	1,178	$1,063	$892		$726	$910	$874	$3,568		$0.76	$190	$84
TOTAL:	150		**AVERAGE:**	810		$593			$90,802	$87,242	$89,022		$0.73	$118.71	$62.08

					TDHCA-Amend	TDHCA-Carryover	TDHCA	APPLICANT	APP-Carryover	APP-Amend	Ontra/HUD - Approved Model			
INCOME	Total Net Rentable Sq Ft:	121,572										COUNTY	IREM REGION	COMPT. REGION
POTENTIAL GROSS RENT					$1,068,264	$855,384	$855,384	$855,084	$855,084	$1,068,264	$1,068,264	Harris	Houston	6
Secondary Income		Per Unit Per Month:		$6.71	12,084	9,000	9,000	8,868	8,868	12,084	12,081	$6.71	Per Unit Per Month	
Other Support Income:					0	0	0					$0.00	Per Unit Per Month	
POTENTIAL GROSS INCOME					$1,080,348	$864,384	$864,384	$863,952	$863,952	$1,080,348	$1,080,345			a
Vacancy & Collection Loss		% of Potential Gross Income:		-5.00%	(54,017)	(43,219)	(43,219)	(42,756)	(42,756)	(53,412)	(74,778)	-4.94%	of Potential Gross Income	
Employee or Other Non-Rental Units or Concessions					0	0	0							
EFFECTIVE GROSS INCOME					$1,026,331	$821,165	$821,165	$821,196	$821,196	$1,026,936	$1,005,567			
EXPENSES		% OF EGI	PER UNIT	PER SQ FT								PER SQ FT	PER UNIT	% OF EGI
General & Administrative		3.57%	$244	0.30	$36,654	$36,508	$36,508	$31,500	$31,500	$31,500	$38,302	$0.26	$210	3.07%
Management		6.50%	445	0.55	66,711	41,058	41,058	41,053	41,053	66,751	64,536	0.55	445	6.50%
Payroll & Payroll Tax		14.49%	992	1.22	148,750	144,376	144,376	140,250	140,250	133,875	152,970	1.10	893	13.04%
Repairs & Maintenance		8.77%	600	0.74	90,000	58,743	58,743	67,500	67,500	90,000	98,558	0.74	600	8.76%
Utilities		5.51%	377	0.47	56,564	55,273	55,273	74,250	74,250	60,750	146,931	0.50	405	5.92%
Water, Sewer, & Trash		7.44%	509	0.63	76,309	82,177	82,177	90,750	90,750	74,250	0	0.61	495	7.23%
Property Insurance		4.57%	313	0.39	46,934	49,210	49,210	45,000	45,000	45,000	60,000	0.37	300	4.38%
Property Tax	2.52	10.29%	704	0.87	105,629	52,920	52,920	80,000	80,000	105,839	105,839	0.87	706	10.31%
Reserve for Replacements		4.38%	300	0.37	45,000	45,000	45,000	45,000	45,000	45,000	37,000	0.37	300	4.38%
TDHCA Compliance Fees		0.58%	40	0.05	6,000	6,000	6,000	6,000	6,000	6,000	0	0.05	40	0.58%
Security		2.30%	158	0.19	23,625	24,750	24,750	24,750	24,750	23,625	54,000	0.19	158	2.30%
TOTAL EXPENSES		68.42%	$4,681	$5.78	$702,177	$596,015	$596,015	$646,053	$646,053	$682,590	$758,136	$5.61	$4,551	66.47%
NET OPERATING INC		31.58%	$2,161	$2.67	$324,154	$225,149	$225,149	$175,143	$175,143	$344,346	$247,431	$2.83	$2,296	33.53%
DEBT SERVICE														TI
First Lien Mort. - BOA		18.58%	$1,271	$1.57	$190,706	$101,963	$101,963	$101,963	$101,963	$202,198	$205,495	$1.66	$1,348	19.69%
M2M 2nd Mortgage CF		0.00%	$0	$0.00	0	0	0					$0.00	$0	0.00%
M2M 3rd Mortgage CF		0.00%	$0	$0.00	0	0	0					$0.00	$0	0.00%
Additional Financing		0.00%	$0	$0.00	0	0	0					$0.00	$0	0.00%
NET CASH FLOW		13.00%	$890	$1.10	$133,448	$123,187	$123,187	$73,180	$73,180	$142,149	$41,936	$1.17	$948	13.84%
AGGREGATE DEBT COVERAGE RATIO					1.70	2.21	2.21	1.72	1.72	1.70	1.20			
RECOMMENDED DEBT COVERAGE RATIO					1.32	1.33	1.33							

CONSTRUCTION COST

Description	Factor	% of TOTAL	PER UNIT	PER SQ FT	TDHCA-Amend	TDHCA-Carryover	TDHCA	APPLICANT	APP-Carryover	APP-Amend	PER SQ FT	PER UNIT	% of TOTAL
Acquisition Cost (site or bldg)		33.52%	$37,500	$46.27	$5,625,000	$5,436,651	$5,436,651	$5,436,651	$5,436,651	$5,625,000	$46.27	$37,500	33.17%
Off-Sites		0.00%	0	0.00	0	0	0	0	0	0	0.00	0	0.00%
Sitework		1.23%	1,380	1.70	207,000	207,000	207,000	348,148	348,148	534,175	4.39	3,561	3.15%
Direct Construction		32.91%	36,820	45.43	5,523,000	5,523,000	5,523,000	5,431,851	5,431,851	5,710,612	46.97	38,071	33.67%
Contingency	5.71%	1.95%	2,182	2.69	327,239	302,000	302,000	302,000	302,000	327,239	2.69	2,182	1.93%
Contractor's Fees	14.00%	4.78%	5,348	6.60	802,200	802,200	802,200	809,200	809,200	874,270	7.19	5,828	5.15%
Indirect Construction		2.45%	2,741	3.38	411,077	256,500	256,500	256,500	256,500	411,077	3.38	2,741	2.42%
Ineligible Costs		5.57%	6,236	7.69	935,446	483,863	483,863	483,863	483,863	935,446	7.69	6,236	5.52%
Developer's Fees	15.00%	10.74%	12,014	14.82	1,802,165	1,777,065	1,777,065	1,848,952	1,848,952	1,965,739	16.17	13,105	11.59%
Interim Financing		1.27%	1,423	1.76	213,405	225,890	225,890	225,890	225,890	213,405	1.76	1,423	1.26%
Reserves		2.16%	2,419	2.99	362,920	96,862	96,862	85,000	85,000	362,920	2.99	2,419	2.14%
TOTAL COST		100.00%	$111,883	$138.05	$16,782,452	$15,684,031	$15,684,031	$15,228,055	$15,228,055	$16,959,883	$139.50	$113,066	100.00%
Construction Cost Recap		*40.87%*	***$45,730***	***$56.42***	***$6,859,439***	***$6,834,200***	***$6,834,200***	***$6,891,199***	***$6,891,199***	***$7,446,296***	***$61.25***	***$49,642***	*43.91%*

SOURCES OF FUNDS

				TDHCA-Amend	TDHCA-Carryover	TDHCA	APPLICANT	APP-Carryover	APP-Amend	RECOMMENDED	
First Lien Mort. - BOA	13.85%	$15,500	$19.12	$2,325,000	$1,380,000	$1,380,000	$1,380,000	$1,380,000	$2,325,000	$2,325,000	Developer Fee Available
M2M 2nd Mortgage CF	12.38%	$13,856	$17.10	2,078,371	2,080,869	2,080,869	2,080,869	2,080,869	2,078,371	2,078,371	$1,929,117
M2M 3rd Mortgage CF				1,259,399					1,259,399	1,259,399	
Houston HOME CF				1,100,000	1,100,000	1,100,000	1,100,000	1,100,000	1,100,000	1,100,000	
263A Interest / Imputed Expenses				329,589			423,646	423,646	329,589	329,589	
HTC Syndication Proceeds	57.77%	$64,632	$79.75	9,694,770	9,870,803	9,622,720	9,622,720	9,870,803	9,694,770	9,690,093	% of Dev. Fee Deferred
Deferred Developer Fees	1.03%	$1,152	$1.42	172,752	0	620,821	620,821		172,752	0	0%
Additional (Excess) Funds Req'd	-1.06%	($1,183)	($1.46)	(177,429)	1,252,359	879,621	(1)	372,737	2	0	15-Yr Cumulative Cash Flow
TOTAL SOURCES				$16,782,452	$15,684,031	$15,684,031	$15,228,055	$15,228,055	$16,959,883	$16,782,452	$1,424,733

Chateau Village, Houston, 9% HTC #08195

PAYMENT COMPUTATION

Primary	$2,325,000	Amort	360
Int Rate	7.27%	DCR	1.70

Secondary	$2,078,371	Amort	0
Int Rate	1.00%	Subtotal DCR	1.70

Third	$1,259,399	Amort	0
Int Rate	1.00%	Subtotal DCR	1.70

Additional	$1,100,000	Amort	0
Int Rate	0.00%	Aggregate DCR	1.70

RECOMMENDED FINANCING STRUCTURE:

Primary Debt Service	$190,706
Secondary Debt Service	0
Additional Debt Service	55,000
NET CASH FLOW	$78,448

Primary	$2,325,000	Amort	360
Int Rate	7.27%	DCR	1.70

Secondary	$2,078,371	Amort	0
Int Rate	1.00%	Subtotal DCR	1.70

Third	$1,259,399	Amort	0
Int Rate	1.00%	Subtotal DCR	0.00

Additional	$1,100,000	Amort	240
Int Rate	0.00%	Aggregate DCR	1.32

OPERATING INCOME & EXPENSE PROFORMA: RECOMMENDED FINANCING STRUCTURE (APPLICANT'S NOI)

INCOME at 3.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
POTENTIAL GROSS RENT	$1,068,264	$1,100,312	$1,133,321	$1,167,321	$1,202,341	$1,393,842	$1,615,845	$1,873,207	$2,517,434
Secondary Income	12,084	12,447	12,820	13,205	13,601	15,767	18,278	21,189	28,477
Other Support Income:	0	0	0	0	0	0	0	0	0
POTENTIAL GROSS INCOME	1,080,348	1,112,758	1,146,141	1,180,525	1,215,941	1,409,609	1,634,123	1,894,397	2,545,911
Vacancy & Collection Loss	(53,412)	(55,638)	(57,307)	(59,026)	(60,797)	(70,480)	(81,706)	(94,720)	(127,296)
Employee or Other Non-Rental	0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME	$1,026,936	$1,057,121	$1,088,834	$1,121,499	$1,155,144	$1,339,129	$1,552,417	$1,799,677	$2,418,615
EXPENSES at 4.00%									
General & Administrative	$31,500	$32,760	$34,070	$35,433	$36,851	$44,834	$54,548	$66,366	$98,238
Management	66,751	68,713	70,774	72,897	75,084	87,043	100,907	116,979	157,209
Payroll & Payroll Tax	133,875	139,230	144,799	150,591	156,615	190,546	231,828	282,054	417,509
Repairs & Maintenance	90,000	93,600	97,344	101,238	105,287	128,098	155,851	189,616	280,679
Utilities	60,750	63,180	65,707	68,335	71,069	86,466	105,199	127,991	189,458
Water, Sewer & Trash	74,250	77,220	80,309	83,521	86,862	105,681	128,577	156,434	231,560
Insurance	45,000	46,800	48,672	50,619	52,644	64,049	77,925	94,808	140,339
Property Tax	105,839	110,073	114,475	119,054	123,817	150,642	183,279	222,987	330,075
Reserve for Replacements	45,000	46,800	48,672	50,619	52,644	64,049	77,925	94,808	140,339
Other	29,625	30,810	32,042	33,324	34,657	42,166	51,301	62,415	92,390
TOTAL EXPENSES	$682,590	$709,185	$736,865	$765,632	$795,529	$963,574	$1,167,341	$1,414,458	$2,077,797
NET OPERATING INCOME	$344,346	$347,935	$351,969	$355,867	$359,616	$375,555	$385,077	$385,219	$340,819
DEBT SERVICE									
First Lien Financing	$190,706	$190,706	$190,706	$190,706	$190,706	$190,706	$190,706	$190,706	$190,706
Second Lien	0	0	0	0	0	0	0	0	0
Other Financing	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000	55,000
NET CASH FLOW	$98,641	$102,230	$106,263	$110,161	$113,910	$129,849	$139,371	$139,513	$95,113
DEBT COVERAGE RATIO	1.40	1.42	1.43	1.45	1.46	1.53	1.57	1.57	1.39

HTC ALLOCATION ANALYSIS -Chateau Village, Houston, 9% HTC #08195

CATEGORY	APPLICANT'S TOTAL AMOUNTS	TDHCA TOTAL AMOUNTS	APPLICANT'S ACQUISITION ELIGIBLE BASIS	TDHCA ACQUISITION ELIGIBLE BASIS	APPLICANT'S REHAB/NEW ELIGIBLE BASIS	TDHCA REHAB/NEW ELIGIBLE BASIS	Additional Costs Attributable to 10% Cost Increase
Acquisition Cost							
Purchase of land	$835,000	$1,094,490					
Purchase of buildings	$4,790,000	$4,530,510	$4,790,000	$4,530,510			
Off-Site Improvements							
Sitework	$534,175	$207,000			$534,175	$227,700	$20,700
Construction Hard Costs	$5,710,612	$5,523,000			$5,710,612	$5,523,000	$552,300
Contractor Fees	$874,270	$802,200			$874,270	$802,200	
Contingencies	$327,239	$327,239			$327,239	$327,239	
Eligible Indirect Fees	$411,077	$411,077	$12,750	$12,750	$398,327	$398,327	
Eligible Financing Fees	$213,405	$213,405			$213,405	$213,405	
All Ineligible Costs	$935,446	$935,446					
Developer Fees			$720,413		$1,208,704		
Developer Fees	$1,965,739	$1,802,165		$679,127		$1,123,038	
Development Reserves	$362,920	$362,920					
TOTAL DEVELOPMENT COSTS	$16,959,883	$16,209,452	$5,523,163	$5,222,387	$9,266,732	$8,614,909	$573,000
Deduct from Basis:							
All grant proceeds used to finance costs in eligible basis							
B.M.R. loans used to finance cost in eligible basis							
Non-qualified non-recourse financing							
Non-qualified portion of higher quality units [42(d)(3)]							
Historic Credits (on residential portion only)							
TOTAL ELIGIBLE BASIS			$5,523,163	$5,222,387	$9,266,732	$8,614,909	$573,000
High Cost Area Adjustment					130%	130%	100%
TOTAL ADJUSTED BASIS			$5,523,163	$5,222,387	$12,046,752	$11,199,381	$573,000
Applicable Fraction			100%	100%	100%	100%	100%
TOTAL QUALIFIED BASIS			$5,523,163	$5,222,387	$12,046,752	$11,199,381	$573,000
Applicable Percentage			3.55%	3.55%	9.00%	9.00%	9.00%
TOTAL AMOUNT OF TAX CREDITS			$196,072	$185,395	$1,084,208	$1,007,944	$51,570
Syndication Proceeds		**0.7948**	**$1,558,463**	**$1,473,594**	**$8,617,728**	**$8,011,556**	**$409,900**
Total Tax Credits (Eligible Basis Method)					**$1,280,280**	**$1,244,909**	
Syndication Proceeds					**$10,176,191**	**$9,485,149**	
Previously Approved Tax Credits					**$1,219,712**		
Syndication Proceeds					**$9,694,772**		
Gap of Syndication Proceeds Needed						**$9,690,093**	
Total Tax Credits (Gap Method)						**$1,219,123**	
Reconciled Tax Credits					**$1,219,123**		
Syndication Proceeds					**$9,690,093**		

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
Real Estate Analysis Division
Underwriting Report

REPORT DATE: 07/14/08 PROGRAM: 9% HTC FILE NUMBER: 08195

DEVELOPMENT

Chateau Village

Location: 3815 West Fuqua Region: 6

City: Houston County: Harris Zip: 77047 ☐ QCT ☒ DDA

Key Attributes: Multifamily, Urban, Family, Rehabilitation, Non-Profit

ALLOCATION

	REQUEST			RECOMMENDATION		
TDHCA Program	Amount	Interest	Amort/Term	**Amount**	**Interest**	**Amort/Term**
Housing Tax Credit (Annual)	$1,174,583			**$1,093,892**		

CONDITIONS

1 Receipt, review, and acceptance, by cost certification, of HUD approval of the proposed OCAF rent increase.

2 Receipt, review, and acceptance, by cost certification, of documentation that the development has received a 50% property tax exemption from the Harris County Central Appraisal District.

3 Receipt, review, and acceptance, by cost certification, of a detailed attorney or CPA analysis and opinion clearly establishing that both the proposed second lien to HUD and the proposed HOME loan from Houston are valid debt and reasonably expected to be repaid in full.

4 Receipt, review, and acceptance, by cost certification, of a CPA opinion, including IRS references, as to the amount and eligibility of the imputed expenses claimed.

5 Receipt, review, and acceptance, by carryover, of updated loan and equity commitments which are not more than 30 days old.

6 Should the second lien note from HUD be transferred or forgiven at any time during the initial affordability period a recapture of the credit is likely to be required.

7 If the terms and rates of the proposed financing change, the transaction should be reevaluated, and an adjustment to any allocation may be warranted.

SALIENT ISSUES

TDHCA SET-ASIDES for LURA		
Income Limit	Rent Limit	Number of Units
30% of AMI	30% of AMI	8
50% of AMI	50% of AMI	53
60% of AMI	60% of AMI	89

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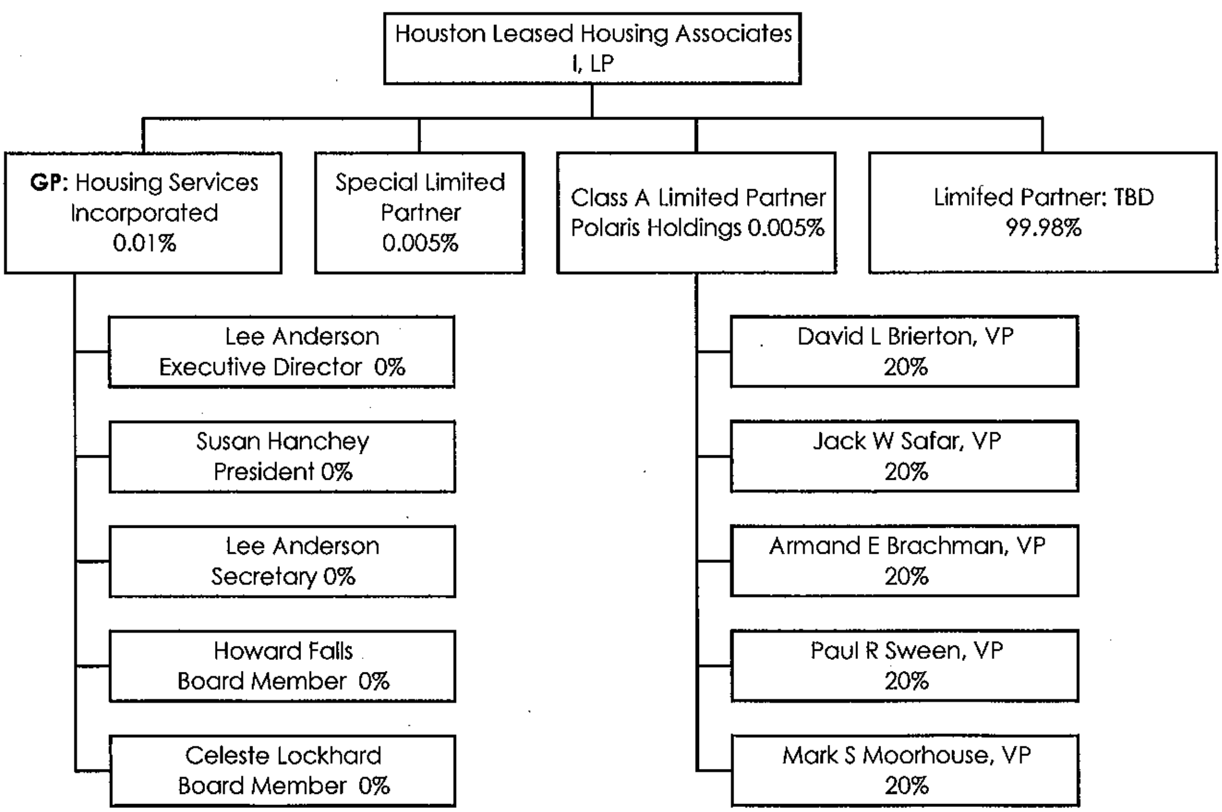
PROS	CONS
▫ The application proposes the rehabilitation of a 27 year old HUD property and renewal of the existing HAP contract for 100% of the units.	▫ The development has insufficient cash flow to repay (on a normal amortizing basis) the multiple obligations committed to available cash flow by the Applicant.
▫ The property is currently operating at stabilized occupancy of 97% and most of the tenants will likely remain at the property due to the project-based Section 8 assistance.	▫ The Applicant's and Underwriter's expense to income ratios are quite high at above70%. An expense to income ratio above 60% reflects an increased risk that the development will not be able to sustain even a moderate period of flat rental income with rising expenses.
	▫ If either the proposed deferred HUD loan or HOME loan are determined to not be repayable, it may disqualify the development from the 30% boost to eligible basis and undermine the financial feasibility of the development.

PREVIOUS UNDERWRITING REPORTS

none

DEVELOPMENT TEAM

OWNERSHIP STRUCTURE



CONTACT

Contact: Mark Moorhouse   Phone: (763) 354-5613   Fax: (763) 354-5633
Email: mmoorhouse@dominiuminc.com

KEY PARTICIPANTS

Name	Financial Notes	# Completed Developments
Houston Leased Housing Associates II, LP	No material assets	Not Yet Formed
David L Brierton	N/A	None
Jack W Safar	N/A	
Armand E Brachman	N/A	
Paul R Sween	N/A	
Mark S Moorhouse	N/A	

Comments:

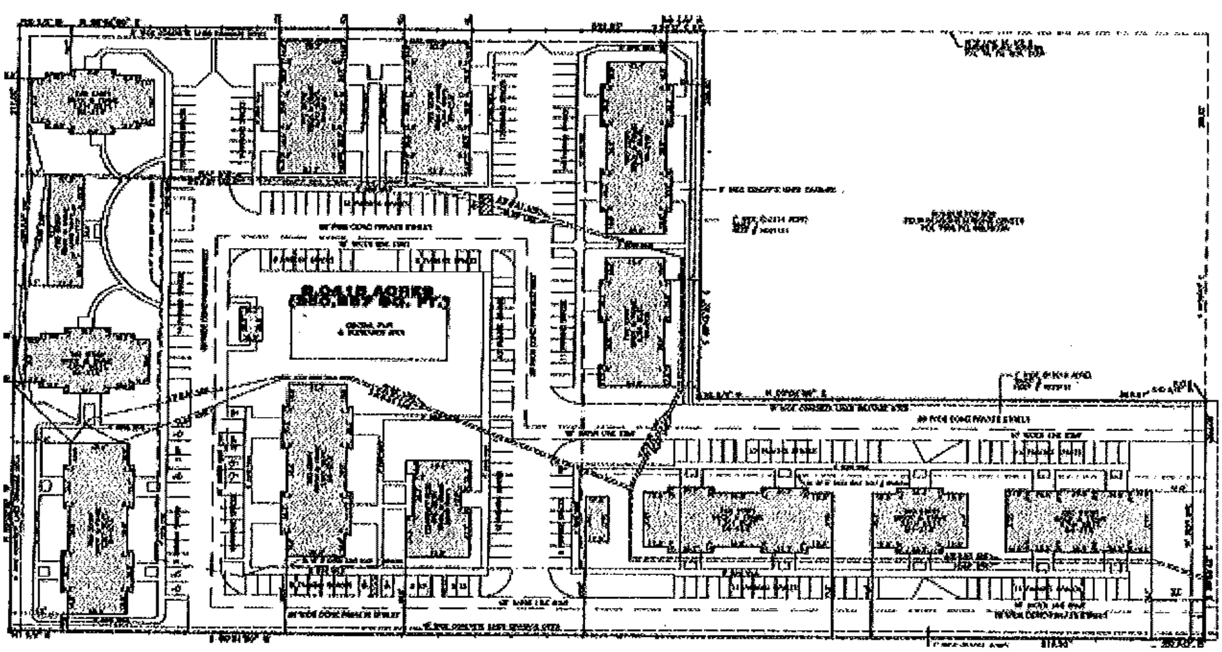
While the development team participants have no experience with the LIHTC program in Texas, the participants appear to have significant experience with the acquisition and rehabilitation of properties in several other states.

IDENTITIES of INTEREST

- The Applicant, Developer, Property Manager, and Supportive Services Provider are related entities. These are common relationships for HTC-funded developments.

PROPOSED SITE

SITE PLAN



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BUILDING CONFIGURATION

Building Type	A	B	C	D	E	F	Total Buildings
Floors/Stories	2	2	2	2	2	2	
Number	3	4	1	1	2	1	**12**

BR/BA	SF	Units						Total Units	Total SF
1 / 1	674	16						48	32,352
2 / 1	830		16	8	10			82	68,060
3 / 1.5	1,028					8		16	16,448
4 / 2	1,178						4	4	4,712
Units per Building		16	16	8	10	8	4	**150**	**121,572**

SITE ISSUES

Total Size: 8.0415 acres — Scattered site? ☐ Yes ☒ No

Flood Zone: X, AE — Within 100-yr floodplain? ☒ Yes ☐ No

Zoning: N / A — Needs to be re-zoned? ☐ Yes ☐ No ☒ N/A

Comments:

The addendum letter to the Phase I ESA indicates that the site and surrounding areas are mapped by FEMA as either Zone X or Zone AE (AE being a 100-year floodplain). On closer inspection by the Underwriter, it appears that the building closest to W. Fuqua Street lies partially within Zone AE. The 2008 QAP states that "No buildings or roads that are part of a Development proposing Rehabilitation or Adaptive Reuse, with the exception of Developments with federal funding assistance from HUD or TX USDA-RHS, will be permitted in the 100 year floodplain unless they already meet the requirements established in this subsection for New Construction." As the subject property will continue to be funded by HUD, it comes under the exception to the floodplain restriction.

TDHCA SITE INSPECTION

Inspector: Manufactured Housing Staff — Date: 5/7/2008

Overall Assessment:

☐ Excellent ☒ Acceptable ☐ Questionable ☐ Poor ☐ Unacceptable

Surrounding Uses:

North: Houston Public Project — East: Residential

South: Residential — West: Apartments

HIGHLIGHTS of ENVIRONMENTAL REPORTS

Provider: Peer Engineering — Date: 8/8/2007

Recognized Environmental Concerns (RECs) and Other Concerns:

An addendum letter to the Phase I ESA dated September 25, 2007, states:

- Limited sampling and analysis of suspect asbestos-containing materials (ACM) was conducted ... laboratory analysis of the collected samples did not identify any ACM. Therefore, no further investigation regarding this issue appears to be warranted at this time.
- Based on the date of construction (1981-82), it is unlikely that painted and coated surfaces are covered with lead-based paint. Therefore, no further investigation regarding this issue appears to be warranted at this time.
- Drinking water sampling for lead (was completed) at the subject property ... All six 1st draw sample concentrations were below the EPA Action Level ... Based on the available information and on the laboratory analytical results, no further investigation regarding this issue appears to be warranted.

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Comments:

This assessment has revealed no recognized environmental conditions in connection with the subject property.

MARKET HIGHLIGHTS

Provider: Integra Realty Resources DFW Date: 10/19/2007

Contact: Mark Lamb Phone: (972) 960-1222 Fax: (972) 960-2922

Number of Revisions: none Date of Last Applicant Revision: N / A

Primary Market Area (PMA): 39 sq. miles 4 mile radius

"We consider the market area for the subject to consist of the following ZIP codes located within the City of Houston: 77045, 77051, 77053, and 77054." (p. 20) The estimated 2007 population of the PMA is 91,102, with 31,924 households.

The market study was originally prepared in accordance with the 2007 Real Estate Analysis Rules; the 2008 Rules include a new requirement that the market study identify all census tracts contained in whole or in part by the PMA. The Market Analyst provided an addendum letter dated February 20, 2008, with a list of twenty census tract numbers (one repeated). This list appears to be inaccurate and incomplete based on comparison to the PMA as defined by the four ZIP Codes listed above; the list does not even include the census tract containing the subject property. Since the demographic data used in the market study is based on the ZIP Codes, that is presumed to be the correct PMA. The Underwriter has identified the following twenty-four census tracts as being contained in whole or in part by the PMA:

48157670100	48201313900	48201330100	48201330600	48201331200
48157670200	48201314000	48201330200	48201330700	48201331300
48157670300	48201314100	48201330300	48201330900	48201331400
48157670700	48201314200	48201330400	48201331000	48201420200
48201313800	48201314300	48201330500	48201331100	

PROPOSED, UNDER CONSTRUCTION & UNSTABILIZED COMPARABLE DEVELOPMENTS							
PMA				SMA			
Name	File #	Total Units	Comp Units				
Cypress Creek at Reed Road	07291	132	126				
Reed Road Seniors	60217	180	N / A				

INCOME LIMITS						
Harris						
% AMI	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons
30	$12,850	$14,700	$16,500	$18,350	$19,800	$21,300
50	$21,400	$24,450	$27,500	$30,550	$33,000	$35,450
60	$25,680	$29,340	$33,000	$36,660	$39,600	$42,540

MARKET ANALYST'S PMA DEMAND by UNIT TYPE							
Unit Type	Turnover Demand	Growth Demand	Other Demand	Total Demand	Subject Units	Unstabilized Comparable (PMA)	Capture Rate
1 BR / 60% AMI	1,116	24		1,140			not calculated
2 BR / 60% AMI	690	15		705			
3 BR / 60% AMI	2,494	54		2,548			
4 BR / 60% AMI	2,185	47		2,232			

UNDERWRITER'S PMA DEMAND by UNIT TYPE							
Unit Type	Turnover Demand	Growth Demand	Other Demand	Total Demand	Subject Units	Unstabilized Comparable (PMA)	Capture Rate
1 BR / 30% AMI	1,099	31		1,130	8	6	1%
1 BR / 50% AMI	502	17		520	34	0	7%
1 BR / 60% AMI	188	2		190	6	26	17%
2 BR / 50% AMI	96	-2		94	19	0	20%
2 BR / 60% AMI	276	-5		270	63	53	43%
3 BR / 60% AMI	366	-9		358	16	29	13%
4 BR / 60% AMI	456	-15		442	4	4	2%

OVERALL DEMAND					
	Target Households	Household Size	Income Eligible	Tenure	Demand
PMA DEMAND from TURNOVER					
Market Analyst p.	31,924				6,485
Underwriter	100% 31,929	96% 30,581	56% 17,247	48% 8,196	55% 4,508
PMA DEMAND from HOUSEHOLD GROWTH					
Market Analyst p.					140
Underwriter		96% 417	56% 225	48% 107	100% 107

INCLUSIVE CAPTURE RATE						
	Subject Units	Unstabilized Comparable (PMA)		Total Supply	Total Demand	Inclusive Capture Rate
Market Analyst p.	0	126		126	6,625	2%
Underwriter	150	126		276	4,615	6%

Demand Analysis:

The Market Analyst calculated demand for each bedroom configuration, but only at the 60% of AMI restriction. The Market Analyst did not address the 30% and 50% one and two-bedroom units; nor did the Market Analyst determine capture rates for any specific unit types. Furthermore, in concluding total demand, the Market analyst simply added the demand identified for each unit, thereby double counting four and five-person households (which were included in demand for both the three and four-bedroom units). Cypress Creek on Reed Road, a 2007 9% HTC project with 126 approved restricted units, was identified as the only unstabilized comparable supply within the PMA. The Market Analyst concluded an inclusive capture rate of 2%. The Market Analyst did not include the subject units in the supply because the subject is 97% occupied; however, including the subject units is generally the purpose of a capture rate calculation.

The underwriting analysis identified total demand in the PMA for 4,615 units, and in addition to the 126 units at Cypress Creek, included the 150 subject units in the supply despite its stabilized occupancy. This results in a worst-case inclusive capture rate of 6%, well under the maximum 25% limit.

Primary Market Occupancy Rates:

The Applicant submitted a rent roll indicating 4 vacant units, or 97.3% occupancy. The market study indicates that the average occupancy level for all multifamily properties within the PMA is 94%, and the average for LIHTC properties within the PMA is 96%.

Absorption Projections:

The Market Analyst indicates that an absorption analysis was not warranted due to the stabilized occupancy of the subject property.

RENT ANALYSIS (Tenant-Paid Net Rents)								
Unit Type (% AMI)			Current Contract Rent	Proposed Contract Rent	Market Rent	Underwriting Rent	Increase Over Contract
1 BR	674 SF	30%	390	402	$600	$402	$12
1 BR	674 SF	50%	390	402	$600	$402	$12
1 BR	674 SF	60%	390	402	$600	$402	$12
2 BR	830 SF	50%	455	469	$725	$469	$14
2 BR	830 SF	60%	455	469	$725	$469	$14
3 BR	1,028 SF	60%	645	664	$880	$664	$19
4 BR	1,178 SF	60%	705	726	$1,000	$726	$21

Market Impact:

The Applicant expects to maintain minimum vacancy by renovating only eight to sixteen units at a time, and relocating tenants within the property, either temporarily, or permanently into completed units. There is not expected to be any significant impact on the market.

Comments:

The property has a current occupancy of 97% according to a rent roll provided at application and is proposing a temporary relocation of tenants. The presence of an existing tenant base mitigates potential concerns about the market. The market study provided sufficient information on which to base a funding recommendation; however, the Market Analyst should be counseled on the requirements of a market study for the Department.

Concentration:

Staff has calculated the concentration rate of the areas surrounding the property in accordance with section 1.32 (i)(2) of the Texas Administrative Code approved in 2007. The Underwriter has concluded a census tract concentration of 94 units per square mile, which is less than the 1,432 units per square mile limit; and a Primary Market Area concentration of 207 units per square mile, which is less than the 1,000 units per square mile limit. Therefore, the proposed development is in an area which has an acceptable level of apartment dispersion based upon the Department's standard criteria.

OPERATING PROFORMA ANALYSIS

Income: Number of Revisions: 1 Date of Last Applicant Revision: 5/27/2008

All units are subject to a Section 8 Housing Assistance Payment (HAP) contract. The current HAP contracts for the units are $531, $640, $801 and $859 for the one, two, three and four-bedroom units, respectively. The property is currently undergoing the HUD Mark-to-Market program, under which the market rents were determined to be $390, $455, $645 and $705 for the one, two, three and four-bedroom units, respectively. A letter from HUD (9/17/2007) indicated that these market rents have been approved, however, a revised Section 8 HAP contract with the M2M rents has not yet been implemented as evidenced by a current rent roll (as of February 2008). The Applicant has indicated that the reduced market rents will be implemented upon acquisition.

Due to the time lag from the approval of the reduced rents, the Applicant's operating income is based on a projected 3% Operating Cost Adjustment (OCAF) increase to the determined market rents. This increase would be implemented by the place-in-service date. The underwriting analysis has utilized the Applicant's proposed rents; however, receipt, review, and acceptance, by cost certification, of HUD approval of the OCAF increase to the Mark-to-Market rents, will be a condition of this report. The Applicant included non-rental income of just under $5 per unit per month; and the Applicant allowed for losses due to vacancy and collection equal to 5% of potential income. The underwriting analysis applied the standard minimum secondary income of $5 per unit.

The underwriting guidelines generally apply vacancy and collection losses of 7.5%; however, the guidelines allow for a lower loss rate if supported by the market study, and for elderly or 100% project-based rental subsidy developments. The market study and the appraisal (both provided by the same firm) used 5.0% when estimating the development's NOI; and the development has a 100% rental assistance contract with HUD; therefore, the underwriting analysis has allowed 5.0% for losses due to vacancy and collection.

Expense: Number of Revisions: none Date of Last Applicant Revision: N / A

The Applicant has projected annual operating expenses equal to $4,307 per unit. This is 8% greater than the Underwriter's estimate of $3,973 per unit, based primarily on the documented historical expenses of the property, as well as the TDHCA database, IREM data, and other sources. The most significant variations among specific line items include repairs and maintenance (the Applicant's projection is $9K higher), utilities (the Applicant's projection is $19K higher), water, sewer, and trash (the Applicant's projection is $9K higher), and property tax.

The Applicant's projected property tax expense is 5% less than the tax actually paid in 2006, and 20% less than the tax actually paid in 2007. The underwriting analysis is based on the 2008 assessed value (which is a 5% increase over 2007); however, the Underwriter has also assumed the Applicant will qualify for a 50% property tax exemption based on the non-profit status of the General Partner. Since this assumption has a significant impact on the proforma cash flow of the property, a condition of any recommended allocation will be receipt, review, and acceptance, by cost certification, that the Applicant has received a 50% non-profit property tax exemption.

Conclusion:

Both the Applicant's and Underwriter's expense to income ratios (79% and 73%, respectively) are quite high at above 60%. An expense to income ratio above 60% reflects an increased risk that the development will not be able to sustain even a moderate period of flat rental income with rising expenses. Additionally, §1.32(i)(5) requires a development be characterized as infeasible if the Year 1 expense to income ratio exceeds the Department's 65% maximum. However, §1.32(i)(7)(B)(i) provides an exception to this limit for properties with ongoing operating subsidy. In this case, the Housing Assistance Payment contract with HUD provides such an ongoing subsidy. Therefore, the development remains feasible under this exception.

While the Applicant's projected income is within 5% of the underwriting estimate, the Applicant's annual expenses and net operating income (NOI) are not within 5%; as a result, the Underwriter's projections will be used to determine debt capacity and financial feasibility. The Underwriter's projected NOI of $225,149 and the first lien financing debt service of $106,858 indicate first year cash flow of $118,291 and a debt coverage ratio of 2.11, well above the maximum limit of 1.35. This typically indicates that the development has the capacity to service additional debt. In this case, however, the subject property has significantly more debt than is represented by the proposed debt service. The Applicant's proposed financing structure includes a combined $3.18 million in debt payable from available cash flow, and a proposed $620K in deferred developer fee, placing an additional claim on available cash flow.

Feasibility:

The Underwriter's estimates are used to create a 30-year operating proforma, applying a 3% growth factor to income and 4% to expenses. While the proposed HOME loan is expected to be payable from cash flow, the Underwriter has included debt service on this loan, at AFR for 30 years, in the proforma analysis. This analysis indicates continued positive cash flow and a DCR that remains above the minimum 1.15 through year 15. Furthermore, cash flow remains positive through year 30, at which time the primary mortgage would be extinguished. If all cash flow goes to the deferred developer fee, it can be paid by Year 6; if all subsequent cash flow goes toward the HOME loan, the remaining balance in Year 30 will be $1.4 million; assuming the second lien to HUD has accrued interest at 1%, it would carry a balance of $2.8 million. If at that time the property appraises for at least the current $4.9 million value, it would appear that there would be marginally sufficient value to support the remaining debt.

Based on this, the Underwriter can conclude that the project is marginally feasible. Any recommendation will be conditioned on receipt, review, and acceptance, by cost certification, of a detailed attorney or CPA analysis and opinion clearly establishing that both the proposed second lien to HUD and the proposed HOME loan from Houston are valid debt reasonably expected to be repaid in full.

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ACQUISITION INFORMATION

APPRAISED VALUE

Provider: Integra Realty Resources — Date: 2/19/2008

Number of Revisions: none — Date of Last Applicant Revision: N / A

Land Only:	7.98 acres	$610,000	As of:	2/19/2008
Existing Buildings: (as-is)		$4,320,000	As of:	2/19/2008
Total Development: (as-is)		$4,930,000	As of:	2/19/2008

ASSESSED VALUE

Land Only:	7.98 acres	$869,490	Tax Year:	2008
Existing Buildings:		$3,316,006	Valuation by:	Harris County CAD
Total Assessed Value:		$4,185,496	Tax Rate:	2.52871

Comments:

The assessed value of the land for tax year 2007 was $1.25 per sq.ft. The current assessment, for tax year 2008, has increased to $2.50 per sq. ft.

EVIDENCE of PROPERTY CONTROL

Type: Purchase Agreement as Amended — Acreage: 8.0415

Contract Expiration: 10/31/2008 — Valid Through Board Date? [X] Yes [ ] No

Acquisition Cost: $5,400,000 — Other:

Seller: Chateau Village Apartments, Ltd. — Related to Development Team? [ ] Yes [X] No

CONSTRUCTION COST ESTIMATE EVALUATION

COST SCHEDULE Number of Revisions: none — Date of Last Applicant Revision: N / A

Acquisition Value:

The Applicant has claimed total acquisition costs of $5,436,651, consisting of $610,000 in land value, $4.79 million in building value, and $36K in closing costs. The total acquisition cost of $672K per acre is presumed to be reasonable as the purchase is an arm's length transaction.

The Applicant has determined a building acquisition basis of $4,790,000, based on the contract price less $610,000 for the basis in land. The Applicant's claimed land value of $610,000 is comparable to the appraised value, but is significantly less than the assessed value of $869,490. §1.32(e)(1)(C) of the 2008 Real Estate Analysis Rules states that "In the case where the land value indicated by either the appraisal or tax assessment is greater than the prorata land value attributed to the sales price ... the greater of the land value in the appraisal or tax assessment is deducted from the sales price to determine the acquisition basis." The Underwriter has determined an acquisition basis of $4,530,510 by deducting the tax assessed value of the land from the total sales price.

Sitework Cost:

As the application is for the rehabilitation of an existing development, sitework costs are relatively low, and require no additional substantiation. There is, however, a significant difference between the sitework identified by the Applicant ($348K) and that identified in the Property Condition Assessment ($207K). The underwriting analysis will reflect the PCA value.

This section intentionally left blank.

Direct Construction Cost:

The Applicant has claimed direct construction costs of $5.4 million, in addition to the $348K in sitework, for a total of $5.78 million. The total cost identified in the PCA is $5.73 million. The Applicant stated that the difference between the two figures is "$50K in furnishings for the new constructed community building and miscellaneous things around the site." These costs should have been given to the PCA provider for consideration and inclusion as required under 1.36(a)(4)(B)

Interim Interest Expense:

The Applicant's cost schedule reflects a total of $451,646 under the Indirect Construction cost line item attributed to imputed interest expense on the Limited Partner's equity contributions and some operating expenses incurred during the construction period that are considered to be eligible costs to the development. The Underwriter requested a breakdown of these costs, which identified that $13K of this total is attributed to soft cost contingency. As a result, the Underwriter re-allocated this amount to the contingency line item.

The balance of the total $423,646 has been treated by the Underwriter as interim interest expense. The Department limit is one year of fully drawn interest or in this case $232,100. The difference of $191,546 was added by the Underwriter to ineligible costs. While the Applicant confirmed that the these costs will not result in any real cash changing hands they have indicated that the entire amount is eligible under section 263(a) and they have included an offsetting source of funds discussed below. The use of this cost is not entirely clear to the Underwriter and clarification of same is a condition that must be resolved prior to cost certification.

Contingency & Fees:

The Applicant incorrectly allocated the developer fee between acquisition cost and rehabilitation cost; the underwriting analysis distributes the developer fee proportionately between acquisition and rehabilitation. As a result of this and other adjustments to eligible costs discussed above, the Applicant's projected developer fee exceeds the eligible limit by $23K; the underwriting analysis has excluded this amount from basis.

Conclusion:

The Underwriter's cost schedule was derived from the third-party Property Condition Assessment (PCA) provided by the Applicant and the information presented in the application. The PCA was well documented and appeared to cover the scope of work provided by the Applicant. Thus, the Underwriter's development cost schedule, as derived from the PCA, will be used to determine the development's need for permanent funds and to calculate eligible basis. The rehabilitation cost basis of $8,399,416 is increased by 30% as a result of Harris County's status as a Difficult Development Area; the adjusted basis of $10,919,241 supports an annual allocation of $908,481 in 9% credits. The acquisition basis of $5,222,837 supports an annual allocation of $185,411 in 4% credits. This figure will be compared to the Applicant's request and the tax credits calculated based on the gap in need for permanent funds to determine any recommended allocation.

FINANCING STRUCTURE

SOURCES & USES Number of Revisions: 2 Date of Last Applicant Revision: 6/17/2008

Source: Dougherty Mortgage, LLC Type: **Permanent Financing**

Principal: $1,380,000 Interest Rate: 6.25% ☐ Fixed Term: 360 months

Comments:

First mortgage loan insured by HUD, for 30 years at 6.25%.

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Source:	HUD			Type:	**Permanent Financing**		
Principal:	$2,080,869	Interest Rate:	1.0%	[X] Fixed		Amort:	months

Comments:

The subject property is undergoing the HUD Mark-to-Market (M2M) program. There is an existing mortgage in the approximate amount of $3.46 million payable to GMAC. Under the M2M program, HUD will pay down the GMAC loan to approximately $1.38 million, and issue a second mortgage note to the current owner, payable to HUD from available cash flow, accruing interest at 1% over a 30 year term. The original intent was to apply for HUD to assign the second note to the Applicant as a Qualified Non-Profit. However, staff informed the Applicant that in such a case the value of the second note would be considered a grant and excluded from acquisition basis, so the Applicant has indicated that the non-Profit will not take possession of this note. Should the note be transferred or forgiven at any time during the initial affordability period a recapture of the credit is likely to be required.

It has also been determined that the Applicant will allow the M2M process to be completed under the current ownership of the property, after which the Applicant will acquire the property. The Applicant has provided a commitment for a first lien mortgage in the amount of $1.38 million, and the Applicant will assume the obligation of the second note to HUD. Under this structure, assumption of a pre-existing below-market federal loan does not impact eligibility for 9% credits. However, if the loan were ultimately forgiven by HUD, or if the loan were determined to not be repayable, it would constitute a federal grant and would reduce basis. This is further reason for the condition of an attorney or CPA opinion clearly establishing that the loan is a valid debt and reasonably expected to be paid in full.

Source:	City of Houston			Type:	**Permanent Financing**		
Principal:	$1,100,000	Interest Rate:	AFR	[X] Fixed		Amort:	months

Comments:

The Applicant has applied to the City of Houston for $1.1 million in HOME funds. The letter from the City of Houston acknowledging the application states that "The loan, if awarded, will be for a minimum term of 15 years, at an interest rate at or below AFR". The Applicant has stated that "the HOME loan will be at or above AFR, eliminating any need of subtracting it from eligible basis or disqualifying the development from the 30% basis boost." The Applicant has also stated that the loan will be paid back out of available cash flow of the property and will not be "hard debt". Any recommendation of this report will be conditioned on receipt, review, and acceptance, by cost certification, of a detailed attorney or CPA analysis and opinion clearly establishing that both the proposed second lien to HUD and the proposed HOME loan from Houston are valid debt and reasonably expected to be repaid in full.

Source:	Houston Leased Housing Associates I, LP	Type:	**Imputed Expenses**
Principal:	$423,646	Conditions:	

Comments:

The Applicant has included imputed interest and capitalized expenses incurred during rehabilitation in the development costs as an eligible substitute for eligible interest expense. The Applicant has also included $423,646 in imputed expenses as a corresponding source of funds, as this is the only way to offset this unique accounting treatment of phantom eligible cost. A condition of this report will be receipt, review, and acceptance, by cost certification, of a CPA opinion as to the amount and eligibility of this item, including IRS references.

Source:	Alliant			Type:	**Syndication**
Proceeds:	$9,622,720	Syndication Rate:	86%	Anticipated HTC:	$ 1,119,144

Comments:

The committed credit price appears to be on the high end of current trends in pricing. However, the financial viability of the transaction may be jeopardized should the final price be any less than the current price. Alternatively, should the final credit price increase to more than $0.96, the equity proceeds would exceed the gap in financing and an adjustment to the credit allocation may be warranted.

Amount: $620,821 Type: **Deferred Developer Fees**

Market Uncertainty:

The financial market for tax credit developments from both a loan and equity perspective are in their greatest period of uncertainty since the early 1990's and fluctuations in pricing and private funding are expected to continue. The Underwriter has evaluated the pricing flexibility independently for credits and interest rates under which this development could continue to be considered financially feasible. Because of the significant number of potential scenarios, the Underwriter has not modeled the potential impact of movement on both interest rates and equity pricing occurring at the same time.

Due to the uncertainty in the market and the potential for such movement in both equity pricing and interest rates, this report is conditioned upon updated loan and equity commitments at the submission of carryover. Should the revised commitments reflect changes in the anticipated permanent interest rate(s) and equity price, a re-evaluation of the financial feasibility of the transaction should be conducted.

CONCLUSIONS

Recommended Financing Structure:

As stated above, the proforma analysis, including debt service on the proposed HOME loan, results in a debt coverage ratio within the Department's guideline range of 1.15 to 1.35.

The Underwriter's total development cost estimate less the permanent first lien of $1,380,000, as well as the two cash flow loans of $2,080,869 and $1,100,000 indicates the need for $10,550,162 in gap funds. Based on the submitted syndication terms, a total tax credit allocation of $1,227,008 annually would be required to fill this gap in financing. The three possible tax credit allocations are:

Allocation determined by eligible basis:	$1,093,892
Allocation requested by Applicant:	$1,174,583
Allocation determined by gap in financing:	$1,227,008

The amount determined by eligible basis is recommended. An annual allocation of $1,093,892 results in total equity proceeds of $9,405,592 at a syndication rate of $0.86 per tax credit dollar.

The Underwriter's recommended financing structure indicates the need for $720,923 in additional permanent funds. Deferred developer fees in this amount appear to be repayable from development cashflow within 15 years of stabilized operation.

Underwriter:	*Thomas Cavanagh*	Date:	July 14, 2008
Reviewing Underwriter:	*Raquel Morales*	Date:	July 14, 2008
Director of Real Estate Analysis:	*Tom Gouris*	Date:	July 14, 2008

MULTIFAMILY COMPARATIVE ANALYSIS

Chateau Village, Houston, 9% HTC #08195

Type of Unit	Number	Bedrooms	No. of Baths	Size in SF	Gross Rent Lmt.	Rent Collected	Rent per Month	Rent per SF	Tnt-Pd Util	WS&T
TC 30%	8	1	1	674	$344	$402	$3,216	$0.60	$96	$51
TC 50%	32	1	1	674	$573	$402	$12,864	$0.60	$96	$51
TC 50%/LH	2	1	1	674	$573	$402	$804	$0.60	$96	$51
TC 60%/HH	6	1	1	674	$687	$402	$2,412	$0.60	$96	$51
TC 50%	19	2	1	830	$687	$469	$8,911	$0.57	$123	$62
TC 60%	63	2	1	830	$825	$469	$29,547	$0.57	$123	$62
TC 60%	16	3	1.5	1,028	$953	$664	$10,624	$0.65	$147	$72
TC 60%	4	4	2	1,178	$1,063	$726	$2,904	$0.62	$190	$82
TOTAL:	150		AVERAGE:	810		$475	$71,282	$0.59	$118.71	$60.08

INCOME	Total Net Rentable Sq Ft: 121,572			TDHCA	APPLICANT	COUNTY	IREM REGION	COMPT. REGION
POTENTIAL GROSS RENT				$855,384	$855,084	Harris	Houston	6
Secondary Income		Per Unit Per Month:	$5.00	9,000	8,868	$4.93	Per Unit Per Month	
Other Support Income:				0		$0.00	Per Unit Per Month	
POTENTIAL GROSS INCOME				$864,384	$863,952			
Vacancy & Collection Loss		% of Potential Gross Income:	-5.00%	(43,219)	(42,756)	-4.95%	of Potential Gross Income	
Employee or Other Non-Rental Units or Concessions				0				
EFFECTIVE GROSS INCOME				$821,165	$821,196			

EXPENSES		% OF EGI	PER UNIT	PER SQ FT	TDHCA	APPLICANT	PER SQ FT	PER UNIT	% OF EGI
General & Administrative		4.45%	$243	0.30	$36,508	$31,500	$0.26	$210	3.84%
Management		5.00%	274	0.34	41,058	41,053	0.34	274	5.00%
Payroll & Payroll Tax		17.58%	963	1.19	144,376	140,250	1.15	935	17.08%
Repairs & Maintenance		7.15%	392	0.48	58,743	67,500	0.56	450	8.22%
Utilities		6.73%	368	0.45	55,273	74,250	0.61	495	9.04%
Water, Sewer, & Trash		10.01%	548	0.68	82,177	90,750	0.75	605	11.05%
Property Insurance		5.99%	328	0.40	49,210	45,000	0.37	300	5.48%
Property Tax	2.53	6.44%	353	0.44	52,920	80,000	0.66	533	9.74%
Reserve for Replacements		5.48%	300	0.37	45,000	45,000	0.37	300	5.48%
TDHCA Compliance Fees		0.73%	40	0.05	6,000	6,000	0.05	40	0.73%
Security		3.01%	165	0.20	24,750	24,750	0.20	165	3.01%
TOTAL EXPENSES		72.58%	$3,973	$4.90	$596,015	$646,053	$5.31	$4,307	78.67%
NET OPERATING INC		27.42%	$1,501	$1.85	$225,149	$175,143	$1.44	$1,168	21.33%
DEBT SERVICE									
First Lien Mortgage		12.42%	$680	$0.84	$101,963	$101,963	$0.84	$680	12.42%
M2M 2nd Mortgage CF		0.00%	$0	$0.00	0		$0.00	$0	0.00%
Additional Financing		0.00%	$0	$0.00	0		$0.00	$0	0.00%
NET CASH FLOW		15.00%	$821	$1.01	$123,187	$73,180	$0.60	$488	8.91%
AGGREGATE DEBT COVERAGE RATIO					2.21	1.72			
RECOMMENDED DEBT COVERAGE RATIO					[illegible]				

CONSTRUCTION COST

Description	Factor	% of TOTAL	PER UNIT	PER SQ FT	TDHCA	APPLICANT	PER SQ FT	PER UNIT	% of TOTAL
Acquisition Cost (site or bldg)		35.98%	$36,244	$44.72	$5,436,651	$5,436,651	$44.72	$36,244	35.70%
Off-Sites		0.00%	0	0.00	0	0	0.00	0	0.00%
Sitework		1.37%	1,380	1.70	207,000	348,148	2.86	2,321	2.29%
Direct Construction		36.55%	36,820	45.43	5,523,000	5,431,851	44.68	36,212	35.67%
Contingency	5.27%	2.00%	2,013	2.48	302,000	302,000	2.48	2,013	1.98%
Contractor's Fees	14.00%	5.31%	5,348	6.60	802,200	809,200	6.66	5,395	5.31%
Indirect Construction		1.70%	1,710	2.11	256,500	256,500	2.11	1,710	1.68%
Ineligible Costs		3.20%	3,226	3.98	483,863	483,863	3.98	3,226	3.18%
Developer's Fees	15.00%	11.76%	11,847	14.62	1,777,065	1,848,952	15.21	12,326	12.14%
Interim Financing		1.49%	1,506	1.86	225,890	225,890	1.86	1,506	1.48%
Reserves		0.64%	646	0.80	96,862	85,000	0.70	567	0.56%
TOTAL COST		100.00%	$100,740	$124.30	$15,111,031	$15,228,055	$125.26	$101,520	100.00%
Construction Cost Recap		*45.23%*	*$45,561*	*$56.22*	*$6,834,200*	*$6,891,199*	*$56.68*	*$45,941*	*45.25%*

SOURCES OF FUNDS	%	PER UNIT	PER SQ FT	TDHCA	APPLICANT	RECOMMENDED	
First Lien Mortgage	9.13%	$9,200	$11.35	$1,380,000	$1,380,000	$1,380,000	Developer Fee Available
M2M 2nd Mortgage CF	13.77%	$13,872	$17.12	2,080,869	2,080,869	2,080,869	$1,824,538
Houston HOME CF				1,100,000	1,100,000	1,100,000	
263A Interest / Imputed Expenses					423,646	423,646	
HTC Syndication Proceeds	63.68%	$64,151	$79.15	9,622,720	9,622,720	9,405,692	% of Dev. Fee Deferred
Deferred Developer Fees	4.11%	$4,139	$5.11	620,821	620,821	720,923	40%
Additional (Excess) Funds Req'd	2.03%	$2,044	$2.52	306,621	(1)	0	15-Yr Cumulative Cash Flow
TOTAL SOURCES				$15,111,031	$15,228,055	$15,111,031	$861,360

Chateau Village, Houston, 9% HTC #08195

PAYMENT COMPUTATION

Primary	$1,380,000	Amort	360
Int Rate	6.25%	DCR	2.21

Secondary	$2,080,889	Amort	
Int Rate	1.00%	Subtotal DCR	2.21

Additional	$1,100,000	Amort	
Int Rate		Aggregate DCR	2.21

RECOMMENDED FINANCING STRUCTURI

Primary Debt Service	$101,963
Secondary Debt Service	0
Additional Debt Service	66,961
NET CASH FLOW	$56,226

Primary	$1,380,000	Amort	360
Int Rate	6.25%	DCR	2.21

Secondary	$2,080,889	Amort	
Int Rate	1.00%	Subtotal DCR	2.21

Additional	$1,100,000	Amort	360
Int Rate	4.61%	Aggregate DCR	1.33

OPERATING INCOME & EXPENSE PROFORMA: RECOMMENDED FINANCING STRUCTURE

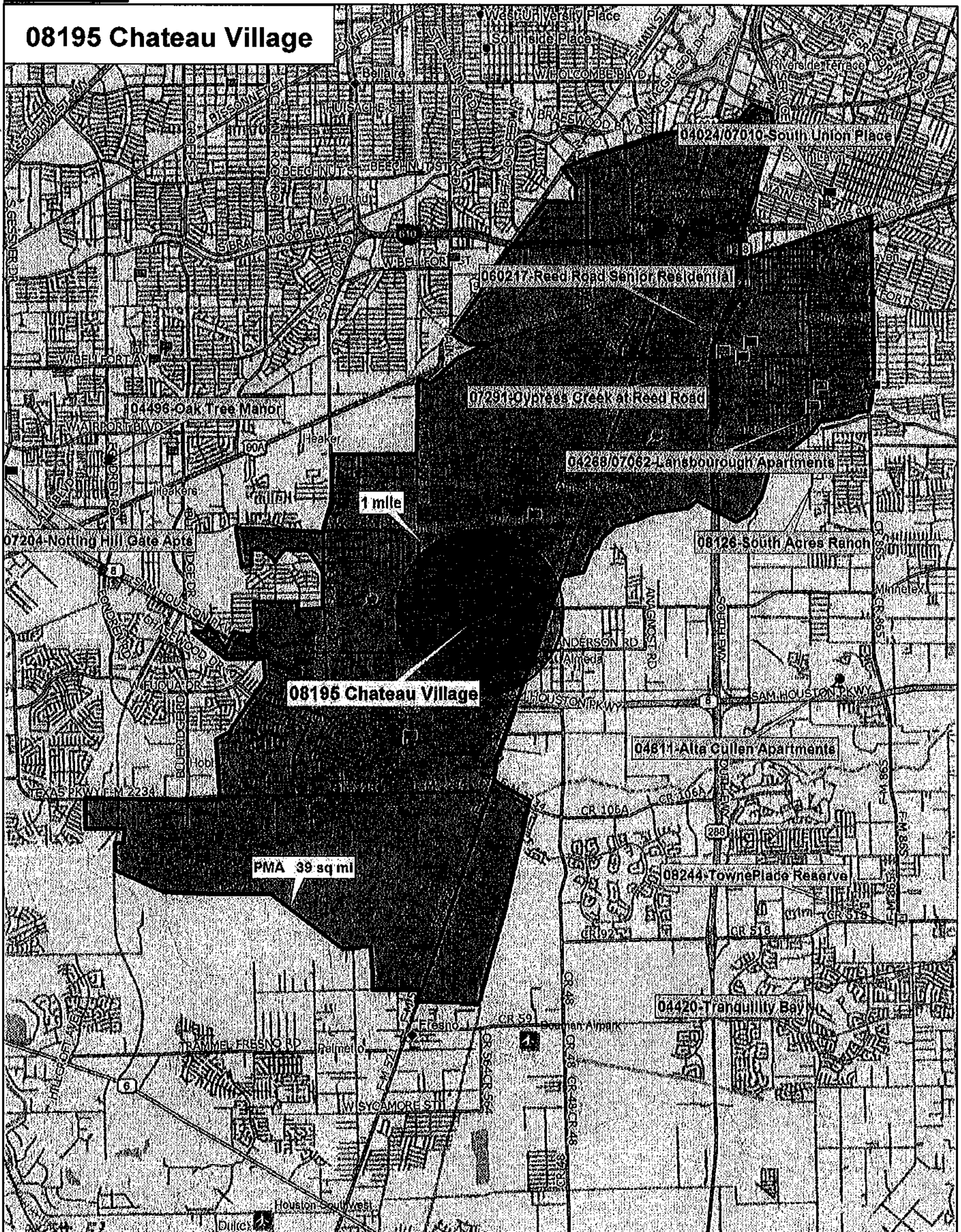
INCOME at 3.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
POTENTIAL GROSS RENT	$855,384	$881,046	$907,477	$934,701	$962,742	$1,116,082	$1,293,845	$1,499,921	$2,015,768
Secondary Income	9,000	9,270	9,548	9,835	10,130	11,743	13,613	15,782	21,209
Other Support Income:	0	0	0	0	0	0	0	0	0
POTENTIAL GROSS INCOME	864,384	890,316	917,025	944,536	972,872	1,127,825	1,307,458	1,515,703	2,036,978
Vacancy & Collection Loss	(43,219)	(44,516)	(45,851)	(47,227)	(48,644)	(56,391)	(65,373)	(75,785)	(101,849)
Employee or Other Non-Renta	0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME	$821,165	$845,800	$871,174	$897,309	$924,228	$1,071,434	$1,242,085	$1,439,917	$1,935,129
EXPENSES at 4.00%									
General & Administrative	$36,508	$37,968	$39,487	$41,067	$42,709	$51,962	$63,220	$76,917	$113,856
Management	41,058	42,290	43,559	44,865	46,211	53,572	62,104	71,996	96,756
Payroll & Payroll Tax	144,376	150,151	156,157	162,404	168,900	205,493	250,013	304,179	450,259
Repairs & Maintenance	58,743	61,093	63,537	66,078	68,721	83,610	101,724	123,763	183,200
Utilities	55,273	57,484	59,783	62,174	64,661	78,670	95,714	116,451	172,376
Water, Sewer & Trash	82,177	85,464	88,883	92,438	96,135	116,963	142,304	173,135	256,281
Insurance	49,210	51,179	53,226	55,355	57,569	70,042	85,216	103,679	153,470
Property Tax	52,920	55,036	57,238	59,527	61,908	75,321	91,640	111,493	165,038
Reserve for Replacements	45,000	46,800	48,672	50,619	52,644	64,049	77,925	94,808	140,339
Other	30,750	31,980	33,259	34,590	35,973	43,767	53,249	64,786	95,899
TOTAL EXPENSES	$596,015	$619,445	$643,800	$669,117	$695,433	$843,449	$1,023,111	$1,241,207	$1,827,474
NET OPERATING INCOME	$225,149	$226,354	$227,373	$228,192	$228,795	$227,985	$218,975	$198,710	$107,654
DEBT SERVICE									
First Lien Financing	$101,963	$101,963	$101,963	$101,963	$101,963	$101,963	$101,963	$101,963	$101,963
Second Lien	0	0	0	0	0	0	0	0	0
Other Financing	66,961	66,961	66,961	66,961	66,961	66,961	66,961	66,961	66,961
NET CASH FLOW	$56,226	$57,431	$58,450	$59,268	$59,872	$59,061	$50,051	$29,787	($61,270)
DEBT COVERAGE RATIO	1.33	1.34	1.35	1.35	1.35	1.35	1.30	1.18	0.64

HTC ALLOCATION ANALYSIS - Chateau Village, Houston, 9% HTC #08195

CATEGORY	APPLICANT'S TOTAL AMOUNTS	TDHCA TOTAL AMOUNTS	APPLICANT'S ACQUISITION ELIGIBLE BASIS	TDHCA ACQUISITION ELIGIBLE BASIS	APPLICANT'S REHAB/NEW ELIGIBLE BASIS	TDHCA REHAB/NEW ELIGIBLE BASIS
Acquisition Cost						
Purchase of land	$646,651	$906,141				
Purchase of buildings	$4,790,000	$4,530,510	$4,790,000	$4,530,510		
Off-Site Improvements						
Sitework	$348,148	$207,000			$348,148	$207,000
Construction Hard Costs	$5,431,851	$5,523,000			$5,431,851	$5,523,000
Contractor Fees	$809,200	$802,200			$809,200	$802,200
Contingencies	$302,000	$302,000			$302,000	$302,000
Eligible Indirect Fees	$256,500	$256,500	$12,750	$12,750	$243,750	$243,750
Eligible Financing Fees	$225,890	$225,890			$225,890	$225,890
All Ineligible Costs	$483,863	$483,863				
Developer Fees			$720,413	$679,577	$1,104,126	$1,095,576
Developer Fees	$1,848,952	$1,777,065				
Development Reserves	$85,000	$96,862				
TOTAL DEVELOPMENT COSTS	$15,228,055	$15,111,031	$5,523,163	$5,222,837	$8,464,965	$8,399,416

Deduct from Basis:					
All grant proceeds used to finance costs in eligible basis					
B.M.R. loans used to finance cost in eligible basis					
Non-qualified non-recourse financing					
Non-qualified portion of higher quality units [42(d)(3)]					
Historic Credits (on residential portion only)					
TOTAL ELIGIBLE BASIS		$5,523,163	$5,222,837	$8,464,965	$8,399,416
High Cost Area Adjustment				130%	130%
TOTAL ADJUSTED BASIS		$5,523,163	$5,222,837	$11,004,454	$10,919,241
Applicable Fraction		100%	100%	100%	100%
TOTAL QUALIFIED BASIS		$5,523,163	$5,222,837	$11,004,454	$10,919,241
Applicable Percentage		3.55%	3.55%	8.32%	8.32%
TOTAL AMOUNT OF TAX CREDITS		$196,072	$185,411	$915,571	$908,481
Syndication Proceeds	**0.8598**	**$1,685,885**	**$1,594,214**	**$7,872,338**	**$7,811,378**
Total Tax Credits (Eligible Basis Method)				**$1,111,643**	**$1,093,892**
Syndication Proceeds				**$9,558,223**	**$9,405,592**
Requested Tax Credits				**$1,174,583**	
Syndication Proceeds				**$10,099,400**	
Gap of Syndication Proceeds Needed					**$10,550,162**
Total Tax Credits (Gap Method)					**$1,227,008**

08195 Chateau Village

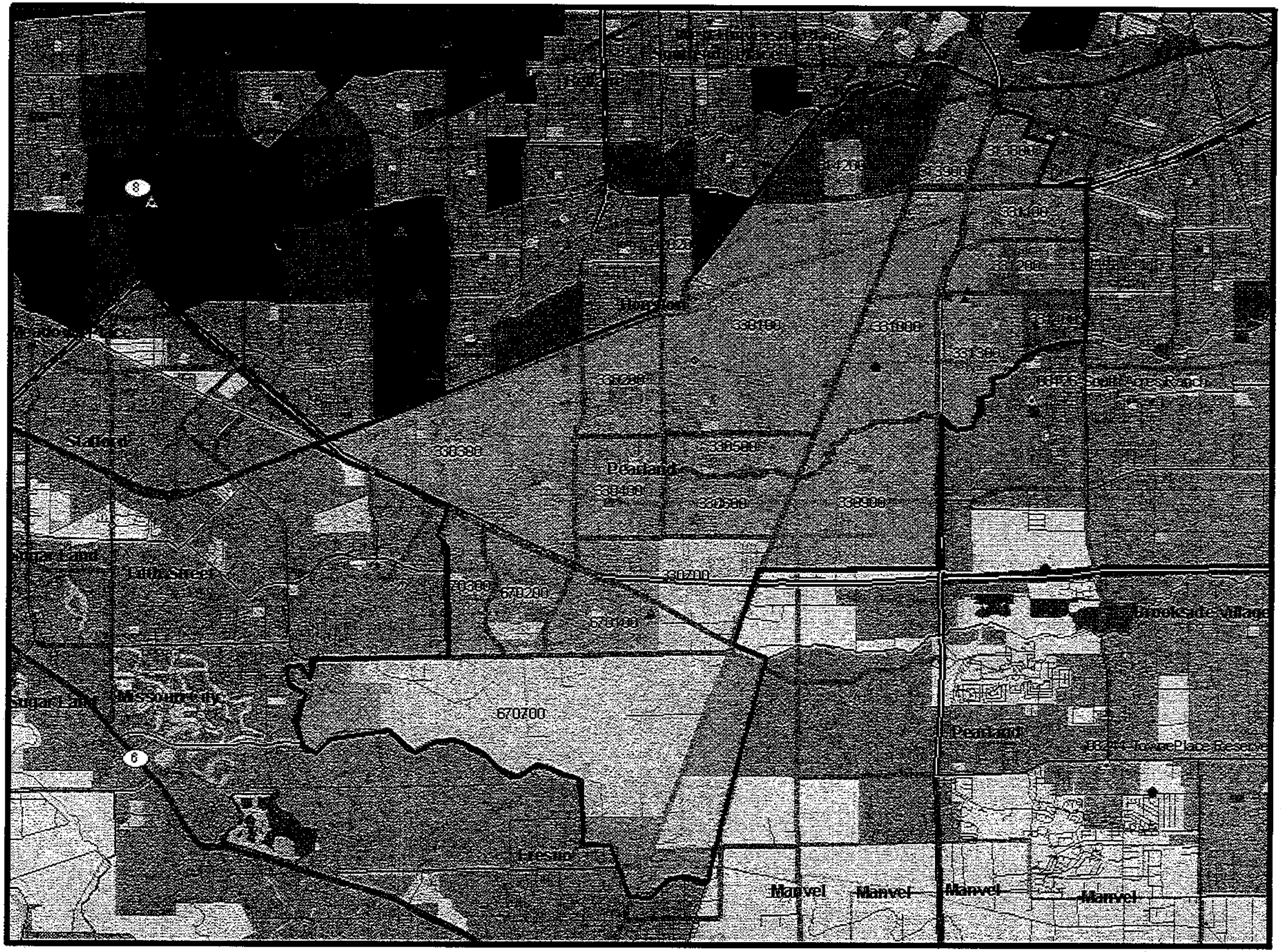


Data use subject to license.

TN MN (3.8°E)

Scale 1 : 100,000

1" = 1.58 mi Data Zoom 11-0



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Concentration Key
- Red Tracts: > 1432 units/sq.mi.
- Orange Tracts: 1000 to 1432 units/sq.mi.

08195 - Chateau Village Apartments

04463

OHC/LITTLE ELM LTD

January 12, 2009

Mr. Ben Sheppard
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, Texas 78701

Re: Lakeside Manor Senior Community
TDHCA File Number 04463

Dear Mr. Sheppard:

We would like to make a formal request for an amendment to the Lakeside Manor Senior Community application regarding the above referenced property for the reasons stated below:

ITEM 1 – REDUCTION OF UNITS:

We spoke with the Town of Little Elm requesting a variance on the parking requirement due to this being a senior facility and 1.5 parking spaces per unit would be adequate as the majority of units would be one bedroom and seniors usually have one vehicle. In the interest of time we were advised by the Planning Director to submit a Hearing Application to the Board of Adjustment, the Planning Director did not anticipate that the request would be a problem. On November 5, 2004 we sent a letter and a parking variance application to the Town of Little Elm (copy enclosed) requesting that as the property would be a facility for senior citizens and as the majority of the units being 1 bedroom we be allowed to have 1.5 spaces per unit rather than 2+ parking spaces per unit as required for multifamily properties. (The Town's parking requirements for a multi-family community are 2 spaces for each 1 bedroom unit and 1 additional space for each additional bedroom per unit. Required parking would be 390 spaces for tenant parking and 9 spaces for clubhouse parking for a total of 399 spaces.) The Board of Adjustment turned down our application shortly before the construction began. Our architects and engineers struggled to add the required parking space, but because of the size of the site and other city set-backs and building separations we were only able to make the site plan work by reducing the number of units from 178 to 176, as there was not enough land otherwise to accommodate the town's parking requirements, therefore we had to eliminate two 2 bedroom 2 bath units. Please see enclosed letter to the Town of Little Elm dated January 10, 2005.

We submit the following amenities as substitutions for the 2 units we were unable to build:

- Granite Counter Tops in Kitchen
- Microwave ovens

17103 Preston Road ▪ Suite 250 ▪ Dallas, Texas 75248
Telephone (972) 733-0096 ▪ Fax (972) 733-1864

Substitutions Continued:

- Indoor Spa
- Granite shelves in bathroom
- Walk-in Showers with Glass Enclosure
- Water Saving Dual Flush Commodes
- 2" Faux Wood Blinds
- Decorative Concrete Pool Deck
- Card Access Controls for Clubhouse Entry by Residents
- Tankless Hot Water Heaters with Recirculation Pumps on each Building
- 126 Additional parking spaces
- Central Trash Compactor

Amenities currently featured at Lakeside Manor include:

- Pedestal Sinks
- Vaulted Ceilings
- 35 seat Media Room
- Country Store
- Landscape Irrigation System
- Community Garden

Photographs of each item listed above have been included for your review.

ITEM 2 – LAMINATE COUNTER TOPS:

We installed pedestal sinks that have large surface area on top of the bowls, which would accommodate potential handicap residents and which would allow them to roll a wheel chair under the bowl and have better access to the sink. We also felt that pedestal sinks were more aesthetically pleasing than having a cabinet with a section removed and pipes exposed for handicap residents. We are also providing a granite shelf placed close to the sinks for additional storage.

ITEM 2 – COMMUNITY GARDEN

A community garden has been installed for all residents to use. Picture enclosed.

I am attaching the following documentation.

Rent Schedule
Utility Allowances with back-up from Denton Housing Authority
Annual Operating Expenses Schedule
Building/Unit Type Configuration
30 Year Proforma
Development Cost Schedule

Sources and Uses
Site Plan
Building Plans
Unit Plans

Additionally, I am enclosing Check 1927 in the amount of $2,500 as required to be submitted with the Amendment Application. Should you have any questions, I can be reached at (972) 733-0096.

Sincerely,

Richard Shaw

Richard Shaw

RS\mlg

Mary\docs\property\Little Elm (Lakeside)\Amendment reduction of units\ Final Letter to TDHCA 01/12/09

CEI

COLONIAL EQUITIES, INC.

Real Estate • Development • Management • Financing • Construction • Consulting

04463

January 10, 2005

URGENT

Ms. Stacy Snell AICP
Planning Director
Town of Little Elm
100 West Eldorado Parkway
Little Elm, Texas 75068

Re: Building Permits
Lakeside Manor Senior Community
Little Elm, Texas

Dear Stacy:

As I have told you on previous occasions, this project is being financed by the Denton County Housing Finance Agency issuing tax-exempt bonds allocated by the State of Texas Bond Review Board in Austin. We have a limited time in which to issue these bonds or we lose the allocation. Our time is here, we must sign and complete the legal work with bond issuers and lender on Monday January 10, 2005 so that all paper work can be sent to the to Attorney Generals office in Austin for final approval and the bonds are available for funding on Thursday, January 13, 2005. As Part of this paper work we must have, at very least, a letter from the Town of Little Elm indicating that the permits will be issued subject to payment of fees.

We have over two million dollars invested at this point in this development. We have moved forward based on your assurances that we could meet our deadline. Our first meeting with you was in early September 2004 and plans were submitted to you in mid November 2004, with your assurance that these would be reviewed and any comments to change items would be in 10 days. It was not until December 23rd after many requests on our part, that we received comments, which we turned around and got back to you with the requested changes by the next day. The only open issue was whether the utilities would be public or private.. You agreed with my construction superintendent, Roger Zais, that the private utilities would probably be better as the owner would be responsible to maintain them instead of the town and most cities and towns in this area do this. You suggested to Roger that he sit down with your director of public works, Doug Peach, to work this out. He has called Mr. Peach every day, two to three times daily for over a week and stopped by his office and this person has refused to see him and has never returned a phone call. My architect, Frank Pollacia

16200 Dallas Parkway • Suite 190 • Dallas, TX 75248
972-733-0096 • Fax 972-733-1864

04463

and my engineer, David Vilbig have attempted to contact both you and Mr. Peach and no one will give us the courtesy of returning a phone call.

In September you discussed the parking requirements with Frank Pollacia and me. We indicated to you that this development would be limited to seniors (55 and older) and children under 18 will not be allowed to live there; therefore, the number of parking places needed would be less than an ordinary family inhabited multi-family property. Most communities have less parking requirements for senior housing. We suggested that 1-1/2 parking place per units would be more than adequate and you agreed. You suggested that in lieu the time frame we were operating in, the best thing would be to request a variance, which I could get heard the first week of December and you were sure that there should be no problem to get the variance approved. I rushed getting the paper work together. The amount of fees to be paid and the notification area were unclear on the application, so I personally took the application to your office on October 5, 2004. I have a dated receipt showing the fees paid. The lady in the reception area that took the application clarified whom we need to notify and even got on the phone with my Secretary to tell her how to find the addresses on the internet. This was a Friday afternoon and this employee of Little Elm told both of us that it was not necessary to rush back with the labels as they are not used for a mailing until about 15 days before the hearing, and if we would get them to her by the early part of the following week it would be O.K. The application and fee paid would get us on the agenda for December, which did not happen. This matter was finally heard on January 3, 2005 at which time it was denied much to our shock! We decided to remove 2 buildings from the site plan and increase the parking to meet current code despite the economic cost to us. It was better than walking away from all the work and money already expended. Within 48 hours you were given revised architectural and engineering drawings, eliminating two buildings, but leaving everything else exactly the same.

We have not been notified of any reason at this point not to issue building permits. All comments on the memo of December 23, 2004 have been satisfactorily addressed. I will be signing bond documents on Monday January 10, 2005 at the offices of Fulbright and Jaworksi, council for Denton Housing Finance Agency where I can be reached in the conference room for the ("Little Elm Closing") Phone number (214) 855-8100. Myself or Roger Zais are available to answer any questions all day. We must get a letter from you indicating that these permits will be available subject to payment of fees, etc. We do not really need the permits until next week to begin construction and at that time the ability to begin the dirt work and utilities is all we need.

I hope you understand that we are faced by an absolute deadline and should we not get your cooperation to issue this letter, which we are entitled to, there will be severe economic losses to us for which I will hold you and the town liable.

This project will be beneficial to the town; it will create 200 plus jobs during construction and 10 permanent positions as well as significant tax revenue. It will be a good development meeting all codes of Little Elm.

Thanks you for the cooperation I know will be forthcoming.

Sincerely,

Richard Shaw

Richard Shaw
President

RS/mlg

cc: J. C. Hughes - Town Manager
Richard C. Ruschman – Attorney
Roger Zais

c:\mary\docs\property\Little Elm\Town of Little Elm\Ltr to Stacy Snell 1-10-05

04463

TOWN OF LITTLE ELM

P.O. Box 129
Little Elm, TX 75068-0129
214-975-0400
www.littleelmtx.us

LITTLE ELM

Admin.
214-975-0400

Building Insp.
214-975-0456

City Manager
214-975-0400

City Secretary
214-975-0400

Econ. Dev.
214-975-0400

Finance Dir.
214-975-0415

Fire Dept.
214-975-0420

Library
214-975-0430

Mayor
214-975-0400

Mun. Court
214-975-0483

Police Dept.
214-975-0460

Parks & Rec.
214-975-0470

Public Works
214-975-0470

Water Billing
214-975-0480

VIA FAX (972-733-1864)
and CERTIFIED MAIL

January 12, 2005

Mr. Richard Shaw
Colonial Equities, Inc.
16200 Dallas Parkway, Ste. 190
Dallas, TX 75248

RE: Lakeside Manor Senior Community

Dear Mr. Shaw:

This letter is in response to your letter dated January 10, 2005 regarding the referenced matter that was received by my office on January 10, 2005 at 12:35 p.m. Regarding a building permit for your development, please note that the Town of Little Elm will issue a building permit for the development at such time that the building permit application for the development, including related plans, is complete and determined by the Town to be in compliance with all relevant codes, ordinances and regulations of the Town, and all fees associated with the project have been paid. A separate letter reflecting that is attached.

In further response, please note the following:

1. We began discussions with you regarding your development in August, 2004. However, the Building Inspections Division of the Town did not receive what purported to be a completed application for a building permit for your project until December 6, 2004.

2. On December 15, 2004 our office conducted a telephone conference call with you and your architect, Mr. Frank Pollacia, to discuss your building permit application. In addition to me, Town participants in the call were the Fire Chief, the Fire Marshal, and the Building Official. During the conversation, I expressed to you the comments and concerns of the Town's Public Works Director and the Town Engineer, both of whom I had met with that morning to discuss your application. During the conversation, we conveyed to you that the plans were not complete and that they could not be adequately reviewed by Town staff without certain additional information and reviewing missing sheets.

04463

Following our conversation, later that day Mr. Pollacia delivered a revised site plan to our office; however, it again did not have the information that we had previously informed you was necessary to conduct and complete our review. At that time, the Town's Building Official had a lengthy conversation with Mr. Pollacia, at which time the Building Official asked for certain "back up" information to validate Mr. Pollacia's position regarding firewall ratings.

3. Following our December 15 conference call and the subsequent receipt of information from and conferences with Mr. Pollacia as outlined above, we did not receive all of the additional information we had requested from either you, Mr. Pollacia, or any other person acting on your behalf. Although we had not received all of the additional information, on December 23, 2004 we provided to you by fax comments regarding the information we did have. Town offices were closed on Friday, December 24, 2004 and on Monday, December 27, 2004 for the holidays.

4. On Tuesday, December 28, 2004 I received an e-mail from your construction superintendent, Mr. Roger Zais, and also became aware that Mr. Zais had sent me another e-mail on December 27. In his e-mails, Mr. Zais requested certain information, and on December 28 I supplied him with the requested information.

5. Regarding parking for the development, it was my understanding that you believed that the parking requirements for the development should be reduced, and you therefore elected to proceed with a request for a variance from those requirements from the Zoning Board of Adjustment. In connection with that request, on Friday, November 5, 2004 an application for the variance was submitted to our office; however, the application was not complete, as it did not include the notification labels or the mailing costs as required. The deadline for newspaper notice for the December Board of Adjustment meeting was Monday, November 8, but the labels and fees were not delivered until Wednesday afternoon, November 10. Therefore, because the deadline was missed, the matter was scheduled for the January 4, 2005 meeting of the Board of Adjustment. At that meeting, the Board denied the variance request.

6. Following the January 5, 2005 Board meeting, we did not receive a revised site plan until the afternoon of Friday, January 7, 2005. In addition, at 4:34 p.m. on that date, we received in connection with the development a 20 page lease for review.

7. On Monday, January 10, 2005 we received (in addition to your letter mentioned above) landscape plans.

You indicated in your January 10 letter that your engineer, Mr. David Vilbig, had tried to contact me; to my knowledge I have never received a phone call from Mr. Vilbig. I have spoken with Mr. Pollacia on numerous occasions, and since December 20, 2004 have had almost daily contact with Mr. Zais. Our office has been very responsive, either answering a question, providing additional information that is within the Town's Development Guide (which you had previously acquired), or receiving faxes of new information on the project.

A building permit cannot be issued until all requested plans and information have been submitted, reviewed and approved. A comprehensive and complete building permit has not been submitted, nor has one comprehensive resubmittal package been delivered. Bits and pieces of information have been delivered, faxed, mailed or e-mailed to various people over the course of this review.

The plans that were submitted for your development last week and this week will receive the same efficient review that we provide all building permit applications, and comments, if any, regarding any deficiencies in those plans will be forwarded to you.

If you have any questions or would like to discuss this matter further, please let me know.

Sincerely,

Stacy A.M. Snell

Stacy A.M. Snell, AICP
Director of Planning and Development

C: JC Hughes, Town Manager
John Hill, Town Attorney
Mayor and Town Council
Richard C. Ruschman

8.6.3.6 Floor Area: Every multi-family unit hereafter erected, constructed, reconstructed or altered shall have a floor area, excluding basements, open and screened porches, patios, and balconies of not less than specified in the following table:

04463

Number of Bedrooms	Space Required
One bedroom unit:	650 square feet
Two bedroom unit:	800 square feet
Three bedroom unit:	1000 square feet
Each bedroom over three:	add 200 square feet

8.6.3.7 Lot Area Per Family: In said A-10 Multi-Family District apartment houses or where houses or buildings are arranged or designed for more than two (2) families the minimum area shall be two thousand four hundred (2,400) square feet for each unit inclusive of the parking requirements set out herein.

8.6.4 PARKING REGULATIONS: In said A-10 Multi-Family District the minimum off-street parking and loading regulations shall be an all-weather paved surface as follows:

8.6.4.1 For institutions one (1) off-street parking space for each 175 square feet of floor area shall be provided.

8.6.4.2 All buildings hereafter erected, reconstructed, altered, enlarged or converted for one or more uses permitted in A-10 Multi-Family District shall provide adequate permanent off-street facilities for the loading and unloading of merchandise and good within or adjacent to the building in such a manner as not to obstruct the freedom of traffic movement on the public streets or alleys.

8.6.4.3 For areas used for more than single-family dwellings, two (2) off-street parking spaces for each one (1) bedroom dwelling unit plus one space for each additional bedroom per unit shall be provided.

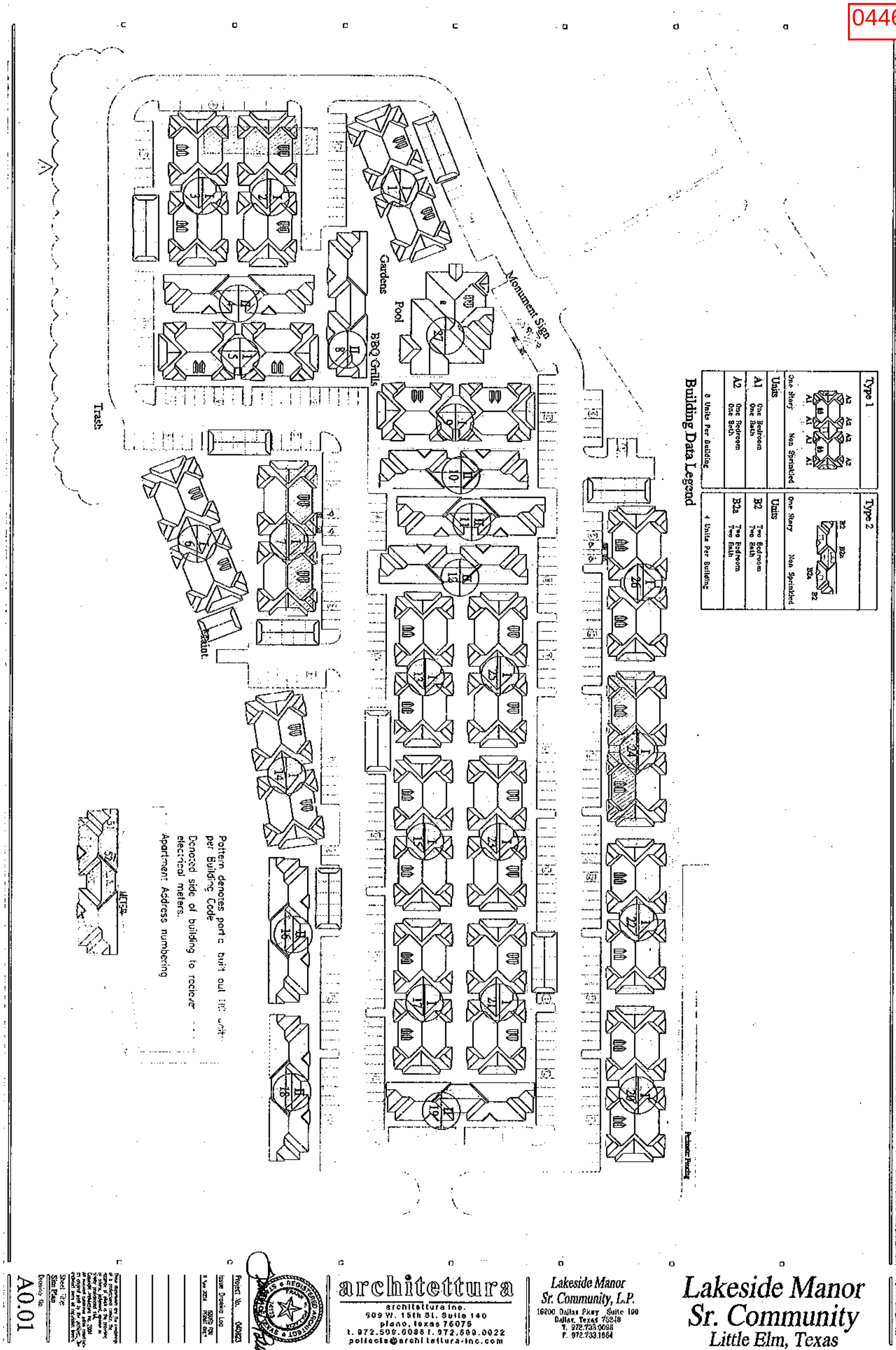
8.6.5 FOUNDATION: Requirements for foundation will be found in SECTION 11.4 and 11.5.

8.6.6 USABLE OPEN SPACE

8.6.6.1 Each lot or parcel of land, which is used for multiple-family residences, shall provide on the same lot or parcel of land, usable open space, in accordance with the table below:

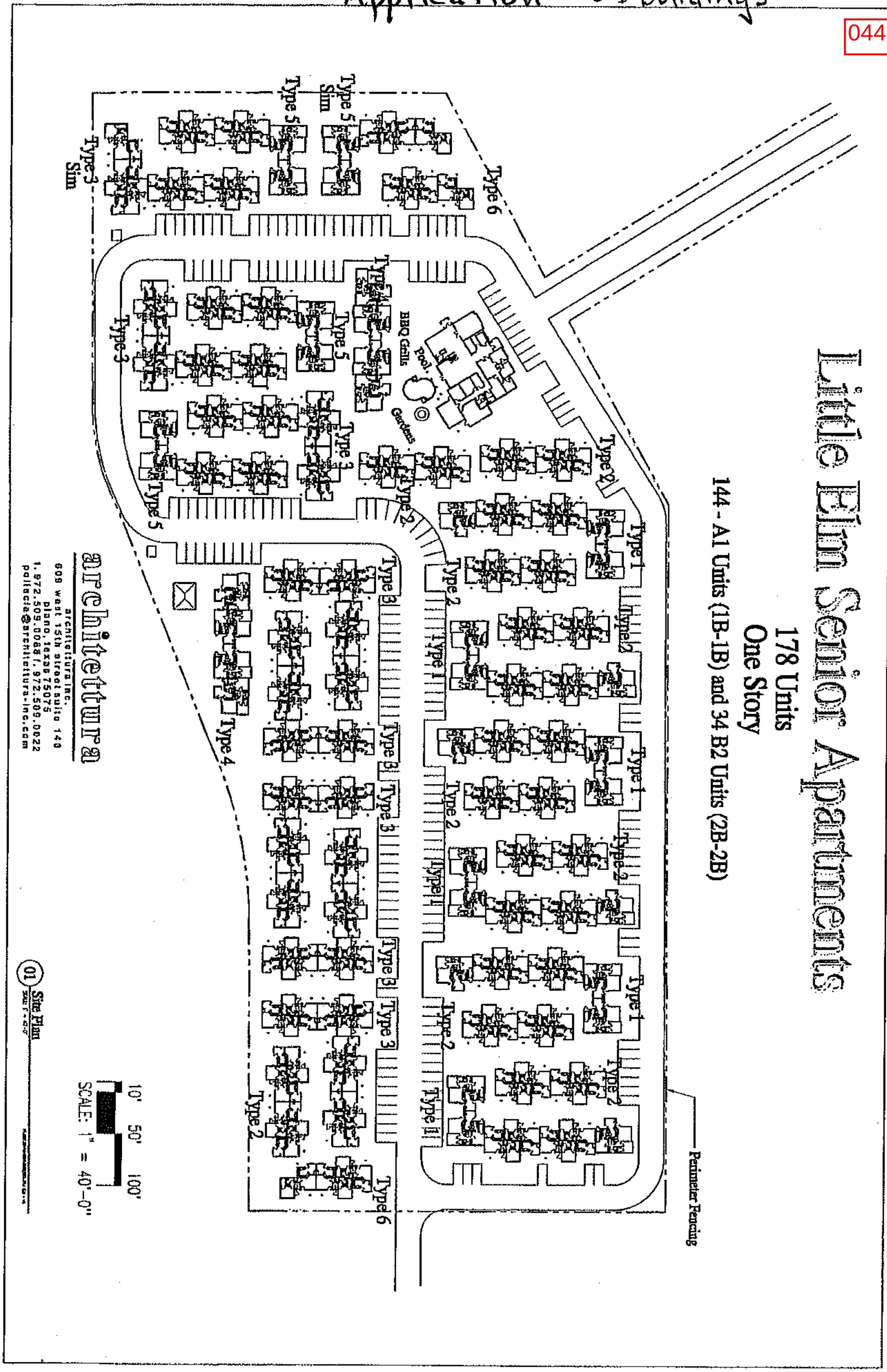
Amendment 26 residential buildings

04463



Application 31 buildings

04463



Application

04463

EXHIBIT 3. ACTIVITY OVERVIEW

PART A. SPECIFICATIONS AND AMENITIES

SECTION 1. CONSTRUCTION SPECIFICATIONS *(Mark all applicable categories for both proposed and existing developments.)*

Foundation: ☐ Slab on Grade ☐ Grade Beams ☒ Post-Tensioned Slab ☐ Pier & Beam

Wall Structure: ☒ Wood Frame ☐ Steel Stud Frame ☐ Concrete Block ☐ Structurally Integrated Panel

Exterior Material: Coverage	Coverage	Coverage	Coverage
☒ Brick Veneer 80 %	☒ HardiBoard or Plank 20 %	☐ Wood Siding %	☐ Stucco %
☐ Stone Veneer %	☐ Plywood/Composite %	☐ Vinyl Siding %	☐ Wd. Trim %

Roof: ☒ Comp. Shingle ☐ Laminated Shingle ☐ Wood Shingle ☐ Galvanized Metal
☐ Built-up Rock ☐ Composition Roll ☐ Concrete Tile ☐ Mission Tile

Interior Walls: ☒ Drywall ☐ Plaster Walls ☐ Other: __ Ceiling Height __ ft.

HVAC: ☐ Heat Pump ☒ Central Heat & A/C ☐ Evaporative Cooling

Other Components: ☐ Elevator(s): # of stops: 0 # in development: 0 ☐ Manufactured Housing

SECTION 2. CONSTRUCTION STANDARDS

☐ Development's jurisdiction has adopted a local building code. If yes, identify: 2002 National Building and Electrical Code, 2000 Int'l mechanical, pulmbing, gas and fuel codes.

List all local building codes to which Development will adhere: 2002 National Building and Electrical Code, 2000 Int'l mechanical, pulmbing, gas and fuel codes.

Has Applicant established written property rehabilitation standards and construction specifications over and above Texas Minimum Construction Standards? ☐ Yes ☐ No If "Yes", attach standards and specifications. Is this standard based on a state or national code? ☐ Yes ☐ No If "Yes," which code? NA

This development will meet or exceed all standards selected below. *(Mark all items that apply)*

☐ International Residential Code ☐ Board for Coordination of Model Building Codes
☒ Uniform Building Code ☒ National Electrical Code
☐ International Building Code ☐ Texas Minimum Construction Standards
☐ Colonia Housing Standards ☐ Model Energy Code[16]

SECTION 3. ACCESSIBILITY STANDARDS[17] *(Mark all standards that will be incorporated into the development's construction)*

☒ (1988) Amendments to the Fair Housing Act of 1968 (FHAA) - Fair Housing Guidelines as specified in the Fair Housing Act Design Manual

☐ Section 504 of the Rehabilitation Act (1973) - Uniform Federal Accessibility Standards (UFAS)

☒ Architectural Barriers Act, Article 9102, Texas Civil Statutes - Texas Accessibility Standards (TAS)

☐ TX Government Code - Sec.2306.514 - TDHCA Single Family Accessibility Standards (TDHCA/SFAS)

[16] *Model Energy Code is published by the Council of American Building Officials*
[17] Note: Some, if not all, of these codes may be required by program, state, and federal law. They are noted on this form to ensure that the applicant incorporates them into the development design if applicable.

Application

04463

EXHIBIT 3. ACTIVITY OVERVIEW

PART A. SPECIFICATIONS AND AMENITIES

SECTION 4. INTERIOR FEATURES & SPECIFICATIONS *(Mark all features which are provided to the tenant at no additional cost.)*

Floors:	☐ Carpeting	☐ Vinyl Flooring	☐ Hardwood Floors	☒ Other Flooring Faux Wood
Kitchen:	☒ Range and Oven	☒ Hood & Fan	☒ Garbage Disposal	☒ Dishwasher
	☒ Refrigerator	☐ Microwave	☐ Tile Counter Tops	☒ Laminated Counter Tops
Bath:	☐ Tile Tub/Shower	☒ Fiberglass Tub/Shower	☐ Tile Counter Tops	☒ Laminated Counter Tops
Laundry:	☐ Washer & Dryer	☒ Wash/Dry Connections	☐ Cable	☒ Ceiling Fans
Other:	☒ High Speed Internet Access	☒ Fireplaces # in development: 1	☐ Individual Water Heaters	

SECTION 5. ON-SITE AMENITIES

Identify all applicable facilities that will be included in the development. Enter "C" if the tenant must pay an extra fee for the amenity and "F" if the amenity is free of charge to the tenant.

F Common Dining	F Game/Recreation Room	___ Daycare Facility	F Furnished Community Room
___ Commercial Kitchen	F Residential Kitchen	___ Laundry Room	F Senior Center
F Pool #: 1	C Monitored Unit Security	___ Tennis Court	F Picnic Area
___ Play Area	___ Playground Equipment	___ Basketball Court	___ Volleyball Court
F Perimeter Fencing	F Limited Access Gate	F Jacuzzi #: 1	F Computer Room/Facilities
F Public Rest Rooms	C Public Telephone	F Exercise Room	F Community Garden/Walk Trail
___ Car Wash Area	C Carports # of spaces: 50	F Uncovered Parking # of spaces: 177	
___ Other:________	___ Other:________	C Garages # of spaces: 40	

Populations Served

Rent Schedule (Required for All Rental Developments) Lakeside Manor 10-28-08 Rev - 1

04463

Unit types should be entered from smallest to largest based on "# of Bedrooms" and "Unit Size", then within the same "# of Bedrooms" and "unit Size" from lowest to highest "Rental Income/Unit".

Type of Unit designation should be one or more of the following based on the unit's rent restrictions:

Tax Credit: *(TC30%), (TC40%), (TC50%), (TC60%), Employee Occupied (EO), Market Rate (MR), as allowed by Sec. 42.*

HOME: *High (HH), Low (LH), Employee Occupied non LI unit (MR/EO), Market Rate (MR)*

501(c)(3) Mortgage Revenue Bond: *(MRB), (MRB30%), (MRB40%), (MRB50%), (MRB60%), Market Rate(MRBMR).*

Other: *describe any "Other" rental assistance or rent restrictions in the space provided: documentation supporting the rent assistance or restrictions must be provided*

Housing Trust Fund *: (HTF30%), (HTF40%), (HTF50%), (HTF60%), (HTF80%), Market Rate (MR)*

Units funded under more than one program, the "Program Rent Limit" should be the most restrictive - for example, a LH and TC60% unit would use the "LH" Program rent limit.

The rent and utility limits available at the time the Application Packet is submitted should be used to complete this form. Gross Rent cannot exceed the HUD maximum rent limits unless documentation of project-based rental assistance is provided. The unit mix and net rentable square footages must be consistent with the site plan and architectural drawings.

Development Name: Lakeside Manor **City:** Little Elm

HTC Unit Designation	HOME Unit Designation	HTF Unit Designation	MRB Unit Designation	Other	# of Units (A)	# of Bed-rooms	# of Baths	Unit Size (Net Rentable Sq. Ft.) (B)	Total Net Rentable Sq. Ft. (A) x (B)	Program Rent Limit	Tenant Paid Utility Allow.	Rent Collected /Unit (E)	Total Monthly Rent (A) x (E)
									0				-
TC50%					89	1	1.00	737 767	68,263	623	63	560	49,840
TC60%					55	1	1.00	737 799	43,945	748	63	685	37,675
TC60%					34 32	2	2.00	923 1,050	33,600	898	81	817	26,144
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As Proposed

TOTAL	176		145,808	113,659
Non Rental Income	$15.00	per unit/month for:	Misc	2,640
Non Rental Income	50.00	per unit/month for:	40 Garages	2,000
Non Rental Income	30.00		Washer Dryers 115	3,450
Non Rental Income	6.00		Cable/Telephone	840
Non Rental Income	15.00	per unit/month for:	48 Carports	720
+ TOTAL NONRENTAL INCOME	$116.00	per unit/month		9,650
= POTENTIAL GROSS MONTHLY INCOME				123,309
- Provision for Vacancy & Collection Loss		% of Potential Gross Income:	7.50%	9,248
- Rental Concessions				-
= EFFECTIVE GROSS MONTHLY INCOME				114,061

Read into Record
by E. Pernado

State of Texas
House of Representatives

Capitol Office:
P.O. Box 2910
Austin, Texas 78768-2910
(512) 463-0582
e-mail: myra.crownover@house.state.tx.us

District Office:
P.O. Box 535
Lake Dallas, Texas 75065
(940) 321-0013

Myra Crownover
District 64

April 22, 2009

Kent Conine, Chairman of the Board
Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, TX 78711-3941

RE: Amendments to HTC No. 04463, Lakeside Manor Senior Community

Chairman Conine,

It has come to my attention that Richard Shaw has asked for an amendment for his development in my district, Lakeside Manor in Little Elm. As you consider this request, I wanted to share some background on Lakeside Manor that I have experienced within the past 18 months.

The residents at Lakeside Manor contacted my office over a year ago and I remain in regular contact with them today. I have also taken the time to visit Lakeside Manor personally and my staff has visited the development on multiple occasions. Before I address the concerns I have with the development I would like clearly state that Richard Shaw and his staff have always been attentive to my concerns and I greatly appreciate their efforts to address them.

My experience, and the information I have obtained regarding this development, give me great pause regarding the request for amendment Mr. Shaw is seeking. The issue I have concern with is that Mr. Shaw is seeking credit for going "above and beyond" in some aspects of this development. It has been my experience that management of Lakeside Manor does as little as possible to comply with the promises that it has made to T.D.H.C.A., the State of Texas, and most importantly to the residents of the property. I feel strongly that it would be inappropriate for Mr. Shaw to receive credit or mitigation for going "above and beyond".

When problems at Lakeside Manor are addressed, the quality of the workmanship usually evidences the most minimal of efforts by management. For example, during a TDHCA inspection of the property it was noted that additional sidewalks were needed to fully comply with the accessibility requirements for the property. When this was pointed out, the additional sidewalks were added. However, in more than one place the in-ground sprinkler system was in the right-of-way of the new sidewalk. Instead of removing the sprinklers, the sprinklers were simply paved over with the sprinkler heads sticking out of the sidewalk. Not only was this foolish, but it also created new accessibility problems and the sidewalks had to be re-done.

The most egregious amenity claimed as an offset for going "above and beyond" is the installation of low-flow toilets. I understand that low-flow toilets are considered a positive in housing generally; however, the low-flow two flush toilets installed at Lakeside Manor are not an amenity that any of the residents would consider a positive in their lives. The toilets are abnormally small and very low to the ground and that alone is particularly inappropriate for an elderly population. Furthermore, plumbing issues at the property are the absolute number one concern of residents. The toilets are constantly backing up and many residents do not feel that they have access to adequate and sanitary bathroom facilities.

These are only two of the problems that the residents of Lakeside Manor face on a daily basis. Other issues include drainage problems at the property, a lack of landscaping, and amenities that are under repair more than they work. Mr. Shaw has continued to work with the residents and with my office as issues arise, but I am concerned for the long term prospects of this development, particularly after tax credits are awarded.

I would like to reiterate that Mr. Shaw and his company have been responsive to my concerns about Lakeside Manor and have made great strides in addressing those concerns. However, I cannot in good conscience allow your board to vote on this issue without consideration of the issues I have raised in this letter.

Sincerely,

Myra Crownover

State Representative, District 64

08195

DOMINIUM

Development & Acquisition, LLC

COMPLIANCE DIVISION

FEB 19 2009

Housing & Community Affairs

February 17th, 2009

VIA: E-Mail

Mr. Michael Gerber
Executive Director
Texas Department of Housing and Community Affairs
221 E. 11TH Street
Austin, Texas 78701

Re: Chateau Village Apartments #08195

Dear Mr. Gerber:

I am writing this letter to both provide you a quick update on the closing status of Chateau Village and also request some modifications to our current structure as approved by TDHCA.

We have been working diligently with all of our financing partners and are in a position to close in late March. Bank of America is providing both the 1st mortgage financing and construction financing. We have completed the bulk of our due diligence with them and should be provided drafts of the loan documents in the next week or two. Alliant Capital, our tax credit syndicator, has been working with JP Morgan Chase to be the direct investor for the 9% tax credits. We have provided the majority of the requested due diligence to Alliant and they are now working with JP Morgan Chase to receive their final approvals. We have also been working with the City of Houston to provide them with the required due diligence.

In addition to working with our financing partners we have been working closely with Ontra, Inc, who is the Participating Administrative Entity (PAE) completing the Mark-to-Market restructuring on behalf of HUD. Ontra expects to receive the final approvals from HUD that they need in order to close in the next week or two as well.

The above partners are on schedule to close in late March based on our current financing assumptions and proposed ownership/financing structure. However, in order to complete the closing as planned we will require the following modifications be approved by TDHCA staff; or the Board if the modifications are not able to be approved at the staff level.

First, Alliant Capital has requested, per the attached letter, that the condition of the 2008 Housing Tax Credit Commitment Notice for Chateau Village Apartments dated August 11, 2008 be amended to eliminate the language in section I.2 requiring a 50% property tax exemption.

Our original application did not include a property tax exemption in our analysis. However, based on discussions we had with TDHCA underwriting staff, we were informed this would be a condition of our 9% award. We understand that this condition was based in part to provide additional cash flow to the soft HUD and HOME notes to avoid reducing them from acquisition eligible basis, in order to meet a true debt test. Not only has the interest rate on the HOME note been reduced from the Applicable Federal Rate (AFR) to 1%, the amount of the deferred developer fee that needs to be paid back has been reduced from approximately $620k (per our application) to $250k based on our most recent projections. These projections show all debt, both hard and soft, being true debt and paid off in the compliance period or at sale.

Based upon the review of Alliant and JP Morgan Chase, and their tax counsel, the financial feasibility of Chateau Village does not require property tax abatement. They have completed their true debt analysis assuming there is no tax exemption or abatement. Further, if we are unable to have this condition eliminated from the Commitment Notice, it is unlikely we will be able to secure a tax credit investor who will risk their investment on the unlikely scenario we are able to secure property tax abatement approvals from Harris County, the City of Houston, and the Houston Independent School District. Additionally, the 1st mortgage is sized based on the assumption that property taxes will remain at their current levels and increase in the future.

We understand that there is a necessity in today's current economic and tax credit environment to ensure that the deals are financially feasible and likely to close. We have put together a financing structure that is ready to close and that is very feasible. This can be evidenced by the fact that we have a tax credit investor ready to close and that there is very small financing gap.

Our second modification to the structure that was approved by TDHCA is the changing of the sole member of the general partner from Housing Services Incorporated to Christian Relief Services. The City of Houston has communicated with us that if Housing Services Incorporated is involved as the general partner, or in any sort of ownership role, that the City Council is unable to approve the HOME funds for Chateau Village. We have provided the City of Houston due diligence on Christian Relief Services and expect the City's approval of them as the General Partner shortly. Please contact Mr. Donald Sampley with the City of Houston at Donald.Sampley@cityofhouston.net to discuss this further.

We understand this change will not be looked at lightly by TDHCA staff. However, this change is of no economic consequence to the feasibility of the development. In addition, the change does not involve altering or substituting the legal general partner or ownership entities or any of the guarantors involved in the transaction. As originally submitted and subsequently approved, the principals of Dominium will still be providing the construction completion, tax credit, and operating deficit guarantees required by our investor limited partner, JP Morgan Chase.

Finally, while Housing Services Incorporated would no longer be involved in the general partner or ownership of Chateau Village, they are still partnering with the development to provide the social services we have committed to provide to the current and future residents of Chateau Village.

With the approval of the above modifications by TDHCA staff Chateau Village will be ready to close in March. These are not insignificant changes but we feel that the overall development—the structure, the financing partners, and the feasibility—has improved with these changes and offers a marketable development to our investor limited partner, as well as the 1st mortgage lender.

If there are any questions regarding the above outlined changes please do not hesitate to contact me at (763) 354-5613 or Owen Metz at (763) 354-5618.

Best regards,

Mark S. Moorhouse
Project Partner
mmoorhouse@dominiuminc.com

Cc: Sharon Gamble, TDHCA
Owen Metz, Dominium Development & Acquisition, LLC
Jeffrey Spicer, State Street Housing, LP

NONE AT THE TIME OF THIS POSTING

MULTIFAMILY FINANCE PRODUCTION DIVISION

BOARD ACTION REQUEST
May 21, 2009

Action Item

Presentation, Discussion, and Possible Action Regarding 2008 Forward Commitments for Tax Credits

Requested Action

Approve or Deny the Extension of the Deadline to Close the Construction and Equity Funding.

Background

At the November Board meeting, the Board approved all remaining applications on the 2008 Housing Tax Credit Application Waiting List. The Board's approval was subject to the Department's underwriting and the applicant's ability to close on the construction and equity components of the transactions by May 15, 2009. At each Board meeting since November, the Board has heard in public comment requests from developers to extend the May 15th date.

Reasons cited for extending:

- Applicants could not get firm commitments from equity providers without the tax credit allocation commitment from the Department;
- There was not enough time after the receipt of the commitment notice to get final permits and closing documents completed; and
- Applicants wanted time to apply for the TCAP/Exchange.

Staff delayed the issuance of the commitment notices until all the underwriting reports were complete and all the commitment notices could be issued at the same time, thereby, keeping all applicants on the same playing field and timeline. All the commitment notices, with the exception of two, were sent to applicants on March 31, 2009. The expiration of the commitment notices was April 10, 2009. Applicants were required to meet the conditions set forth in the commitment notice and pay the required fees. All applicants that were recommended for funding have accepted and returned their commitment notice and paid their fees, though several requested extensions of the closing deadline.

Recommendation

The closing deadline of May 15th was established by Board action pursuant to providing Forward Commitments. Staff does not have a recommendation on this extension.

MULTIFAMILY FINANCE PRODUCTION DIVISION

BOARD ACTION REQUEST

May 21, 2009

Action Item

Presentation, Discussion and Possible Approval of the First Supplement to the Trust Indenture for Center Ridge Apartments, Series 2006.

Requested Action

Approve, Amend or Deny with Amendments the First Supplement to the Trust Indenture for Center Ridge Apartments in Duncanville.

Summary of the Transaction

The Department issued tax exempt bonds for the acquisition and rehabilitation of Center Ridge Apartments in the amount of $8,325,000 in 2006. The property is located in Duncanville, contains 224 units and the rent roll as of April 10, 2009 indicates the property is 87% occupied. A cost certification package for the issuance of 8609's for this property has not yet been submitted.

The bonds were fixed rate, publicly offered with credit enhancement provided by Fannie Mae. Under the bond documents, the Reimbursement Agreement between the Owner and Fannie Mae, indicated the Termination Date of the agreement to credit enhance the bonds was October 1, 2008 and was subject to one six-month extension to April 1, 2009 which was granted. Fannie Mae provided for one additional six-month extension which would take the Termination Date through September 1, 2009 with another extension allowed, if requested. However, the current DUS lender on the transaction, Greystone Servicing Corporation, notified the Borrower in March 2009 that they are unwilling to continue to participate in the transaction and provided limited insight to the Borrower on the justification. To avoid redemption, the current Construction Phase Credit Facility Provider, Columbus Bank and Trust Company, will purchase the bonds in-lieu of redemption. They have agreed to purchase and hold the bonds until October 3, 2009. On or before October 3, 2009, the Borrower will seek to refinance and/or refund the issuance with a new DUS lender to ensure the credit enhancement.

Summary of Changes

The First Supplement to the Trust Indenture proposes that monthly interest payments be made by the Trustee to the bond holder, while the Bonds are being held by Columbus Bank and Trust Company. The definition of Interest Payment Date would be modified from May 1 and November 1 each year beginning November 1, 2006, to monthly payments as of April 1, 2009.

Recommendation

Staff recommends the Board approve the amendments as stated in the First Supplement to the Trust Indenture for the Center Ridge Apartments, Series 2006.

SUMMIT HOUSING PARTNERS, L.L.C.

April 8, 2009

VIA OVERNIGHT MAIL & ELECTRONIC MAIL

Texas Housing Department of Community Affairs
Ms. Teresa Morales
Multifamily Bond Administrator
221 East 11th, P. O. 13941
Austin, Texas 78711-3841

RE: $8,325,000 – Texas Department of Housing and Community Affairs Multifamily Housing Revenue Bonds (Center Ridge Apartments) Series 2006

Dear Ms. Morales:

As you are aware, our company was the developer and the current management agent of Center Ridge Apartments located in Duncanville, Texas (the "Property"). Please accept this correspondence on behalf of the owner of the property, Summit Center Ridge Apartments, Ltd. (the "Owner").

As you are aware, the Texas Department of Housing and Community Affairs ("TDHCA") issued above referenced bonds on September 19, 2006 (the "Bond Issue"). At closing, the Bond Issue was sold with a fixed rate of interest, and credit enhanced by Fannie Mae. Pursuant to the Reimbursement Agreement dated September 1, 2006 by and between the Owner and Fannie Mae, the Termination Date of the agreement to credit enhance the bonds (also noted in the Construction Phase Financing Agreement) was October 1, 2008, which was subject to one six-month extension to April 1, 2009. An extension of the Termination date was granted through April 1, 2009. Customarily, Fannie Mae will provide for one additional six-month extension, which would take the Termination Date through September 1, 2009.

Unfortunately, we were notified in March 2009 that the lender on the transaction, Greystone Servicing Corporation ("Greystone") would not be willing to request a second extension of the Termination Date through Fannie Mae. While we have had numerous conversions with Fannie Mae, and there is no predisposition against the Property and its performance, they cannot continue to credit enhance the Bond Issue without an approved DUS Lender involved in the transaction. After numerous attempts, Greystone is still unwilling to participate in this transaction; and they have provided limited insight on their position.

Pursuant to Section 3.9(3) of the Trust Indenture by and between TDHCA and JP Morgan Chase Bank (the "Trustee"), the Construction Phase Credit Facility Provider, which is Columbus Bank & Trust Company ("CB&T"), can elect to purchase the bonds in-lieu of a redemption (such purchase is referred to a Special Purchase Bond in the Trust Indenture). In an effort to not lose the valuable tax-exempt volume cap related to the Property and the extensive sunk cost related to the original issuance, the Owner has requested that CB&T facilitate the purchase of the outstanding Bond Issue. For your convenience, I have attached a copy CB&T's notice of the Special Bond Purchase. Further, CB&T has agreed to purchase the bonds and hold them until October 3, 2009. On or before October 3, 2009, the Owner will facilitate a refinancing/refunding of the Bond Issue; most likely through Fannie Mae or Freddie Mac with a new Lender (most likely GrandBridge Real Estate Capital).

We are writing you today to request TDHCA's consideration of an amendment/supplement to the current Trust Indenture on the Bond Issue at your earliest possible convenience. Specifically, the Owner is requesting that while the Bonds are being held by CB&T (i.e. Special Purchase Bond) that monthly interest payments be made by the Trustee to the bond holder. We have confirmed with Bond Counsel that board action is required to make this modification, and we believe the amendment would focus on the definition of Interest Payment Date; which would be modified from May 1 and November 1 each year beginning November 1, 2006, to monthly payments as of April 1, 2009. The Owner, Owner's Counsel and CB&T will defer to Bond Counsel of the drafting of the language in the amendment/supplement.

As mentioned above, the Property is performing well, and the Owner is confident that we can secure a refunding/refinancing base on current performance. I have attached a rent roll for your reference. Further, please accept this letter as confirmation that no changes to the organizational structure have or will occur in connection with the contemplated amendment/supplement (or refunding/refinancing to occur on or before October 3, 2009).

Should you have any questions, please do not hesitate to give me a call. Clearly, this is a very fluid situation, and the earliest possible action by TDHCA's board of directors is greatly appreciated by all participants.

Best regards,

Summit Housing Partners, LLC

Jon Killough
Executive Vice President

FIRST SUPPLEMENTAL

TRUST INDENTURE

between

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS,
as Issuer

and

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,
as Trustee

Dated as of May 1, 2009

Texas Department of Housing and Community Affairs
Multifamily Housting Revenue Bonds
(Center Ridge Apartments)
Series 2006

FIRST SUPPLEMENTAL TRUST INDENTURE

THIS FIRST SUPPLEMENTAL TRUST INDENTURE, dated as of May 1, 2009 (the "Supplemental Indenture"), is made by and between the TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS (the "Issuer'), a public and official agency of the State of Texas, and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A. (the "Trustee"), as successor in interest to JPMorgan Chase Bank, National Association, as trustee.

WHEREAS, the Issuer has issued its $8,325,000 Multifamily Housing Revenue Bonds (Center Ridge Apartmnets) Series 2006 (the "Bonds") in accordance with the terms of the Trust Indenture dated as of September 1, 2006 (the "Indenture"), between the Issuer and the Trustee;

WHEREAS, pursuant to Article III of the Indenture, Columbus Bank and Trust Company (the "Construction Phase Credit Facility Provider"), as Construction Phase Credit Facility Provider, has made a special purchase in lieu of redemption and has purchased all of the Bonds Outstanding, and consequently, the Credit Enhancement Instrument (Stand-By), dated as of September 19, 2006 issed by Fannie Mae has expired in accordance with its terms;

WHEREAS, pursuant to Section 7.9 of the Indenture, all references in the Indenture to the Credit Provider are now deemed to be references to the Construction Phase Credit Facility Provider;

WHEREAS, the Issuer and the Trustee, at the request of the Borrower and the Construction Phase Credit Facility Provider, now desire to make certain amendments and modifications to the Indenture, including to modify the definition of "Interest Payment Date"; and

WHEREAS, Summit Center Ridge Apartments, Ltd. (the "Borrower") and the Construction Phase Credit Facility Provider (as 100% Bondholder and as Construction Phase Credit Facility Provider) have each consented to this Supplemental Indenture by their execution hereof;

NOW THEREFORE, in consideration of the mutual undertakings, promises and agreements herein contained and other good and valuable consideration, the sufficiency of which are acknowledged hereby, the Issuer and the Trustee do covenant and agree hereby as follows:

ARTICLE I
DEFINITIONS AND STATUTORY AUTHORITY

Section 1.1. <u>Supplemental Indenture</u>. This Supplemental Indenture is supplemental to, and is adopted in accordance with Article XI of, the Indenture.

Section 1.2. <u>Definitions</u>. All capitalized terms used in this Supplemental Indenture shall have the respective meanings set forth in the preamble hereof or, if not defined in the preamble hereof, shall have the respective meanings set forth in the Indenture.

Section 1.3. <u>Authority for Supplemental Indenture</u>. This Supplemental Indenture is adopted pursuant to the provisions of the Act and the Indenture.

Section 1.4. <u>References to Credit Provider</u>.

All references in the Indenture to the Credit Provider shall be deemed to be references to the Construction Phase Credit Facility Provider.

ARTICLE II
AMENDMENTS TO INDENTURE

Section 2.1. Amendment to Section 1.2 of the Indenture.

The definition of "Interest Payment Date" in Section 1.2 of the Indenture is deleted in its entirety and replaced with the following definition:

"**Interest Payment Date"** means (i) the 5th day of each calendar month, beginning June 5, 2009, (ii) each Redemption Date, (iii) the Maturity Date, and (iv) the date of acceleration of the Bonds.

ARTICLE III
MISCELLANEOUS

Section 3.1. Ratification and Reaffirmation. The Issuer and the Trustee hereby ratify and reaffirm all the terms and conditions of the Indenture, as specifically amended and supplemented by this Supplemental Indenture, and each hereby acknowledges that the Indenture remains in full force and effect, as so amended and supplemented.

Section 3.2. Bond Counsel Opinion and Notice. The Issuer and the Trustee hereby represent that they have received an Opinion of Bond Counsel to the effect that this Supplemental Indenture will not adversely affect the exclusion from gross income, for federal income tax purposes, of the interest payable on the Bonds and that such supplement or amendment does not violate the Indenture or any of the other Bond Documents and is not materially adverse to the interests of Bondholders. The Trusteee hereby represents that it has given written notice, or such notice was duly waived by the intended beneficiaries of the notice, of the proposed execution of this Supplemental Indenture in accordance with Section 11.6 of the Indenture.

Section 3.3. Effective Date. This Supplemental Indenture shall be effective from and after the date hereof.

Section 3.4. Execution in Counterparts. This Supplemental Indenture may be executed simultaneously in several counterparts, all of which shall constitute one and the same instrument and each of which shall be, and shall be deemed to be, an original.

Section 3.5. Governing Law. This Supplemental Indenture shall be governed by and construed in accordance with the laws of the State of Texas.

Section 3.6. Effect of Headings. The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

Section 3.7. Separability Clause. In any case any provision in this Supplemental Indenture shall be illegal, invalid or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 3.8. Conflict of Terms. If there is any conflict between the terms of this First Supplemental Indenture and the Indenture, then the terms of this Supplemental Indenture will control.

(SIGNATURE PAGES FOLLOW)

IN WITNESS WHEREOF, the Issuer and the Trustee have caused this Supplemental Indenture to be signed on their behalf by their duly authorized representatives, all as of the date first hereinabove written.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

____

C. Kent Conine, Chairman

ATTEST:

____

Timothy K. Irvine, Secretary

(SEAL)

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Trustee

____

Name:_________________________________

Title:_________________________________

[Execution Page to First Supplemental Trust Indenture – Center Ridge Apartments]

The undersigned hereby certifies that it is the owner of all of the Bonds Outstanding and as such hereby consents to and approves the foregoing Supplemental Indenture and waives any prior notice to the execution and delivery of the Supplemental Indenture required by the Indenture. The undersigned further certifies that it is the Construction Phase Credit Facility Provider and as such, hereby consents to and approves the foregoing Supplemental Indenture and waives any prior notice to the execution and delivery of the Supplemental Indenture required by the Indenture.

COLUMBUS BANK AND TRUST COMPANY, a Georgia banking corporation

____
Name:____
Title:____

The undersigned hereby certifies that it is the Borrower and as such hereby consents to and approves the foregoing Supplemental Indenture and waives any prior notice to the execution and delivery of the Supplemental Indenture required by the Indenture.

SUMMIT CENTER RIDGE APARTMENTS, LTD., an Alabama limited partnership

By: Summit America Properties XXVIII, Inc., an Alabama corporation, its general partner

By:____
Jonathan D. Killough, Vice President

[Execution Page to First Supplemental Trust Indenture – Center Ridge Apartments]

RESOLUTION NO. 09-041

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A FIRST SUPPLEMENTAL TRUST INDENTURE IN CONNECTION WITH MULTIFAMILY HOUSING REVENUE BONDS (CENTER RIDGE APARTMENTS) SERIES 2006

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

WHEREAS, the Issuer has issued its $8,325,000 Multifamily Housing Revenue Bonds (Center Ridge Apartments) Series 2006 (the "Bonds") in accordance with the terms of the Trust Indenture dated as of September 1, 2006 (the "Indenture"), between the Issuer and The Bank of New York Mellon Trust Company, N.A. (the "Trustee"), as successor in interest to JPMorgan Bank, National Association, as trustee; and

WHEREAS, the proceeds of the Bonds were loaned by the Issuer to Summit Center Ridge Apartments, Ltd. (the "Borrower"), for the purpose of financing the acquisition, rehabilitation and equipping of a multifamily housing project located in Duncanville, Texas, pursuant to that certain Loan Agreement dated as of September 1, 2006 (the "Loan Agreement") among the Issuer, the Borrower and the Trustee; and

WHEREAS, to evidence its obligation to repay such loan in accordance with the terms of the Loan Agreement, the Borrower has executed in favor of the Issuer, its Mortgage Note (the "Note") in the principal sum of $8,325,000; and

WHEREAS, pursuant to Article III of the Indenture, Columbus Bank and Trust Company (the "Construction Phase Credit Facility Provider"), as Construction Phase Credit Facility Provider, has made a Special Purchase in Lieu of Redemption and has purchased all of the Bonds Outstanding; and

WHEREAS, the Borrower and the Construction Phase Credit Facility Provider, in order to facilitate ownership of the Bonds by the Construction Phase Credit Facility Provider, now desire that the Issuer and the Trustee enter into the First Supplemental Trust Indenture (the "Supplemental Indenture"), dated as of May, 1, 2009 and by and between the Issuer and the Trustee, and consented and agreed to by the Construction Phase Credit Facility Provider, and the Borrower, in order to make certain amendments the Indenture, including a modification of the definition of "Interest Payment Date"; and

WHEREAS, Section 11.2 of the Indenture provides that the Issuer and the Trustee may, with the consent of the holders of not less than 51% of the aggregate principal amount of bonds then outstanding, the Borrower and the Construction Phase Credit Facility Provider, enter into a supplemental indenture amending or modifying the Indenture; and

WHEREAS, the Issuer now desires to take certain actions with respect to the Supplemental Indenture;

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

Section 1. The Supplemental Indenture, in substantially the form presented at this meeting and approved by counsel to the Issuer, is hereby approved and adopted by the Issuer, and the Chairman of the Board is hereby authorized and empowered to execute and deliver the Supplemental Indenture on behalf of the Issuer, with such changes as may be approved by the Issuer's counsel and the officer executing the same, such approval to be evidenced by such officer's execution thereof.

Section 2. The actions and obligations of the Issuer authorized in Section 1 of this resolution shall be conditional upon the delivery to the Issuer of evidence satisfactory to it of (a) written consent to the Supplemental Indenture by the Trustee, the Borrower, and the Construction Phase Credit Facility Provider (and to the extent of any variance in the terms of the Supplemental Indenture presented to the Board, evidence of the approval of such variance by the Trustee, the Borrower, and the Construction Phase Credit Facility Provider by their execution of such Supplemental Indenture), and (b) receipt by the Issuer of an opinion of Vinson & Elkins L.L.P. to the effect that the Supplemental Indenture will not, upon the execution and delivery thereof, adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds.

Section 3. The officers of the Board and the employees and agents of the Issuer, and each of them, shall be and each is expressly authorized, empowered and directed from time to time and at any time to do and perform all acts and things and to execute, acknowledge and deliver in the name and under the corporate seal and on behalf of the Issuer all certificates, financing statements, instruments and other documents, whether or not herein mentioned, as they may determine to be necessary or desirable in order to carry out the terms and provisions of this resolution, as well as the terms and provisions of the Supplemental Indenture, such determination to be conclusively evidenced by the performance of such acts and things and the execution of any such certificate, financing statement, instrument or other document.

Section 4. This resolution shall be in full force and effect from and upon its adoption.

(Remainder of Page Intentionally Left Blank)

Section 5. Written notice of the date, hour and place of the meeting of the Board at which this Resolution was considered and of the subject of this Resolution was furnished to the Secretary of State and posted on the Internet for at least seven (7) days preceding the convening of such meeting; that during regular office hours a computer terminal located in a place convenient to the public in the office of the Secretary of State was provided such that the general public could view such posting; that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof was discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended; and that written notice of the date, hour and place of the meeting of the Board and of the subject of this Resolution was published in the Texas Register at least seven (7) days preceding the convening of such meeting, as required by the Administrative Procedure and Texas Register Act, Chapters 2001 and 2002, Texas Government Code, as amended. Additionally, all of the materials made available to the Board relevant to the subject of this Resolution were posted on the Department's website not later than the third day before the date of the meeting of the Board at which this Resolution was considered, and any documents made available to the Board by the Department on the day of the meeting were also made available in hard-copy format to the members of the public in attendance at the meeting, as required by Section 2306.032, Texas Government Code, as amended.

(Execution page follows)

PASSED AND APPROVED this 21st day of May, 2009.

____

Chairman, Governing Board

ATTEST:

____

Secretary to the Governing Board

(SEAL)

MULTIFAMILY FINANCE PRODUCTION DIVISION

BOARD ACTION REQUEST

May 21, 2009

Action Item

Presentation, Discussion and Possible Approval of a Waiver of 10 TAC §1.15(c)(1) of the Department's Integrated Housing Rule for Willow Oak.

Requested Action

Approve, Amend or Deny the Waiver Request of 10 TAC §1.15(c)(1) for the Willow Oak, #09603.

Summary of the Transaction

The Inducement Resolution 09-032 for Willow Oak was approved by the Board at the April 23, 2009 Board meeting. The Board approval of the inducement resolution is the first step for the Board in the application process. The inducement allows staff to submit the application to the BRB to await a reservation of allocation. Once the application receives a reservation of allocation, the Applicant has 150 days to close on the private activity bond transaction.

As mentioned in the Board presentation at the April 23, 2009 meeting if the application moves forward, the Board may need to grant a waiver of the Department's Integrated Housing Rule as found in 10 TAC §1.15(c)(1). It is the request of the Applicant to have the waiver granted prior to moving forward with the bond reservation and submission of the complete tax credit and bond application.

The proposed 100 unit, new construction development in Tarrant County has been presented to staff as an assisted living development, licensed by the Department of Aging and Disability Services (DADS) with participation in their Community Based Alternatives (CBA) program. The CBA program is an alternative to placement in a nursing home facility administered by DADS. Under the CBA program, certain services must be made available to residents, including assistance with dressing, assistance with bathing, weekly housekeeping, weekly linen service, three meals daily, scheduled activities, medication reminders and assistance with scheduling transportation. Staff must be available 24 hours per day to provide security and peace of mind, and the staff must be qualified to provide assistance to each resident with personalized care, as needed. While the Applicant expects various levels of function ability among the resident population, in order to receive funding from DADS it must make available the services described above.

If the development is licensed as an assisted living facility, personal care services must be offered. DADS cannot guarantee that they will be able to refer 100 clients (100% of the development) which would provide a stable funding source for the mandatory services. Regardless of how many clients are referred by DADS, the owner is obligated to incur the expense of the services program. It is anticipated that only people who need these types of services would choose to live at this property. The residents who do not receive financial assistance through DADS will have to pay for the service program out of pocket ("private pay"). Department staff has pointed out to the Applicant that it is unlikely that a "private pay" client will be able to afford the services *and* qualify as a low-income household under the Housing Tax Credit program. Therefore, the Applicant may determine that the unit mix should include a percentage of market rate units.

It seems reasonable to conclude that, for the development to be feasible with the population targeted, the goal would be for all of the units to be occupied by persons who need personal care services and that the majority of these residents would qualify as having a disability. This may be in conflict with the intention of 10 TAC §1.15(c)(1) of the Department's Integrated Housing Rule which states that a housing development may not restrict even a majority of the units in a development to people with disabilities or people with disabilities in combination with other special needs populations. The Applicant is requesting the waiver today in order to move forward with the development with the full consent of the Department rather than creating a structure that may not be acceptable at some point in the future.

Recommendation

Staff generally does not recommend waiver of Board policy or Board adopted rules, particularly in advance of a conclusion that such a waiver is the only option.

WHITE SETTLEMENT-SENIOR LIVING III, LP

810 E AVENUE H, SUITE 120

ARLINGTON, TX. 76011

(817) 652-9750

To: TDHCA

From: Vaughan Mitchell

Re: Willow Oak TDHCA # 09603 Waiver of Integrated Housing Rule

Date: May 6, 2009

White Settlement-Senior Living III, LP submitted an application to TDHCA in the Bond round February 2009. The funds are to be utilized for the construction of a 100 unit, assisted living development located in White Settlement, Texas. The proposed 100 unit development will also receive funding from the Texas Medicaid Waiver Program for assisted living called the Community Based Alternatives (CBA) program. The program is administered by the Texas Department of Aging and Disability Services (DADS).

DADS guidelines require that the proposed development accept residents based on financial eligibility and acuity level requirements. DADS guidelines will not allow the proposed development to restrict the residents based on age.

Originally the proposed development was planned to be submitted as a Senior Only population. After several conversations and meetings with DADS the proposed development has been submitted to TDHCA as a Family Population. Nothing has changed to the original, physical floor plans or the development. It is still proposed as 100, 1 bedroom, 1 bath, fully-accessible units.

Title 10, Part 1, Chapter 1, Subchapter A, Rule 1.15 (6) (See attached) states: "Integrated housing---Normal, ordinary living arrangements typical of the general population. Integration is achieved when individuals with disabilities choose ordinary, typical housings units that are located among individuals who do not have disabilities or other special needs. Regular, integrated housing is distinctly different from assisted living facilities arrangements."

The proposed development will not contain "ordinary living arrangements typical of the general population." As previously stated the development will contain 100 fully-accessible units in an assisted living facilities/arrangement.

We are requesting a waiver of the Integrated Housing Rule for Willow Oak TDHCA # 09603.

5-6-09

Texas Administrative Code

TITLE 10 COMMUNITY DEVELOPMENT

PART 1 TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 1 ADMINISTRATION

SUBCHAPTER A GENERAL POLICIES AND PROCEDURES

RULE §1.15 **Integrated Housing Rule**

(a) Purpose. It is the purpose of this section to outline the guidelines related to the provision of integrated housing as it relates to the Department's programs.

(b) Definitions. The following words and terms, when used in this subsection, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Board--means the governing board of the department.

(2) Colonia--A geographic area located in a county some part of which is within 150 miles of the international border of this state and that:

(A) has a majority population composed of individuals and families of low income and very low income, based on the federal Office of Management and Budget poverty index, and meets the qualifications of an economically distressed area under §17.921, Water Code; or

(B) has the physical and economic characteristics of a colonia, as determined by the Texas Water Development Board.

(3) Department--the Texas Department of Housing and Community Affairs

(4) General population--Not segregated by type of disability or special needs status.

(5) Housing development--Property or work or a project, building, structure, facility, or undertaking, whether existing, new construction, remodeling, improvement, or rehabilitation, that meets or is designed to meet minimum property standards required by the department and that is financed under the provisions of this chapter for the primary purpose of providing sanitary, decent, and safe dwelling accommodations for rent, lease, use, or purchase by individuals and families of low and very low income and families of moderate income in need of housing. The term includes:

(A) buildings, structures, land, equipment, facilities, or other real or personal properties that are necessary, convenient, or desirable appurtenances, including streets, water, sewers, utilities, parks, site preparation, landscaping, stores, offices, and other non-housing facilities, such as administrative, community, and recreational facilities the department determines to be necessary, convenient, or desirable appurtenances; and

(B) single and multifamily dwellings in rural and urban areas.

(6) Integrated housing--Normal, ordinary living arrangements typical of the general population. Integration is achieved when individuals with disabilities choose ordinary, typical housing *units* that are

located among individuals who do not have disabilities or other special needs. Regular, integrated housing is distinctly different from assisted living facilities/arrangements.

(7) Large housing development--Single or multifamily housing development that has 50 or more units.

(8) Multifamily housing development--A project that contains five or more housing units.

(9) Persons with Disabilities--A household composed of one or more persons, at least one of whom is an individual who is determined to:

(A) Have a physical, mental, or emotional impairment that:

(i) Is expected to be of long-continued and indefinite duration;

(ii) Substantially impedes his or her ability to live independently; and

(iii) Is of such a nature that the disability could be improved by more suitable housing conditions; or

(B) Have a developmental disability, as defined in §102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001-6007); or

(C) Be the surviving member or members of any family that had been living in an assisted unit with the deceased member of the family who had a disability at the time of his or her death; or

(D) Be legally responsible for caring for an individual described by subparagraphs (A) or (B) of this paragraph.

(10) Scattered Site--One to four family dwellings located on sites that are on non-adjacent lots, with no more than four units on any one site.

(11) Small housing development--a single or multifamily housing development that has less than 50 units.

(12) Special Needs Populations--Persons who:

(A) are considered to be disabled under state or federal law,

(B) are elderly, meaning 60 years of age or older or of an age specified by an applicable federal program,

(C) are designated by the Board as experiencing a unique need for decent, safe housing that is not being met adequately by private enterprise (these include: persons with alcohol and/or drug addictions, colonia residents, persons with disabilities, victims of domestic violence, persons with HIV/AIDS, homeless populations, and migrant farmworkers), or

(D) are legally responsible for caring for an individual described by subparagraphs (A), (B), or (C) of this paragraph and meet the income guidelines established by the Board.

(13) Tenant-Based Rental Assistance--A form of rental assistance in which the assisted tenant may move from a dwelling unit with a right to continued assistance. The assistance is provided for the tenant, not for the project.

(14) Tenant Services--Social services, including child care, transportation, and basic adult education, that are provided to individuals residing in low income housing under Title IV-A, Social Security Act (42 U.S.C. §601 et seq.), and other similar services. Tenant participation in services cannot be required.

(15) Transitional housing--A project that has as its purpose facilitating the movement of homeless individuals and families to permanent housing within a reasonable amount of time (usually 24 months). Transitional housing includes but is not limited to housing primarily designed to serve deinstitutionalized homeless individuals and other homeless individuals with mental or physical disabilities, homeless families with children, and victims of domestic violence.

(16) Unit--Any residential rental unit in a housing development consisting of an accommodation including a single room used as an accommodation on a non-transient basis, that contains complete physical facilities and fixtures for living, sleeping, eating, cooking and sanitation.

(c) Procedures.

(1) A housing development may not restrict occupancy solely to people with disabilities or people with disabilities in combination with other special needs populations.

(A) Large housing developments shall provide no more than 18 percent of the units of the development set-aside exclusively for people with disabilities. The units must be dispersed throughout the development.

(B) Small housing developments shall provide no more than 36 percent of the units of the development set-aside exclusively for people with disabilities. These units must be dispersed throughout the development.

(2) Set aside percentages outlined in subparagraphs (A) and (B) of paragraph (1) of this subsection refer only to the units that are to be solely restricted for person with disabilities. This section does not prohibit a property from having a higher percentage of occupants that are disabled.

(3) Property owners may not market a housing development entirely, nor limit occupancy to, persons with disabilities.

(d) Exceptions.

(1) Scattered site development and tenant based rental assistance is exempt from the requirements of this section.

(2) Transitional housing is exempt from the requirements of this section, but must be time limited, with a clear and convincing plan for permanent integrated housing upon exit from the transitional situation.

(3) This section does not apply to housing developments designed exclusively for the elderly.

(4) This section does not apply to housing developments designed for other special needs populations.

(e) Board Waiver. The Board may waive the requirements of this rule to further the purposes or policies of Chapter 2306, Texas Government Code, or for other good cause.

Source Note: The provisions of this §1.15 adopted to be effective December 7, 2003, 28 TexReg 10689

08145 Oasis at the Park
Board Appeal

REAL ESTATE ANALYSIS

BOARD ACTION REQUEST

May 21, 209

Item

Presentation, discussion and possible action on a timely filed appeal regarding the underwriting recommendation of a development under the 2008 Competitive Housing Tax Credit program, #08145 Oasis at the Park Apartments, Corpus Christi, Texas.

Required Action

Approve, deny or approve with amendments a determination on the appeal.

Background

Mr. David Marquez, the contact for the General Partner of Oasis at the Park Apartments submitted an application for funding under the 2008 Competitive Housing Tax Credit program to construct 80 new units of Supportive Housing targeting the homeless population in Corpus Christi, Texas. The application was approved to be added to the 2008 waiting list for a forward commitment, subject to underwriting. The Applicant requested $281,034 in annual tax credits to support a total development budget of $3,306,933.

The application is not recommended for funding due to the fact that the Underwriter's expense to income ratio exceeds the Department's maximum of 65% per the 2008 Real Estate Analysis Rules and Guidelines §1.32(i)(5); and

The Applicant has failed to provide evidence of adequate financial support for the long-term viability of the development, as required under 10 TAC §1.32(i)(7)(B)(iv). The sources of funds are insufficient to fund currently anticipated uses.

The Applicant projected effective gross income for the development in the first year of stabilized operations to be $346,500 and expenses to be $310,496 for an expense to income ratio of 89.61%. The Underwriter concluded effective gross income for the first year of stabilized operations to be $381,540 and expenses to be $322,186 for an expense to income ratio of 84.44%.

The Applicant's appeal does not contest that the development did not satisfy the Department's feasibility requirements as described above. Rather, the Applicant has requested that the application continue to be evaluated by staff until the feasibility issues for which the application was not recommended can be worked out and a funding recommendation can be made.

Staff's review of the subject application began in July of 2008. The final underwriting report was published on 4/22/2009. This gave the Applicant almost one year to provide the documentation requested by staff at the beginning of the review process, which is more time granted to any applicant of the 2008 9% competitive round.

Additionally, during the review process several inconsistencies were revealed with respect to the proposed development. First, the application was submitted as an Adaptive Reuse, Single Room Occupancy development but made no mention of targeting a specific population. In fact, the Applicant's development narrative specified that 100% of the population that is at or below 60% of the area median income would be served. Further review of the application materials, including the market study, revealed that the development appears to propose a Supportive Housing Development. The Applicant confirmed that the development is a proposed Supportive Housing Development targeting the homeless population. As such, Supportive Housing developments are allowed an exception to the 65% expense to income ratio guideline as long as evidence of long term financial support for the viability of the development is provided. The application indicates that the City of Corpus Christi will provide project based vouchers for half of the total units (40 units), but no formal commitment to fund these or the remaining 40 units was provided. Without a guaranteed source of rental assistance the viability of the development is questionable.

Secondly, staff determined that due to the unique proposal of the application to convert an existing warehouse facility into multifamily housing, a Property Condition Assessment (PCA) would be required in order to appropriately evaluate the estimated construction costs. The 2008 Qualified Allocation Plan and Real Estate Analysis Rules do not specifically require developments proposing Adaptive Reuse to provide a third party PCA. However, staff is able to request additional information during the review process that is deemed necessary in order to complete the underwriting of an application. Staff requested a PCA from the Applicant beginning in August 2008. The Applicant instead provided two separate cost certifications from two different architectural firms. Both cost certifications concluded estimated construction costs inconsistent with the Applicant's original cost estimate. The Applicant's construction cost estimate as reflected in the original application is \$3.3M. The first architect's cost estimate concluded costs of \$2.3M and the second architect concluded total costs of \$4.3M. Due to this inconsistency and significant differences between all three estimates, staff could not rely on any of the cost estimates and needs a full PCA.

Lastly, the Applicant's appeal references a request for additional information made by staff on April 8, 2009. While staff had a conference call with the Applicant on April 8th, the purpose of the call was to receive an update from the Applicant on items previously requested given the length of time that the application had been under review and the lack of information provided to date. This call was not the first time staff made a request of the Applicant for the additional information. Staff asked the Applicant to provide the most current information related to the proposed development in order to complete the underwriting analysis and requested that this information be provided no later than April 15, 2009. To date this information has not been provided and the Applicant continues to request additional time to gather the information requested.

Recommendation

Staff recommends the Board deny the appeal.

TX LULAC Oasis at the Park Housing, LP
1417 Horn Road
Corpus Christi, Texas 78416

May 13, 2009

Michael Gerber
Executive Director
Thru Raquel Morales
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, Texas 78701

RE: Appeal, Oasis at the Park, TDHCA #08145

Dear Mr. Gerber:

We are respectfully requesting to appeal the Texas Department of Housing and Community Affairs decision on the Oasis at the Park project.

Our appeal to TDHCA is that we are wanting to stand in front of the Board on May 21st, and request that this appeal be tabled until the June board meeting, when we will have the documentation. Time has not allowed us to obtain all of the required documentation.

We understand we have to go through the proper appeal process. We appreciate your consideration.

Sincerely,

David A. Marquez

David Marquez
Development Partner

08145 Oasis at the Park
Executive Director Response

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Rick Perry
GOVERNOR

Michael Gerber
EXECUTIVE DIRECTOR

May 1, 2009

Mr. David Marquez
TX LULAC Oasis at the Park Housing, LP
1417 Horn Road
Corpus Christi, Texas 78416
Telephone: (210) 228-0560
Facsimile: (210) 228-0566
Via Email: cdmarquez@sbcglobal.net

Re: **Underwriting Appeal for Oasis at the Park, HTC #08145**

Dear Mr. Marquez:

Appeal Review

I have reviewed your appeal that was received on April 29, 2009 regarding the underwriting recommendation. Pursuant to the following Department guidelines, Oasis at the Park Apartments was not recommended for a Housing Tax Credit award for the following reason:

- The income to expense ratio exceeds the Department's maximum guideline of 65% per §1.32(i)(5) of the 2008 Real Estate Analysis Rules and Guidelines, and

- The Applicant has failed to provide evidence of adequate financial support for the long-term viability of the development, as required under 10 TAC §1.32(i)(7)(iv) of the 2008 Real Estate Analysis Rules and Guidelines, and the sources of funds are insufficient to fund the currently anticipated uses.

Your appeal does not contest that the development did not satisfy the Department's feasibility requirements as described above. Rather, you are asking that the application continue to be evaluated by staff until the feasibility issues for which the application was not recommended can be worked out and a funding recommendation can be made.

Department staff began reviewing the subject application in July of 2008. At that time, staff began requesting additional information necessary to complete the underwriting analysis for the subject application. Among the items requested was additional information regarding the proposed City of Corpus Christi HOME funds, further detail regarding the estimated construction costs (a PCA), and a commitment from the City for the anticipated project based vouchers.

Staff's review of the original application and additional documentation provided revealed several inconsistencies with respect to the proposed development. First, while the application itself did not identify the homeless as a targeted population, (Volume I, Tab 2, Part A. Populations Served) review of additional documentation revealed that the application appears to propose a Supportive Housing Development which would target the homeless population specifically. This being the case, the Real Estate Analysis Rules do allow exceptions to the underwriting guidelines and feasibility criteria as long as evidence of adequate financial resources for the long term viability of the development is provided. Staff requested on several occasions for commitments from the City of Corpus Christi to evidence the project based vouchers that were proposed in the application. To date, a commitment for these vouchers has not been provided.

Secondly, staff determined that due to the unique proposal of the application to convert an existing warehouse facility into multifamily housing, a Property Condition Assessment (PCA) would be required in order to appropriately evaluate the estimated construction costs. While the 2008 QAP and REA Rules do not specifically require developments proposing Adaptive Reuse to provide a third party PCA, staff is able to request additional information during the review process that is deemed necessary in order to complete the underwriting analysis of an application. Staff requested a PCA for the subject application beginning in August 2008. While a PCA has not been provided to date, two separate cost certifications from two different architectural firms were provided. Review of these cost certifications revealed inconsistency with respect to the estimated construction costs provided in the application. As a result, staff could not rely on the Applicant's original estimate or the estimates provided by either architect since the differences in these estimates were significant.

Lastly, the information requested by staff on April 8, 2009 was not the first time these items were requested. Rather, staff attempted to once again get the clarification previously requested given the length of time that the application had been under review and the lack of information provided to date. Additionally, based on the conversations with staff on this date you indicated that several assumptions related to the permanent financing structure and construction costs had changed since the original application was submitted. As a result, staff requested during this conference call that you provide the most current information relating to the proposed development so that the underwriting analysis could be completed and posted. Staff followed up with you via email dated April 8, 2009 and gave a deadline of April 15, 2009 to provide the revised documentation. To date this information has not been provided.

I have determined that the Department's rules and guidelines were applied evenly, fairly, and as originally intended during the course of the underwriting analysis and in making the recommendation.

Appeal Determination:

Appeal is denied.

Sincerely,

Michael Gerber
Executive Director

RBS

08145 Oasis at the Park Appeal

TX LULAC Oasis at the Park Housing, LP
1417 Horn Road
Corpus Christi, Texas 78416

April 29, 2009

Michael Gerber
Executive Director
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, Texas 78701

RE: Oasis at the Park, TDHCA #08145

Dear Mr. Gerber:

We respectfully request that our application for Oasis at the Park, TDHCA #08145, continue to be in the running for funding.

This has been a long and grueling process which as left us as the applicant, very confused. There were terms and conditions put forward by staff that could not be accomplished because we could not get the specifics of what the project would cost. (construction)

We were told many times by staff adaptive reuse was a new animal and construction costs are hard to get to the true underwriting figure.

To further complicate this process, a Property Conditions Assessment ("PCA") is not required yet toward the end staff suggested we get one. A PCA runs approximately $10,000 and we have no guarantee we have the credits.

Since the board approval of all of the waiting list, we have in fact moved forward. We purchased the property on December 22, 2008 and have ordered a Phase II ESA. The City of Corpus Christi is paying for this through an arrangement with the TCEQ.

It was established in a conversation with staff on April 8 that it would be in everyone's best interest if we could supply a set of plans. The City of Corpus Christi provided $10,000 as a retainer to the architects, Gonzalez Newell Bender.

The City of Corpus Christi has funded $400,000 to this project to date. It would be hard to believe that the City of Corpus Christi would not supply the 80 vouchers necessary and the additional funds to make this project work as required by underwriting. These 80 units are the first of 450 units required for them to receive HUD funding under the Continuum Care program.

On a date 8 to 10 days prior to the April Board meeting, Ms. Meyer and Mr. Stewart asked me to write an extension request dealing with the May 15 deadline which was brought up at the Galveston Board Meeting. We filed the extension.

TX LULAC Oasis at the Park Housing, LP
1417 Horn Road
Corpus Christi, Texas 78416

We are not looking for preferential treatment; we understand staff's position to underwrite this project and get it off their desk however, we want to compare apples to apples. I am guessing that many of the people who were recommended for funding and received a commitment letter are not as far as we are in the process. We own the property and have achieved the 10%.

What we are really requesting is to stay with the underwriting process without a denial until all applicants that have required a May 15 deadline, which was not reviewed at the April Board Meeting, continue to work through the issues that were sent to us on April 22.

I don't need to tell you during these economic times these transactions are going to be harder and harder to put together, but when you have the City of Corpus Christi backing the project, we need to see projects such as these through. You can contact Daniel Gallegos, CD Administrator for the City of Corpus Christi at 361.826.3017.

We would appreciate your favorable consideration.

Sincerely,

David Marquez
Development Partner
(210) 228-0560.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

REAL ESTATE ANALYSIS

Housing Tax Credit Program – 2008 Application Cycle
Underwriting Report Notice

Appeal Election Form: 08145 Oasis at the Park (FC) **Date Notice Sent: 4/22/09**

I am in receipt of my 2008 Underwriting report notice and have reviewed the Appeal Policy at 10TAC Section 50.17(b). I recognize that should I choose to file an appeal, I must file a formal appeal to the Executive Director within seven days from the date this Notice was issued and the Underwriting report was posted to the Department's web site. I understand that my appeal must identify my specific grounds for appeal.
If my appeal is denied by the Executive Director, I

☐ Do wish to have my appeal to the Board of Directors and request that my appeal be added to the next available Board of Directors' meeting agenda. I understand that my Board appeal documentation must still be submitted by 5:00 p.m., seven days prior to the next Board meeting or three days prior if the Executive Director has not responded to my appeal in order to be included in the Board book. I understand that if no documentation is submitted, the appeal documentation submitted to the Executive Director will be utilized.

☑ Wish to wait to hear the Executive Director's response before deciding on my appeal to the Board of Directors.

☐ Do **not** wish to appeal to the Board of Directors or Executive Director.

Signed Mark A Moya

Title Development Partner

Date 4/29/09

Please fax or e-mail to the attention of:
Pam Cloyde: (fax) 512.475.4420
(e-mail) pamela.cloyde@tdhca.state.tx.us

08145 Oasis at the Park
Underwriting Report

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
Real Estate Analysis Division
Underwriting Report

REPORT DATE: 04/22/09 PROGRAM: HTC 9% FILE NUMBER: **08145**

DEVELOPMENT

Oasis at the Park Apartments

Location: 420 N. Port Street Region: 10

City: Corpus Christi County: Nueces Zip: 78408 [X] QCT [ ] DDA

Key Attributes: Family, Urban, Non-Profit, Adaptive Reuse

ALLOCATION

	REQUEST			**RECOMMENDATION**		
TDHCA Program	Amount	Interest	Amort/Term	**Amount**	**Interest**	**Amort/Term**
Housing Tax Credit (Annual)	$281,034			**$0**		

NOT RECOMMENDED DUE TO THE FOLLOWING:

- The ratio of first year total annual operating expense to first year effective gross income exceeds 65%, a condition of initial infeasibility under 10 TAC§1.32(i)(5); and
- the Applicant has failed to provide evidence of adequate financial support for the long-term viability of the development, as required under 10 TAC§1.32(i)(7)(B)(iv). The sources of funds are insufficient to fund currently anticipated uses.

SHOULD THE BOARD APPROVE THIS AWARD, THE BOARD MUST WAIVE ITS RULES FOR THE ISSUES LISTED ABOVE AND SUCH AN AWARD SHOULD BE CONDITIONED UPON THE FOLLOWING:

CONDITIONS

1 Receipt, review and acceptance of a revised PCA or scope of work based upon actual architectural and engineering plans and an analysis by staff of the resulting development cost, eligible basis and anticipated credit amount.

2 Board acceptance of staff's determined credit amount after evaluation of the information required in Condition #1.

3 Receipt, review, and acceptance, by Carryover, of written documentation from the Applicant confirming that the application is a proposed Supportive Housing development.

4 Receipt, review, and acceptance, by Carryover, of approval of the zoning from I-3 (Industrial) to A-2 (Apartment/Multifamily).

5 Receipt, review, and acceptance, by Carryover, of a Phase II ESA and evidence that any resulting recommendations have been followed.

6 Receipt, review, and acceptance, by Carryover, of statements from the ESA provider as to whether testing for the presence of radon, lead in drinking water, or excessive noise would be recommended, as required by 10 TAC§1.35(b) and a plan for addressing any such concerns.

7 Receipt, review and acceptance, by Carryover, of a revised rent schedule reflecting the correct number of HOME units in the development.

8 Receipt, review, and acceptance, by Carryover, of a firm commitment from the City of Corpus Christi clearly identifying the number of vouchers to be provided for the subject development, the amount of subsidy per unit and the term of the vouchers.

9 Receipt, review, and acceptance, by Carryover, of proof of a 100% property tax exemption.

10 Receipt, review, and acceptance, by cost certification, of an attorney or CPA opinion clearly establishing that the proposed HOME loan can be considered to be a valid debt with the reasonable expectation that it will be repaid in full.

11 Receipt, review, and acceptance, by Carryover, of firm commitments with all terms and conditions for the $500,000 HOME loan from the City of Corpus Christi and the $250,000 loan from LULAC Apartments of the Village.

12 Receipt, review, and acceptance, by Carryover, of a written commitment from the City of Corpus Christi or another acceptable source to provide a guarantee to cover any operating deficit for the duration of the affordability period.

13 Should the terms and rates of the proposed debt or syndication change, the transaction should be re-evaluated and an adjustment to the allocation amount may be warranted.

SALIENT ISSUES

TDHCA SET-ASIDES for LURA		
Income Limit	Rent Limit	Number of Units
30% of AMI	30% of AMI	3
50% of AMI	50% of AMI	77

PROS

- The demand for single room occupancy (SRO) units is high in this area due to the lack of existing units.

CONS

- The ratio of operating expenses to income, as determined by both the Applicant and Underwriter, is well in excess of the 65% limit, suggesting the property could not withstand periods of increasing expenses accompanied by flat rental income.
- The target population cannot be expected to reliably pay the required rent without rental assistance, and no reliable long-term source of rental assistance has been identified.
- There are significant inconsistencies regarding the development costs, but both the Applicant's latest submitted cost estimates and the underwriting estimate based on new construction suggest that the total development cost exceeds the available sources of funding.
- The proposed HOME loan from the City of Corpus Christi does not appear to be repayable, and should therefore be excluded from eligible basis; this would reduce the equity proceeds, compounding the shortage of funding sources.

This section intentionally left blank.

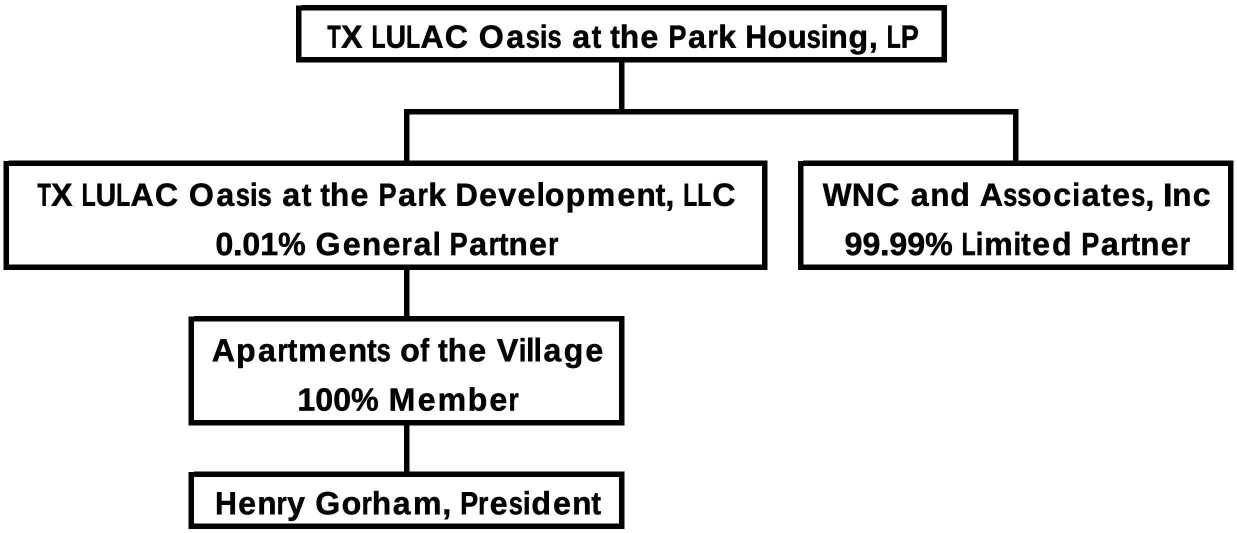
- This development is to be constructed in an area that has potential environmental issues from previous and surrounding property uses.

PREVIOUS UNDERWRITING REPORTS

No previous reports.

DEVELOPMENT TEAM

OWNERSHIP STRUCTURE



CONTACT

Contact: David Marquez Phone: (210) 228-0560 Fax: (210) 228-0566
Email: cdmarquez@sbcglobal.net

KEY PARTICIPANTS

Name	Financial Notes	# Completed Developments
Apartments of the Village	N/A	3
Henry Gorham	N/A	5

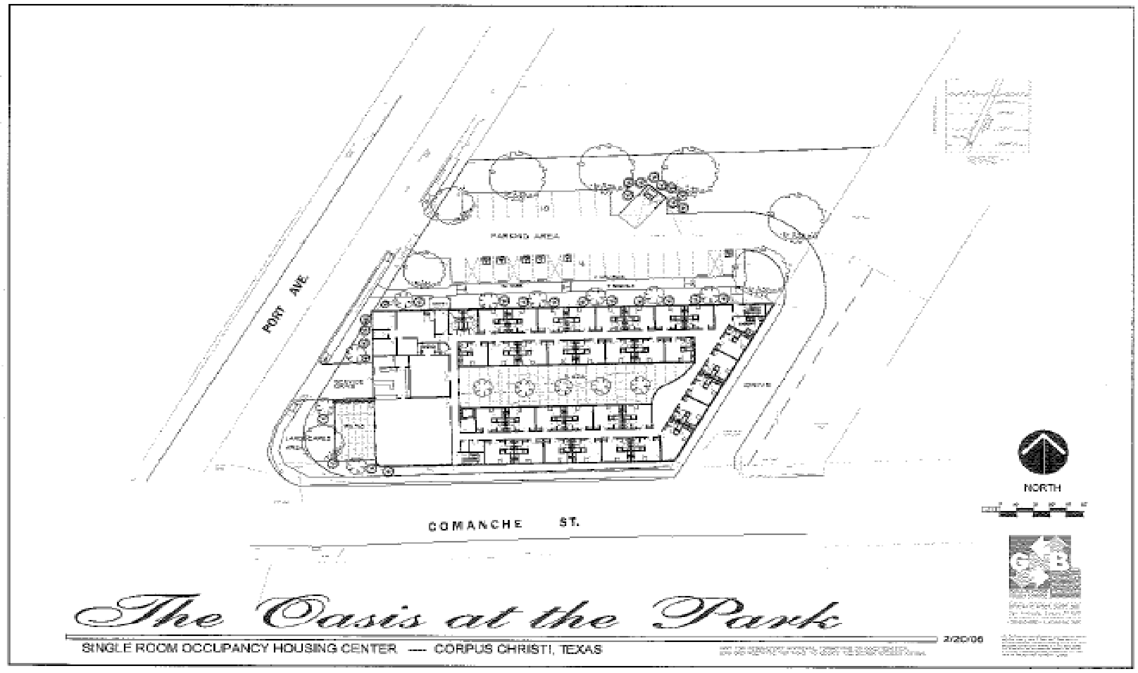
IDENTITIES of INTEREST

- The Applicant and Developer are related entities. These are common relationships for HTC-funded developments.

This section intentionally left blank.

PROPOSED SITE

SITE PLAN



BUILDING CONFIGURATION

Building Type	A									Total Buildings
Floors/Stories	3									
Number	1									**1**

BR/BA	SF	Units									Total Units	Total SF
SRO	300	80									80	24,000
Units per Building		80									**80**	**24,000**

Comments:

The subject development is to be an adaptive reuse property whereby portions of an existing structure are to be used in the development of the new multifamily units. The subject property is currently improved with an older warehouse/light manufacturing building. Existing exterior walls are stucco over concrete. According to the Applicant the new improvements are to be wood frame construction, will retain the front facade of the existing building and will incorporate much of the existing heavy pier and beam framing. The exterior walls will be brick veneer, and the building will have a standing seam metal roof.

The development plan narrative provided in the application appears to be limited given the proposed scope of work. The 2008 Qualified Allocation Plan and Real Estate Analysis Rules do not specifically require developments proposing Adaptive Reuse to provide a third party Property Condition Assessment (PCA). However, in this case a PCA or some third party evaluation of the scope and cost of work is necessary in order to get a better understanding of the cost of work necessary to convert the existing warehouse facility into livable units, not to mention an accurate and detailed breakdown of the construction costs associated with this task.

This section intentionally left blank.

Given the proposal in this application staff requested on several occasions for a Property Condition Assessment. To date this requested information has not been provided.

A letter dated 9/1/2008 from Roger T. Carrillo, AIA, provided a cost certification for the estimated construction costs. The letter was limited in information and inconsistent with the Applicant's estimated construction costs. Specifically the architect estimated direct construction costs of $1.8 million versus the Applicant's estimate of $1.6 million as reflected in the application. The architect's cost certification contained little information beyond a cost schedule.

Subsequent to receiving the 9/1/2008 letter, staff requested again that the Applicant provide a PCA in order for the underwriting of the transaction to be completed. The Applicant responded that a PCA is not required for the subject application and any requirement by staff to have a PCA should be included in the report as a condition to the tax credit award. Thereafter on 12/15/2008, the Applicant submitted another architect letter from a different architectural firm (Gonzalez Newell Bender, Inc.) which provided slightly more information on the existing conditions of the site and provided a revised estimate of construction costs.

The Gonzalez Newell Bender, Inc. letter recommended substantial increases to a number of line items in the cost schedule, bringing total hard cost up to $2.6 million. This is a 60% increase over the costs originally presented in the application. It is also worth noting that during the competitive scoring process of the 2008 application round, the subject received 10 points based on a total development cost below $87 per square foot; the current architect's estimate takes that total above $124 per square foot.

Despite the Applicant's efforts to provide additional information via the architects' letters, the Underwriter remains very concerned with the proposed scope of work and the lack of detail provided so far. In addition, the inconsistency in the estimated construction costs reflected in the architects' letters also causes concern for the Underwriter in that it does not appear that the Applicant has fully vetted the potential issues with the existing site and structure to provide an accurate cost estimate, and any issues that may reveal themselves through further design process and/or environmental evaluations may significantly impact the construction costs of the development.

Finally, in a conference call with the Applicant on April 8, 2009 the Applicant indicated that they would be moving forward with the development regardless of staff's recommendation and would be working to get a full set of architectural and engineering plans which would take 90 days to produce. Once these plans are completed a more accurate evaluation of cost could be developed.

SITE ISSUES

Total Size:	1.2 acres	Scattered site?	[ ]	Yes	[X]	No	
Flood Zone:	C	Within 100-yr floodplain?	[ ]	Yes	[X]	No	
Zoning:	I-3 (Industrial)	Needs to be re-zoned?	[X]	Yes	[ ]	No	[ ] N/A

Comments:

The property was zoned I-3 (Industrial) at the time of submission of the application; however, the Applicant applied for a zoning change in March 2008. To date the Department has not received documentation of the approval. Accordingly, receipt, review and approval of documentation of the zoning change is required by Carryover.

TDHCA SITE INSPECTION

Inspector: Manufactured Housing Staff   Date: 4/18/2008

Overall Assessment:

[ ] Excellent [X] Acceptable [ ] Questionable [ ] Poor [ ] Unacceptable

Surrounding Uses:

North:	Vacant & lumber company beyond	East:	Commercial
South:	Commercial & Single Family beyond	West:	Single Family

HIGHLIGHTS of ENVIRONMENTAL REPORTS

Provider: Frost GeoSciences Date: 2/15/2008

Recognized Environmental Concerns (RECs) and Other Concerns:

"Based on the field reconnaissance, FGS identified one historical recognized environmental condition (HREC) in connection with the on-site structure.

The front portion of the building, the northwest portion, contained an area that appeared to be used in the past for machinery purposes. Four visible drains were noted along the floor that appears to lead to an exterior pipe along the front of the building. From the exterior of the building FGS noted that this exterior drain displays an open connection with the sanitary sewer which indicates the likelihood for subsurface impacts.

Based on a historical review of the Site, historic uses of the Site may have resulted in the potential for impacts to the Site subsurface. A review of the Sanborn Fire Insurance maps suggests potential HREC may have existed in connection with the Site and the surrounding area. The Site was utilized as a warehouse business of glass and paints. There is high potential for lead based paint to be associated with the business. Secondly, hazardous chemical and solvents were historically used in connection with glass cutting and may have possibly affected the concrete building surface and possibly the subsurface of the Site.

The surface of the Site could potentially be impacted by the following adjacent facilities:

1. Industrial Metals Company - This facility is an inactive lead-acid battery recycling and copper coil salvage facility and is a Superfund facility listed as having groundwater impacts. Industrial Metals Company is located approximately 0.5 miles southeast of the Site at 3000 Agnes Street and is hydro-geologically up-gradient from the Site.

2. CPL Lipan Service Center - This facility is located at 2510 Lipan Street, approximately 0.10 miles north of the Site, and is identified as a leaking petroleum storage tank (LPST) facility. The facility is currently under a corrective action plan to remediate the LPST. Due to review of the current case file and the proximity to the Site this facility has the potential to have impacted the Site and therefore is considered a REC to the Site.

3. The presences of historical petroleum storage tanks (PSTs) in operation for more than 25 years warrant mention and could pose environmental threats to the Site. Specifically, the former underground storage tank (UST) removed/closed with closure documentation at 401 North Port Avenue approximately 0.04 miles to the west of the Site and the service station in operation from approximately 1931 to 1966 at the intersection of Comanche and Parr Street at 329 Parr Street. Both of these historical service stations are hydro-geologically up-gradient from the Site.

Based on the findings of this Phase I Environmental Site Assessment, FGS recommends the following:

Limited Subsurface Investigation (LSI) to assess for chemicals of concern at the subsurface of the Site from historical use and adjacent property use.

Prior to any demolition or renovation activities, a more in-depth evaluation of asbestos-containing materials should be conducted. This would typically include a comprehensive asbestos survey with bulk sampling and laboratory analysis, an in depth review of building construction documents to include approved submittals, and information available from manufacturers of the various materials, or a combination of these.

A Lead Assessor should conduct a Lead Survey and assess for the presence of lead in all building materials." (p. 37-38)

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Comments:

Discussions with the Applicant as recently as 4/8/2009 revealed that a Phase II ESA is currently underway for the proposed site. Given the findings and recommendations made in the Phase I report, staff is concerned that the issues identified so far could have a significant impact to the construction costs that have not previously been accounted for, and any further evaluation may add additional costs if remediation is necessary.

Any funding recommendation for this development is conditioned upon receipt, review and acceptance, by Carryover, of a Phase II Environmental Site Assessment and evidence that any additional assessments and/or recommendations made in this report are carried out by the Applicant.

Additionally, receipt, review, and acceptance, by Carryover, of statements from the ESA provider as to whether testing for the presence of radon, lead in drinking water, or excessive noise would be recommended, as required by 10 TAC§1.35(b).

MARKET HIGHLIGHTS

Provider: Apartment MarketData, LLC Date: 3/24/2008

Contact: Darrell Jack Phone: (210) 530-0040 Fax: (210) 340-5830

Number of Revisions: none Date of Last Applicant Revision: N/A

Primary Market Area (PMA): 56.2 square miles (4.24 mile radius)

"For this analysis, we utilized a "primary market area" encompassing 56.2 square miles. The boundaries of the Primary Market Area follow those of the census tracts listed in Section 2.1.3 of this report. These boundaries approximately follow as such:

North: IH-37 and RR Tracts along the Port of Corpus Christi

East: Corpus Christi Bay

South: Kostoryz/Doddridge/SPID/Greenwood/Saratoga/FM 665

West: Oso Creek/FM 2292

Secondary Market Area (SMA):

The Market Analyst did not designate an SMA.

PROPOSED, UNDER CONSTRUCTION & UNSTABILIZED COMPARABLE DEVELOPMENTS							
PMA				SMA			
Name	File #	Total Units	Comp Units	Name	File #	Total Units	25% Comp Units
Village Park Apts.	04290	152	Rehab				
Navagation Pointe	05127	92	Family				
Villas of Coata Tarragor	05433	162	Family				
Sea Breeze	060405	200	Senior				
Hacienda Apts.	07174	60	Recon				
DN Leathers TH's	08194	130	Rehab				
Buena Vida Seniors	08235	100	Senior	None Identified			

INCOME LIMITS						
Nueces						
% AMI	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons
30	$10,100	$11,550	$13,000	$14,450	$15,600	$16,750
50	$16,850	$19,300	$21,700	$24,100	$26,050	$27,950

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MARKET ANALYST'S PMA DEMAND by UNIT TYPE							
Unit Type	Turnover Demand	Growth Demand	Other Demand	Total Demand	Subject Units	Unstabilized Comparable (PMA)	Capture Rate
0BR(EFF)/30%	0	0	476	476	3	0	0.6%
0BR(EFF)/50%	0	0	453	453	77	0	17%

INCLUSIVE CAPTURE RATE						
	Subject Units	Unstabilized Comparable (PMA)	Unstabilized Comparable (25% SMA)	Total Supply	Total Demand (w/25% of SMA)	Inclusive Capture Rate
Market Analyst p. 10	40	0	0	40	929	4.31%
Underwriter	80	0	0	80	178	45.0%

Comment:

The Market Analyst based the calculation of demand on a City of Corpus Christi study identifying 3,214 homeless individuals citywide, and a current inventory of 522 units of temporary housing, leaving an unmet need for 2,692 units. The prorata share of the homeless population in the PMA is determined to be 1,156, and the prorata share of the shortage of SRO units to be 969. The Market Analyst took this shortage of SRO units to be the total demand. Since the City has agreed to provide 40 project-based housing assistance vouchers for the subject property for the first two years, the Market Analyst further reduced this demand figure to 929.

The Market Analyst's calculation of inclusive capture rate is based on the 40 units not covered by the vouchers and the remaining demand for 929 units. This analysis does not seem consistent. Forty units are assumed to be occupied due to the available vouchers, but the demand determined for the remaining 40 units is identified solely by homelessness status, with no regard to income eligibility. This cohort cannot be considered valid demand without some sort of rental assistance, which has not been identified. However, based on this analysis, the Market Analyst concludes an inclusive capture rate of 4.31%.

The underwriter's analysis, based on income-eligible, one-person, renter households concludes an inclusive capture rate of 45% for all 80 units at the subject, which exceeds the Department's guideline of 25% for urban developments. It should be noted that the Underwriter determined the impact to the demand calculation if the anticipated 40 vouchers for the proposed development are secured for the long term. Utilizing these vouchers would suggests an inclusive capture rate of 23% for the remaining 40 units, which is marginally acceptable per Department rules.

However, although the underwriting analysis suggests an acceptable inclusive capture rate if half the units are assumed to be occupied by virtue of the project-based vouchers proposed by the City of Corpus Christi, the City has provided no formal commitment to fund these vouchers either for the two years proposed or for the long term. With no guaranteed source of rental assistance beyond the two years the long-term viability is questionable.

Without a firm commitment from the City of Corpus Christi for the 40 project-based vouchers, the Underwriter cannot consider these vouchers in the demand and capture rate calculations. Given that the Underwriter's capture rate of 45% significantly exceeds the Department's capture rate guideline of 25%, this development would not be recommended for funding. However, since this development appears to be proposing to target a Special Needs population the inclusive capture rate can be calculated up to 75% and still be considered feasible. As such, this development could, on this issue, be recommended for funding pursuant to 10 TAC §1.32(i)(1)(B) of the 2008 Real Estate Analysis Rules.

Primary Market Occupancy Rates:

"The current occupancy of the market area is 95.4% as a result of stable demand." (p. 63)

Absorption Projections:

"We estimate that the project would achieve a lease rate of approximately 7% to 10% of its units per month as they come on line for occupancy from construction." Based upon this, with the development being under construction during months 1-6, then occupancy of 93% can be reached in 18 months.

RENT ANALYSIS (Tenant-Paid Net Rents)					
Unit Type (% AMI)	Proposed Rent	Program Maximum	Market Rent	Underwriting Rent	Savings Over Market
Eff BR 300 SF 30%	$252	$252	$468	$252	$216
Eff BR 300 SF 50%	$380	$421	$468	$421	$47

Market Impact:

"The proposed project is not likely to have a detrimental effect on the balance of supply and demand in this market. Stabilized affordable family projects are 94.6% occupied. This demonstrates that the demand for new affordable rental housing is high." (p. 14)

Comments:

The Market Analyst provided sufficient information for the Underwriter to reach a conclusion.

Concentration:

Staff has calculated the concentration rate of the areas surrounding the property in accordance with Section 1.32 (i)(2) of the Texas Administrative Code approved in 2007. The Underwriter has concluded a census tract concentration of 271 units per square mile which is less than the 1,432 units per square mile limit and a Primary Market Area concentration of 97 units per square mile which is less than the 1,000 units per square mile limit. Therefore, the proposed development is in an area which has an acceptable level of apartment dispersion based upon the Department’s standard criteria.

OPERATING PROFORMA ANALYSIS

Income: Number of Revisions: 3 Date of Last Applicant Revision: 7/30/2008

The Applicant's projected rents per unit were calculated based upon the rents necessary to cover the operating expenses per unit. In the Applicant's original application submission all units were designated to serve households at 50% AMI and eight of the units were also designated as Low HOME units due to the local HOME funding anticipated from the City of Corpus Christi. However, subsequent revisions to the Applicant's rent schedule reflect that three of the total units will now be targeted to households at 30% of AMI and the remaining 77 units targeted to households at 50% of AMI. It is unclear in the Applicant's revisions which of the units are to be designated as Low HOME units. For purposes of this analysis and based on the Applicant's intentions in the original rent schedule, the Underwriter has designated eight of the 77 units targeted at 50% AMI as Low HOME units also. However, this report is conditioned upon receipt, review and acceptance, by Carryover, of a revised rent schedule reflecting the correct number of HOME units in the development.

The Market Analyst concluded that "the subject's units would conceivably rent for $468 per month without SRO or income restrictions". This is higher than the 50% HTC program rent for the subject. Typically, if the market study indicates that maximum HTC rents are achievable in the market area, the underwriting analysis will assume that maximum rents will be collected. However, the characteristics of supportive housing developments are different than typical HTC projects. The target population is not expected to have the capacity to pay full program rents without varying levels of assistance.

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Since the tenants in this development will not be required to pay for any utilities, the projected rents collected are the maximum program rents. While the 30% units reflect the program rents as the collected rents, the 50% units reflect collected rents that are $41 less than the maximum program rents. According to the Applicant these rents were adjusted below the program rents to account for debt service. However, as this development is not proposed to have any debt service it is not clear why an adjustment to these units would be necessary.

Additionally, the Applicant has stated that the City of Corpus Christi is to commit 40 HUD Section 8 Housing Assistance Project-Based vouchers through a 2 year temporary contract in order to help the development reach stabilized occupancy quickly. Typically with Supportive Housing developments the Applicant's projected rents are equal to a maximum subsidy amount to cover the operating expenses for each unit. However, a firm commitment from the city indicating the number of vouchers or the amount of subsidy for the units has not been provided after several requests from Staff. As a result, this report is conditioned upon receipt, review and acceptance, by Carryover, of a firm commitment from the City of Corpus Christi clearly identifying the total number of vouchers to be provided, the subsidy amount for each unit and the terms of the vouchers.

For purposes of this analysis the Underwriter has utilized the HTC program rents as the collected rents. Estimates of secondary income and vacancy and collection losses are in line with TDHCA underwriting guidelines. Due to the differences in collected rent as described above, the Applicant's estimate of effective gross income is $35K or 9% less than the Underwriter's estimate.

Expense: Number of Revisions: none Date of Last Applicant Revision: N/A

The Applicant's total annual operating expense projection of $3,881 per unit is within 5% of the Underwriter's estimate of $4,027 per unit derived from the TDHCA database and third party data sources. However, some of the Applicant's line item estimates differ significantly from the Underwriter's, including payroll and payroll tax ($18K lower), and utilities ($12K higher). It should be noted that the Applicant has indicated that there will be no property taxes paid for this development; however, no documentation has been provided to evidence the Applicant's eligibility for such exemption or that an exemption has been secured. Therefore receipt, review and acceptance, by Carryover, of an opinion from the Applicant's attorney stating that they have reviewed the Applicant's qualifications to the requirements for the anticipated property tax exemption is a condition of this report. Furthermore, documentation of the exemption, once received, is to be provided at Cost Certification.

Also of note is that the Applicant has confirmed through conversations with staff that the subject property will serve as Supportive Housing targeted to the homeless population and will provide substantial supportive services to the tenants. However, the application materials do not reflect the entities involved in providing these supportive services and the Applicant's annual operating expense estimate does not reflect an expense associated with supportive services that is near the amount of expense that is typically seen with Supportive Housing developments. It is unclear based on the information provided by the Applicant if the supportive services are to be provided at no cost to the Applicant. As a result, the Underwriter's expense estimate for this line item is based on the Applicant's current estimate. However, receipt, review and acceptance, by Carryover, of documentation from the Applicant identifying the supportive service entities to provide services to the tenants, the type of supportive services to be provided and the expense amount, if any, required for these services is a condition of this report.

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Conclusion:

The Applicant's potential income and net operating income are not within 5% of the Underwriter's estimates; therefore the Underwriter's proforma is utilized. According to the Applicant and the materials presented in the application, the development appears to have no debt service for the long term; therefore a debt coverage ratio cannot be used to determine feasibility. Moreover, pursuant to §1.32(g)(3) of the 2008 Real Estate Analysis Rules and Guidelines, supportive housing developments are exempt from the DCR and long-term feasibility requirements if evidence is submitted to show capacity to provide sufficient resources to offset 15 years of potentially negative cashflow.

The Applicant provided a letter from the City of Corpus Christi dated 5/1/2008 whereby the City commits to fund up to $93,000, subject to City Council approval, in the event of an operating deficit in years 14 and 15. (The $93,000 figure results from an incorrect interpretation of an inaccurate proforma; $93,000 is insufficient to guarantee the operation of the property.) Evidence that the City Council has approved this commitment has not been provided by the Applicant. Additionally, the Applicant indicates that the City of Corpus Christi will also commit 40 HUD Section 8 Project-Based Housing Assistance vouchers through a two-year temporary contract in order to help the development reach stabilized occupancy quickly. However, this does not provide for the long-term feasibility of the project.

LULAC Apartments of the Village, the owner of the General Partner, has committed to fund operating deficits during any of the years of the development's affordability period. However, according to the financial statements provided for this entity, the great majority of the assets indicated on the statements are receivables. The Apartments of the Village does not appear to have the liquid resources or demonstrated cash flow to realistically guarantee the operating expenses of the proposed development for 15 years. Additionally, the Applicant has not provided any documentation to reflect the sole member's track record of fundraising efforts or cash contributions to support the long term feasibility of this transaction.

In discussions with the Applicant as recently as 4/8/2009, the Applicant indicated that the 40 vouchers from the City are project-based and are still committed for this development for a two-year period, although no formal commitment has been provided. Additionally, the Applicant indicated that there are several supportive service providers expected to participate and provide services to the tenants which also have mobile vouchers that could be utilized for this development, The Applicant's intent is to gather as many of these mobile vouchers from the various supportive service providers engaged with this development and convert them into long-term project-based vouchers through the Housing Authority.

The Applicant further indicated that this process of securing these vouchers would take approximately the 2-3 years that it would take to construct the development, and therefore, feels there is sufficient time to gather the assistance needed for this development. The Applicant has not documented or described this plan to secure mobile vouchers and convert them into long-term, project-based assistance for the tenants of this development. Based on these recent conversations with the Applicant, there is much concern that the Applicant's plan for securing the assistance required to ensure the long term feasibility of the development is based on many unknowns at this point in time.

As a result the Applicant has not provided evidence, as required by §1.32(g)(3) of the 2008 Real Estate Analysis Rules and Guidelines, to show capacity to provide sufficient resources to offset 15 years of potentially negative cashflow.

Additionally, the Underwriter's calculated expense to income ratio is 84.44% and the Applicant's estimated expense to income ratio is 89.61%, both over the Department's maximum allowable of 65%. The Department's rules provide an exception to this ratio if a development is characterized as 100% Supportive Housing and evidence of adequate financial support for the long term viability of the Development is provided. As discussed previously the Applicant has provided no formal commitment(s) from any of the entities expected to provide vouchers or financial assistance. Further, documentation to support that the GP's sole member, LULAC Apartments of the Village, has the financial capacity to ensure long term feasibility is not sufficient.

Therefore, pursuant to 10 TAC §1.32(i)(5) of the 2008 Real Estate Analysis Rules and Guidelines, the development is characterized as infeasible and cannot be recommended for funding due to having an expense to income ratio that exceeds 65% in year one. Further, the development does not meet the exception to this feasibility criteria under 10 TAC §1.32(i)(7)(B)(iv).

ACQUISITION INFORMATION

APPRAISED VALUE

Provider: Multi-Housing Appraisal Associates   Date: 3/25/2008

Number of Revisions: none   Date of Last Applicant Revision: N/A

Land Only:	1.2 acres	$52,290	As of:	3/7/2008
Existing Buildings: (as-is)		$257,710	As of:	3/7/2008
Total Development: (as-is)		$310,000	As of:	3/7/2008

Comments:

The appraisal submitted with the application does not provide a value for the land, as required by the Real Estate Analysis Rules. Without an appraised land value it is not possible to determine a reliable estimate of building value. However, as this transaction is not expected to rehabilitate an existing residential building, a building value would be of limited use in this case since the Applicant is not eligible for tax credits associated with acquisition.

ASSESSED VALUE

Land Only:	1.2 acres	$52,290	Tax Year:	2007
Existing Buildings:		$125,140	Valuation by:	Nueces CAD
Total Assessed Value:		$177,430	Tax Rate:	2.462445

EVIDENCE of PROPERTY CONTROL

Type: Warranty Deed   Acreage: 1.2

Deed Date: 12/22/2008   Valid Through Board Date? [X] Yes [ ] No

Acquisition Cost: $275,000   Other:

Seller: Phyllis Toler   Related to Development Team? [ ] Yes [X] No

Comments:

A warranty Deed dated December 22, 2008 indicates that Apartments of the Village acquired the subject site on that date.

CONSTRUCTION COST ESTIMATE EVALUATION

COST SCHEDULE   Number of Revisions: 4   Date of Last Applicant Revision: 12/15/2008

Acquisition Value:

The site cost of $41,667 per acre or $625 per unit is assumed to be reasonable since the acquisition is an arm's length transaction. The Applicant has claimed $225,000 in building cost as basis for acquisition credits, as well as $33,750 in developer fees on this basis. However, IRC §42 allows for credits on the value of residential buildings acquired and placed in service. The proposed development is an adaptive reuse, in which a non-residential building is acquired and the structure will be substantially demolished. The acquired structure will not be placed in service. As such, the building value is not eligible for acquisition credits.

Conclusion:

As discussed previously in this report, the Applicant's proposal is to convert an existing warehouse facility into multifamily housing. While the 2008 Qualified Allocation Plan and Real Estate Analysis Rules does not require a third party PCA for developments proposing Adaptive Reuse, the proposal in this application requires more detail that is typically provided in a PCA. Otherwise, the Underwriter lacks the information and methodology to accurately estimate the cost, and must rely solely on information provided by the Applicant. Since this development is similar to a rehabilitation for those reasons, a PCA is necessary in order for the Underwriter to determine the reasonableness of the Applicant's cost estimate.

Of particular concern is that the Applicant has provided two separate architect reviews of the Applicant's estimated construction costs and in both instances the architects' conclusions were inconsistent with the Applicant's estimates. Further, the environmental assessment performed thus far has identified several issues of concern that could potentially impact the construction costs of the development. These costs do not appear to have been previously accounted for in the Applicant's cost estimates.

For this reason and due to the inconsistencies in previous information provided by the Applicant, the Underwriter is unable to make a determination as to the reasonableness of the Applicant's construction costs and, therefore, cannot make a determination of the development's eligible basis or provide a recommendation for funding.

FINANCING STRUCTURE

SOURCES & USES Number of Revisions: 3 Date of Last Applicant Revision: 12/1/2008

Source: Washington Mutual Bank Type: **Interim Financing**

Principal: $2,172,154 Interest Rate: 5.35% ☐ Fixed Term: 12 months

Comments:

The construction loan is anticipated to be repaid from syndication proceeds.

Source: City of Corpus Christi - HOME Funds Type: **Interim to Permanent Financing**

Interim: $500,000 Interest Rate: AFR ☐ Fixed Amort: 24 months

Permanent $500,000 Interest Rate: AFR ☐ Fixed Amort: 240 months

Comments:

The City of Corpus Christi has confirmed that it has allocated $200,000 in 2007 HOME funds and $200,000 in 2008 HOME funds; the City has indicated that a total of $500,000 will be provided, but the City has not provided any terms. The application indicates a repayment term of 20 years, but the proforma submitted with the application does not indicate any debt service payments.

Of note, in the latest equity commitment provided by the Applicant on 12/1/2008, the equity provider quotes a revised price per credit based on specific assumptions regarding the permanent financing of this transaction. Specifically, the equity commitment reflects that the permanent financing will consist of $890K in HOME funds from the City of Corpus Christi. This has increased from the $500K originally reflected in the application. Staff questioned the Applicant regarding the amount of HOME funds expected for this transaction and the Applicant replied that this is still being negotiated and may be revised from the amount reflected in the original application submission.

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Further, the Applicant has confirmed that this development will be operated to break even and, as a result, will have no debt service during the affordability period. Based on this fact the HOME funds are not expected to be repaid and should be reduced from eligible basis in accordance with Section 42. This could have a significant impact to the development if these funds, taken out of eligible basis, create a gap that is larger than the amount of cash flow available in 15 years. However, due to the lack of information related to the Applicant's construction costs, and the lack of information as to the exact amount of HOME funds to be provided to this development, the Underwriter is not able to determine the exact impact of reducing the Applicant's eligible basis by the amount of HOME funds from total basis.

Finally, a portion of the HOME funds appear to have already been provided though it is not clear that environmental clearance from HUD has been granted. This could limit the ability for the development to access the remaining HOME funds.

Source:	LULAC (Apartments of the Village)			Type:	**Interim to Permanent Financing**		
Interim:	$250,000	Interest Rate:	AFR	Fixed	Amort:	CF	months
Permanent:	$250,000	Interest Rate:	AFR	Fixed	Amort:	CF	months

Comments:

Apartments of the Village, the 100% member of the General Partner, provided a letter to confirm its "commitment of $250,000 to ensure the successful development of Oasis at the Park ... The terms and conditions of this loan will be determined at a later date." The Applicant has indicated that this loan will be payable from cash flow.

Since these funds are provided by the General Partner of the Applicant, the underwriting analysis will combine them with any required deferred developer fee, and they will be subject to the requirement that they be repayable within 15 years of operating cash flow.

Source:	WNC & Associates, Inc.		Type:	**Syndication**	
Proceeds:	$2,107,754	Syndication Rate: 75%		Anticipated HTC:	$ 281,062
Amount:	$84,024		Type:	**Deferred Developer Fees**	

Comments:

The latest commitment from WNC & Associates dated 11/26/2008 reflects a price of $0.75. Due to the lack of information related to the Applicant's construction costs the Underwriter is not able to determine the impact a decrease or increase in the syndication price will have to the development.

CONCLUSIONS

Recommended Financing Structure:

At its November 13, 2008 meeting, the Governing Board approved an increase in tax credits for all competitive 2007 and 2008 transactions based on the 9% credit rate and a 10% increase in direct and sitework construction costs. As a result, all applications on the 2008 waiting list to be considered for a forward commitment will be treated in the same manner.

However, as discussed previously the Underwriter is unable to determine the reasonableness of the Applicant's estimated construction costs due to the lack and inconsistent nature of information provided thus far. Additionally, the Applicant has not provided evidence to show that the development remains viable for the long term and documentation to show capacity to provide sufficient resources to offset 15 years of potentially negative cashflow has not been provided.

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The Underwriter's proforma has determined an expense to income ratio of 84.44% exceeds the Department's maximum of 65% in year one, pursuant to 10 TAC §1.32(i)(5) of the 2008 Real Estate Analysis Rules, and evidence of adequate financial support for the long term viability of the Development has not been provided by the Applicant, pursuant to TAC §1.32(i)(7)(B)(iv). As a result, this development is not recommended for funding.

Should the Board approve this award, the Board must waive its rules for the issues listed above and such an award should be conditioned upon the issues identified in the "Conditions" section of the underwriting report.

Underwriter:	*D. P. Burrell*	Date:	April 22, 2009
Manager of Real Estate Analysis:	*Raquel Morales*	Date:	April 22, 2009
Director of Real Estate Analysis:	*Brent Stewart*	Date:	April 22, 2009

MULTIFAMILY COMPARATIVE ANALYSIS

Oasis at the Park Apartments, Corpus Christi, HTC 9% #08145

Type of Unit	Number	Bedrooms	No. of Baths	Size in SF	Gross Rent Lmt.	Rent Collected	Rent per Month		Rent per SF	Tnt-Pd Util	WS&T
TC 30%	3	0	1	300	$252	$252	$756		$0.84	$75	$52
TC50%/LH	8	0	1	300	$421	$421	$3,368		$1.40	$75	$52
TC 50%	69	0	1	300	$421	$421	$29,049			$75.00	$52.00
TOTAL:	80		**AVERAGE:**	300		$415	$33,173		$1.38	$75.00	$52.00

INCOME	Total Net Rentable Sq Ft:	24,000	**TDHCA**	**APPLICANT**	COUNTY	IREM REGION	COMPT. REGION
POTENTIAL GROSS RENT			$398,076	$360,192	Nueces		10
Secondary Income	Per Unit Per Month:	$15.00	14,400	14,400	$15.00	Per Unit Per Month	
Other Support Income:			0	0	$0.00	Per Unit Per Month	
POTENTIAL GROSS INCOME			$412,476	$374,592			
Vacancy & Collection Loss	% of Potential Gross Income:	-7.50%	(30,936)	(28,092)	-7.50%	of Potential Gross Income	
Employee or Other Non-Rental Units or Concessions			0				
EFFECTIVE GROSS INCOME			$381,540	$346,500			

EXPENSES		% OF EGI	PER UNIT	PER SQ FT	TDHCA	APPLICANT	PER SQ FT	PER UNIT	% OF EGI
General & Administrative		6.56%	$313	1.04	$25,039	$20,050	$0.84	$251	5.79%
Management		6.75%	322	1.07	25,745	21,046	0.88	263	6.07%
Payroll & Payroll Tax		35.07%	1,673	5.58	133,808	117,000	4.88	1,463	33.77%
Repairs & Maintenance		7.22%	344	1.15	27,535	24,500	1.02	306	7.07%
Utilities		7.49%	357	1.19	28,576	41,200	1.72	515	11.89%
Water, Sewer, & Trash		8.56%	408	1.36	32,675	34,000	1.42	425	9.81%
Property Insurance		5.27%	251	0.84	20,109	24,000	1.00	300	6.93%
Property Tax	2.46	0.00%	0	0.00	0	0	0.00	0	0.00%
Reserve for Replacements		6.29%	300	1.00	24,000	24,000	1.00	300	6.93%
TDHCA Compliance Fees		0.84%	40	0.13	3,200	3,200	0.13	40	0.92%
Other:		0.39%	19	0.06	1,500	1,500	0.06	19	0.43%
TOTAL EXPENSES		84.44%	$4,027	$13.42	$322,186	$310,496	$12.94	$3,881	89.61%
NET OPERATING INC		15.56%	$742	$2.47	$59,354	$36,004	$1.50	$450	10.39%
DEBT SERVICE									
City of Corpus Christi		0.00%	$0	$0.00	$0	$0	$0.00	$0	0.00%
LULAC		0.00%	$0	$0.00	0		$0.00	$0	0.00%
Additional Financing		0.00%	$0	$0.00	0	0	$0.00	$0	0.00%
NET CASH FLOW		15.56%	$742	$2.47	$59,354	$36,004	$1.50	$450	10.39%

CONSTRUCTION COST

Description	Factor	% of TOTAL	PER UNIT	PER SQ FT	TDHCA-New Construction	Original App	9/1/2008 Roger T. Carrillo Cost Estimate	12/15/2008 Gonzales Newell Bender Cost Estimate	PER SQ FT	PER UNIT	% of TOTAL
Acquisition Cost (site or bldg)		29.22%	$3,438	$11.46	$275,000	$275,000		$275,000	$11.46	$3,438	8.32%
Off-Sites		0.00%	0	0.00		0	40,000	0	0.00	0	0.00%
Sitework		0.00%	0	0.00	0	200,000	248,000	200,000	8.33	2,500	6.05%
Direct Construction		0.00%	0	0.00	TO BE DETERMINED	1,425,000	1,560,000	2,261,900	59.38	17,813	43.09%
Contingency	10.00%	0.00%	0	0.00		162,500	180,800	162,500	6.77	2,031	4.91%
Contractor's Fees	14.00%	0.00%	0	0.00	0	227,500	253,120	227,500	9.48	2,844	6.88%
Indirect Construction		18.35%	2,159	7.20	172,700	172,700		172,700	7.20	2,159	5.22%
Ineligible Costs		21.52%	2,532	8.44	202,545	74,745		202,575	3.11	934	2.26%
Developer's Fees	15.00%	4.57%	538	1.79	43,005	379,005		379,005	15.79	4,738	11.46%
Interim Financing		12.11%	1,425	4.75	114,000	114,000		114,000	4.75	1,425	3.45%
Reserves		14.22%	1,673	5.58	133,871	276,483		276,483	11.52	3,456	8.36%
TOTAL COST		100.00%	$11,764	$39.21	$941,121	$3,306,933	$2,281,920	$4,271,663	$137.79	$41,337	100.00%
Construction Cost Recap		*0.00%*	***$0***	***$0.00***	***$0***	***$2,015,000***			***$83.96***	***$25,188***	*60.93%*

SOURCES OF FUNDS						RECOMMENDED	
City of Corpus Christi	53.13%	$6,250	$20.83	$500,000	$500,000	$500,000	Developer Fee Available
LULAC	26.56%	$3,125	$10.42	250,000	250,000		$379,005
HTC: WNC & Associates	262.76%	$30,911	$103.04	2,472,909	2,472,909		% of Dev. Fee Deferred
Deferred Developer Fees	8.93%	$1,050	$3.50	84,024	84,024		0%
Additional (Excess) Funds Req'd	-251.38%	($29,573)	($98.58)	(2,365,812)	0	441,121	15-Yr Cumulative Cash Flow
TOTAL SOURCES				$941,121	$3,306,933	$941,121	$691,082

Oasis at the Park Apartments, Corpus Christi, HTC 9% #08145

PAYMENT COMPUTATION

Primary	$500,000	Amort	0
Int Rate	2.94%	DCR	#DIV/0!

Secondary	$250,000	Amort	0
Int Rate	2.94%	Subtotal DCR	#DIV/0!

Additional	$2,472,909	Amort	
Int Rate		Aggregate DCR	#DIV/0!

RECOMMENDED FINANCING STRUCTURE:

Primary Debt Service	$0
Secondary Debt Service	0
Additional Debt Service	0
NET CASH FLOW	$59,354

Primary	$500,000	Amort	0
Int Rate	2.94%	DCR	#DIV/0!

Secondary	$250,000	Amort	0
Int Rate	2.94%	Subtotal DCR	#DIV/0!

Additional	$2,472,909	Amort	0
Int Rate	0.00%	Aggregate DCR	#DIV/0!

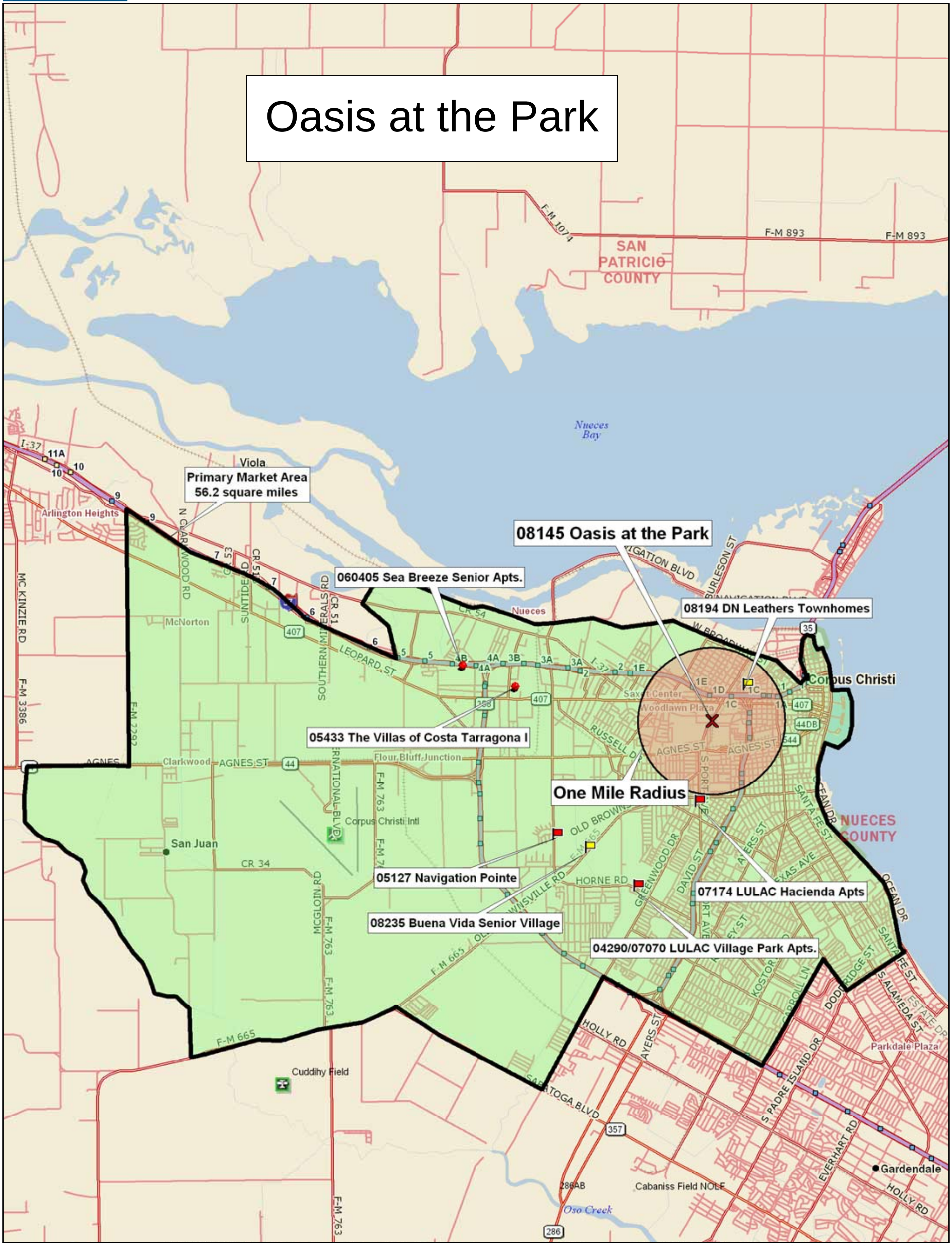
OPERATING INCOME & EXPENSE PROFORMA: RECOMMENDED FINANCING STRUCTURE

INCOME at 3.00%	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 30
POTENTIAL GROSS RENT	$398,076	$410,018	$422,319	$434,988	$448,038	$519,399	$602,126	$698,029	$938,092
Secondary Income	14,400	14,832	15,277	15,735	16,207	18,789	21,781	25,250	33,935
Other Support Income:	0	0	0	0	0	0	0	0	0
POTENTIAL GROSS INCOME	412,476	424,850	437,596	450,724	464,245	538,188	623,907	723,279	972,027
Vacancy & Collection Loss	(30,936)	(31,864)	(32,820)	(33,804)	(34,818)	(40,364)	(46,793)	(54,246)	(72,902)
Employee or Other Non-Renta	0	0	0	0	0	0	0	0	0
EFFECTIVE GROSS INCOME	$381,540	$392,987	$404,776	$416,919	$429,427	$497,824	$577,114	$669,033	$899,125
EXPENSES at 4.00%									
General & Administrative	$25,039	$26,041	$27,082	$28,166	$29,292	$35,639	$43,360	$52,754	$78,089
Management	25,745	26,517	27,313	28,132	28,976	33,592	38,942	45,144	60,670
Payroll & Payroll Tax	133,808	139,160	144,727	150,516	156,537	190,451	231,712	281,914	417,301
Repairs & Maintenance	27,535	28,636	29,781	30,973	32,212	39,190	47,681	58,011	85,871
Utilities	28,576	29,719	30,908	32,144	33,430	40,673	49,485	60,206	89,119
Water, Sewer & Trash	32,675	33,981	35,341	36,754	38,225	46,506	56,582	68,840	101,900
Insurance	20,109	20,913	21,749	22,619	23,524	28,621	34,821	42,366	62,712
Property Tax	0	0	0	0	0	0	0	0	0
Reserve for Replacements	24,000	24,960	25,958	26,997	28,077	34,159	41,560	50,564	74,848
Other	4,700	4,888	5,084	5,287	5,498	6,690	8,139	9,902	14,658
TOTAL EXPENSES	$322,186	$334,816	$347,944	$361,588	$375,771	$455,520	$552,282	$669,701	$985,167
NET OPERATING INCOME	$59,354	$58,170	$56,832	$55,331	$53,656	$42,304	$24,832	($668)	($86,042)
DEBT SERVICE									
First Lien Financing	$0	$0	$0	$0	$0	$0	$0	$0	
Second Lien	0	0	0	0	0	0	0	0	0
Other Financing	0	0	0	0	0	0	0	0	0
NET CASH FLOW	$59,354	$58,170	$56,832	$55,331	$53,656	$42,304	$24,832	($668)	($86,042)
DEBT COVERAGE RATIO	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!

HTC ALLOCATION ANALYSIS -Oasis at the Park Apartments, Corpus Christi, HTC 9% #08145

CATEGORY	APPLICANT'S TOTAL AMOUNTS	TDHCA TOTAL AMOUNTS	APPLICANT'S ACQUISITION ELIGIBLE BASIS	TDHCA ACQUISITION ELIGIBLE BASIS	APPLICANT'S REHAB/NEW ELIGIBLE BASIS	TDHCA REHAB/NEW ELIGIBLE BASIS	10% Increase
Acquisition Cost							
Purchase of land	$50,000	$275,000					
Purchase of buildings	$225,000		$225,000				
Off-Site Improvements							
Sitework	$200,000				$200,000	to be determined	
Construction Hard Costs	$1,425,000				$1,425,000		
Contractor Fees	$227,500				$227,500		
Contingencies	$162,500				$162,500		
Eligible Indirect Fees	$172,700	$172,700			$172,700	$172,700	
Eligible Financing Fees	$114,000	$114,000			$114,000	$114,000	
All Ineligible Costs	$74,745	$202,545					
Developer Fees			$33,750		$345,255		
Developer Fees	$379,005	$43,005				$43,005	
Development Reserves	$276,483	$133,871					
TOTAL DEVELOPMENT COSTS	$3,306,933	$941,121	$258,750		$2,646,955	$329,705	

Deduct from Basis:							
All grant proceeds used to finance costs in eligible basis							
B.M.R. loans used to finance cost in eligible basis					$500,000	$500,000	
Non-qualified non-recourse financing							
Non-qualified portion of higher quality units [42(d)(3)]							
Historic Credits (on residential portion only)							
TOTAL ELIGIBLE BASIS			$258,750		$2,146,955	($170,295)	
High Cost Area Adjustment					130%	130%	100%
TOTAL ADJUSTED BASIS			$258,750		$2,791,042	($221,384)	
Applicable Fraction			100%	100%	100%	100%	100%
TOTAL QUALIFIED BASIS			$258,750		$2,791,042	($221,384)	
Applicable Percentage			3.55%	3.55%	9.00%	9.00%	9.00%
TOTAL AMOUNT OF TAX CREDITS			$9,186		$251,194	($19,925)	
Syndication Proceeds		**0.7499**	**$68,883**		**$1,883,702**	**($149,414)**	
Total Tax Credits (Eligible Basis Method)					**$260,379**	**($19,925)**	**($19,925)**
Syndication Proceeds					**$1,952,585**	**($149,414)**	**($149,414)**
Requested Tax Credits					**$281,034**		
Syndication Proceeds					**$2,107,474**		
Gap of Syndication Proceeds Needed						**$441,121**	
Total Tax Credits (Gap Method)						**$58,824**	



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Scale 1 : 112,500
1" = 1.78 mi
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REPORT ITEMS

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Memorandum

To: Michael Gerber

From: Gordon Anderson

cc: Tim Irvine, Michael Lyttle

Date: May 14, 2009

Re: TDHCA Outreach Activities

The attached document highlights outreach activities on the part of TDHCA staff for April 2009. The information provided focuses primarily on activities Executive and staff have taken on voluntarily; however, also included are mandated activities such as TEFRA and tax credit public hearings. This list may not account for every activity undertaken by staff, as there may be a limited number of events not brought to my attention.

For brevity sake, the chart provides the name of the event, its location, the date of the event, division(s) participating in the event, and an explanation of what role staff played in the event. Should you wish to obtain additional details regarding these events, I will be happy to provide you with this information.

TDHCA Outreach Activities, April 2009

A compilation of activities designed to increase the awareness of TDHCA programs and services or increase the visibility of the Department among key stakeholder groups and the general public

Event	Location	Date	Division	Purpose
Weatherization Roundtable Discussion	Austin	April 1	Executive, Community Affairs, Housing Resource Center	Roundtable Hearing
Leadership Austin – Homelessness Discussion	Austin	April 1	Housing Resource Center	Presentation
First Thursday Income Eligibility Training	Austin	April 2	Portfolio Management & Compliance	Training
Homelessness Prevention Roundtable Discussion	Austin	April 2	Executive, Community Affairs, Housing Resource Center	Roundtable Hearing
Recovery Act Programs Public Input Hearing	Houston	April 6	Executive, Community Affairs, Housing Resource Center	Public Hearing
Disaster Recovery for Multifamily Rental Roundtable	Houston	April 6	Multifamily, Disaster Recovery	Public Hearing
2009 Tax Credit Application Hearing	El Paso	April 6	Multifamily Finance	Public Hearing
Recovery Act Programs Public Input Hearing	Dallas	April 7	Community Affairs, Housing Resource Center	Public Hearing
2009 Tax Credit Application Hearing	Beaumont	April 7	Multifamily Finance	Public Hearing
2009 Tax Credit Application Hearing	Dallas	April 7	Multifamily Finance	Public Hearing
Recovery Act Programs Public Input Hearing	El Paso	April 8	Board, Community Affairs, Housing Resource Center	Public Hearing
2009 Tax Credit Application Hearing	San Antonio	April 9	Multifamily Finance	Public Hearing
2009 Tax Credit Application Hearing	Houston	April 13	Multifamily Finance	Public Hearing
2009 Tax Credit Application Hearing	Lubbock	April 13	Multifamily Finance	Public Hearing
2009 Tax Credit Application Hearing	Harlingen	April 14	Multifamily Finance	Public Hearing
Disaster Recovery for Multifamily Rental Roundtable	Brownsville	April 15	Multifamily, Disaster Recovery	Roundtable Hearing
National Foreclosure Mitigation Counseling Meeting	Washington, D.C.	April 16-17	Housing Resource Center	Participant
Promoting Independence Advisory Committee	Austin	April 17	Housing Resource Center	Participant
Texas NAHRO Conference	Galveston	April 20	Housing Resource Center	Participant
ARRA Weatherization Assistance Program Hearing	Austin	April 22	Community Affairs, Housing Resource Center	Public Hearing
Texas NSP Application Workshop	Weslaco	April 23	NSP	Training
Texas Foreclosure Prevention Task Force Meeting	Dallas	April 23	Housing Resource Center	Participant
Texas NSP Application Workshop	Austin	April 24	NSP	Training