

BOARD BOOK OF JANUARY 28, 2016



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

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

**A G E N D A
10:00 AM
January 28, 2016**

**John H. Reagan Building
JHR 140, 105 W 15th Street
Austin, Texas**

CALL TO ORDER

ROLL CALL

J. Paul Oxer, Chairman

CERTIFICATION OF QUORUM

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

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

Resolution Recognizing February as Black History Month in Texas

CONSENT AGENDA

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

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

EXECUTIVE

- a) Presentation, Discussion, and Possible Action on Board Meeting Minutes Summaries for November 12, 2015, and December 17, 2015

J. Beau Eccles
Board Secretary

LEGAL

- b) Presentation, Discussion, and Possible Action regarding the adoption of an Agreed Final Order concerning Villa Victoria Apartments (HTC 93156 / CMTS 1186)
- c) Presentation, Discussion, and Possible Action regarding the adoption of an Agreed Final Order concerning Whispering Woods Apartments (HTC 93063/ CMTS 1137)
- d) Presentation, Discussion, and Possible Action regarding the adoption of an Agreed Final Order concerning Lulac Village Park (HTC 04290 / CMTS 4094)
- e) Presentation, Discussion, and Possible Action regarding the adoption of an Agreed Final Order concerning Lovett Manor (HTC 02119/ CMTS 3252)

Jeff Pender
Deputy General Counsel

ASSET MANAGEMENT

- f) Presentation, Discussion, and Possible Action regarding a Material Amendment to the HOME and Housing Tax Credit Application
13201/1002027 The Trails of Carmel Creek Hutto

Raquel Morales
Director

- g) Presentation, Discussion and Possible Action regarding a Material Amendment to the Housing Tax Credit Application

13402 Paddock at Norwood Austin

COMMUNITY AFFAIRS

- h) Presentation, Discussion, and Ratification of Low Income Home Energy Assistance Program (“LIHEAP”) Awards for the PY 2016 Weatherization Assistance Program (“WAP”) and one 2016 LIHEAP Comprehensive Energy Assistance Program (“CEAP”) Award to Webb County Community Action Agency
- i) Presentation, Discussion, and Possible Action regarding authorization to release a Notice of Funding Availability (“NOFA”) for Fiscal Year 2016 Emergency Solutions Grants Program (“ESG”), and to Authorize Specific Continuum of Care (“CoC”) Lead Agencies to Perform a Local ESG Competition

Michael DeYoung
Director

MULTIFAMILY FINANCE

- j) Presentation, Discussion, and Possible Action Regarding HOME funds available to 1500 MLK, LLC for the development of Royal Gardens Mineral Wells
- k) Presentation, Discussion, and Possible Action on Previously Approved Determination Notices
- 15416 Woodland Christian Towers Houston
- l) Presentation, Discussion, and Possible Action on Inducement Resolution No. 16-009 for Multifamily Housing Revenue Bonds Regarding Authorization for Filing an Application for Private Activity Bond Authority
- 16600 Skyline Place Apartments Dallas
- m) Presentation, Discussion, and Possible Action regarding a Waiver of 10 TAC §10.204(8)(B), Uniform Multifamily Rules related to the Submission of an Alternative Utility Allowance and a Determination Notice for Housing Tax Credits with another Issuer
- 15415 Freedom Hills Ranch Apartments San Antonio
- n) Presentation, Discussion, and Possible Action Regarding a Waiver of 10 TAC §10.101(b)(1)(A)(ii) Uniform Multifamily Rules related to a Development with Four or More Stories and a Determination Notice for Housing Tax Credits with another Issuer
- 15420 Terraces at Walnut Creek Austin

Marni Holloway
Director

RULES

- o) Presentation, Discussion, and Possible Action on adoption of amendments to 10 Texas Administrative Code (“TAC”) Chapter 23, Single Family HOME Program, Subchapter A, General Guidance, §23.2 Definitions; Subchapter C, Homeowner Rehabilitation Assistance, §23.32 Homeowner Rehabilitation Assistance (“HRA”) Administrative Requirements; Subchapter D, Homebuyer Assistance Program, §23.41 Homebuyer Assistance (“HBA”) Program Requirements and §23.42 HBA Administrative Requirements; Subchapter E, Contract for Deed Conversion Program, §23.51 Contract for Deed Conversion (“CFDC”) Program Requirements and §23.52 CFDC Administrative Requirement; Subchapter F, Tenant-Based Rental Assistance Program, §23.62 Tenant-Based Rental Assistance (“TBRA”) Administrative Requirements; and Subchapter G, Single Family Development Program, §23.72 Single Family Development (“SFD”) Administrative Requirements, and directing that they be published in the *Texas Register*

Jennifer Molinari
Director, HOME Program

CONSENT AGENDA REPORT ITEMS

ITEM 2: THE BOARD ACCEPTS THE FOLLOWING REPORTS:

- a) TDHCA Outreach Activities, December 2015
- b) Compliance Division Update

Michael Lyttle
Chief, External Affairs

Patricia Murphy
Chief, Compliance

- c) Executive Report of Multifamily Program Amendments, Extensions and Ownership Transfers

Raquel Morales
Director, Asset
Management

ACTION ITEMS

ITEM 3: REPORTS

- a) Report on the extension of the Program Year 2015 Low Income Home Energy Assistance Program ("LIHEAP") Awards for the Comprehensive Energy Assistance Program ("CEAP") and the Weatherization Assistance Program ("WAP")
- b) Report on the Department's Swap Portfolio and recent activities with respect thereto
- c) Report on the meeting of the Audit Committee

Michael DeYoung
Director, Community
Affairs

Monica Galuski
Director, Bond Finance

Mark Scott
Director, Internal Audit

ITEM 4: INTERNAL AUDIT

- a) Internal Audit Report #15-007 "Program Income"
- b) Presentation, Discussion, and Possible Action regarding Acceptance of State Auditor's Office audit reports on TDHCA's Financial Statements

Mark Scott
Director

ITEM 5: MULTIFAMILY FINANCE

- a) Presentation, Discussion, and Possible Action regarding Frequently Asked Questions for the current Competitive Housing Tax Credits
- b) Presentation, Discussion, and Possible Action regarding an Award of HOME funds from the 2015-1 Multifamily Development Program Notice of Funding Availability 15102 Reserves at Perryton Perryton

Marni Holloway
Director

ITEM 6: HOME PROGRAM

- a) Presentation, Discussion, and Possible Action on Awards for the 2015 HOME Investment Partnerships Program ("HOME") Single Family Programs Competitive Notices of Funding Availability ("NOFA") for Single Family Non-Development Programs
- b) Presentation, Discussion, and Possible Action on an amendment to a HOME Investment Partnerships Program ("HOME") Homeowner Rehabilitation Assistance ("HRA") Household Commitment Contract ("HCC") issued under Reservation Agreement 2011-0092 for the reconstruction of a single family home by Runnels County
- c) Presentation, Discussion, and Possible Action related to activities assisted under HOME Investment Partnerships Program ("HOME") Reservation System Participant ("RSP") Agreement No. 2011-0062 with EBENZ Inc. ("EBENZ") for four single family homes located in Texas City and League City, Galveston County

Jennifer Molinari
Director

ITEM 7: HOUSING TRUST FUND

Presentation, Discussion, and Possible Action for the Board to approve or approve with amendments, the proposed amendment to the 2016-2017 Housing Trust Fund Plan and authorize staff to submit the Housing Trust Fund Plan Amendment to all appropriate offices

Homero Cabello
Director

ITEM 8: ASSET MANAGEMENT

Presentation, Discussion, and Possible Action regarding refinancing for Oasis Cove (HTC# 11164, HOME# 1001491) with TCAP Repayment Funds

Tom Gouris
Deputy Executive
Director

ITEM 9: COMMUNITY AFFAIRS

Presentation, Discussion, and Possible Action on Awards for Program Year 2015 Community Services Block Grant Discretionary Funds Notice of Funding Availability ("NOFA") I for CSBG Network Operational Investments and Intensive Assessments and NOFA II for Native American and Migrant Seasonal Farmworker Populations

Michael DeYoung
Director

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

EXECUTIVE SESSION

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

1. The Board may go into Executive Session Pursuant to Tex. Gov't Code §551.074 for the purposes of discussing personnel matters including to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee;
2. Pursuant to Tex. Gov't Code §551.071(1) to seek the advice of its attorney about pending or contemplated litigation or a settlement offer;
3. Pursuant to Tex. Gov't Code §551.071(2) for the purpose of seeking the advice of its attorney about a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Tex. Gov't Code Chapter 551; including seeking legal advice in connection with a posted agenda item;
4. Pursuant to Tex. Gov't Code §551.072 to deliberate the possible purchase, sale, exchange, or lease of real estate because it would have a material detrimental effect on the Department's ability to negotiate with a third person; and/or-
5. Pursuant to Tex. Gov't Code §2306.039(c) the Department's internal auditor, fraud prevention coordinator or ethics advisor may meet in an executive session of the Board to discuss issues related to fraud, waste or abuse.

OPEN SESSION

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

ADJOURN

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

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

Individuals who require auxiliary aids, services or sign language interpreters for this meeting should contact Gina Esteves, ADA Responsible Employee, at 512-475-3943 or Relay Texas at 1-800-735-2989, at least three (3) days before the meeting so that appropriate arrangements can be made.

Non-English speaking individuals who require interpreters for this meeting should contact Elena Peinado, 512-475-3814, at least three (3) days before the meeting so that appropriate arrangements can be made.

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

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

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

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

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

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

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

Texas Department of Housing and Community Affairs

RESOLUTION

WHEREAS, February 2016 is Black History Month, and is being celebrated in the United States with the national theme of “Hallowed Grounds: Sites of African American Memories,” by preserving and reflecting on the places where African Americans have made history;

WHEREAS, the Texas Department of Housing and Community Affairs (the “Department”) recognizes the significance of Black History Month as an important time to acknowledge and celebrate the contributions of African Americans in Texas’ history and that of the nation; and

WHEREAS, the Department encourages the continued celebration of this month as an opportunity for all Texans to learn more about places that have been important in the making of African American memory and to better understand the experiences of African Americans who have shaped our great State and the nation; and

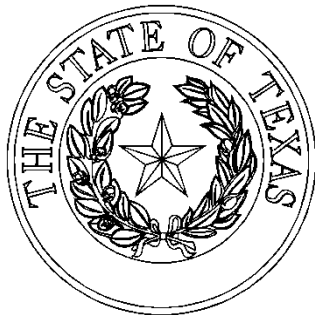
WHEREAS, the Department recognizes that the ethnic and racial diversity of Texas enriches and strengthens the nation;

NOW, THEREFORE, it is hereby

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

- (1) recognizes the significance of Black History Month as an important time to acknowledge and celebrate the preservation of e sites of the eighteenth and nineteenth centuries that became hallowed grounds of African Americans and all Americans in Texas history, and encourages the continued celebration of this month to provide an opportunity for all peoples of the State of Texas to learn more about the past and to better understand the experiences that have shaped our Lone Star State; and
- (2) recognizes that in the pursuit of the goal and responsibility of providing equal housing opportunities for all, the Governing Board of the Texas Department of Housing and Community Affairs does hereby celebrate February 2016 as Black History Month in Texas and encourages all Texas individuals and organizations, public and private, to join and work together in this observance for equal housing treatment and opportunity for all.

Signed this twenty-eighth day of January 2016.



J. Paul Oxer, Chair

Leslie Bingham Escareño, Member

T. Tolbert Chisum, Member

Timothy K. Irvine, Executive Director

Dr. Juan Muñoz, Vice Chair

Tom H. Gann, Member

J. B. Goodwin, Member

CONSENT AGENDA

1a

BOARD ACTION REQUEST
BOARD SECRETARY
JANUARY 28, 2016

Presentation, Discussion, and Possible Action on Board Meeting Minutes Summaries for November 12, 2015, and December 17, 2015

RECOMMENDED ACTION

Approve Board Meeting Minutes Summaries for November 12, 2015, and December 17, 2015

RESOLVED, that the Board Meeting Minutes Summaries for November 12, 2015, and December 17, 2015, are hereby approved as presented.

Texas Department of Housing and Community Affairs Governing Board
Board Meeting Minutes Summary
November 12, 2015

On Thursday, the twelfth day of November, 2015, at 10:00 a.m., the regular monthly meeting of the Governing Board ("Board") of the Texas Department of Housing and Community Affairs ("TDHCA" or the "Department") was held in Room JHR 140, John H. Reagan Building, 105 W. 15th Street, Austin, Texas.

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

- J. Paul Oxer
- Dr. Juan Muñoz
- T. Tolbert Chisum
- Leslie Bingham Escareño
- Thomas H. Gann
- J.B. Goodwin

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

- 1) The Consent Agenda as presented was approved unanimously by the Board
- 2) Chairman Oxer exercised his discretion as board chair to change the sequence of items considered before the board and first took up Action Item 3(b) – Report on Asset Management Issue – with Tom Gouris, TDHCA Deputy Executive Director presenting. The Board heard the report and took no action.
- 3) Action Item 4 – Presentation, Discussion and Possible Action on approval of the Fiscal Year 2016 – was presented by Mark Scott, TDHCA Director of Internal Audit presenting. The Board unanimously approved staff recommendation to approve the audit work plan.
- 4) Action Item 3(a) – Report on the meeting of the Audit Committee – was presented by Mr. Scott with additional information provided by Tim Irvine, TDHCA Executive Director. The Board heard the report and took no action.
- 5) Action Item 5 – Presentation, Discussion, and Possible Action on Resolution 16-006 Authorizing the Issuance, Sale and Delivery of Texas Department of Housing and Community Affairs Single Family Mortgage Revenue Bonds, 2015 Series C (Tax-Exempt and Taxable) (the "2015C Bonds") and Single Family Mortgage Revenue Refunding Bonds, 2015 Series D (Taxable) (the "2015D Bonds"); Approving the Form and Substance of Related Documents; Authorizing the Execution of Documents and Instruments Necessary or Convenient to Carry Out the Purposes of this Resolution; and Containing Other Provisions Relating to the Subject – was presented by Monica Galuski, Director of Bond Finance. The Board unanimously approved staff recommendation to proceed on all tasks directed by the resolution.
- 6) Action Item 6 – Presentation, Discussion, and Possible Action regarding approval of the 2016 Multifamily Direct Loan Notice of Funding Availability – was presented by Marni Holloway, Director of Multifamily Finance with additional information provided by Mr. Irvine and Mr. Gouris. Following public comment (listed below), the Board unanimously approved staff recommendation to approve releasing the notice.

- Walter Moreau, Foundation Communities, testified in opposition to staff recommendation
- Joy Horak Brown, New Hope Housing, testified in opposition to staff recommendation
- Craig Taylor, Communities for Veterans, testified in opposition to staff recommendation
- Ginger McGuire, Rural Rental Housing Association of Texas, testified in opposition to staff recommendation
- Sarah Anderson, S. Anderson Consulting, testified in opposition to staff recommendation

7) Action Item 7(a) – Presentation, Discussion, and Possible Action on an order adopting the repeal of 10 TAC Chapter 11 concerning the Housing Tax Credit Program Qualified Allocation Plan, and an order adopting the new 10 TAC Chapter 11 concerning the Housing Tax Credit Program Qualified Allocation Plan, and directing its publication in the Texas Register – was presented by Ms. Holloway with additional information from Mr. Irvine. After public comment (listed below), the Board unanimously approved staff recommendation as amended through both the second published supplement to the item and comment provided by staff at the meeting to repeal the old rule and adopt the new rule.

- Michael Lyttle, TDHCA, read letters into the record from the Honorable Carlos Uresti, Texas State Senator for Senate District 19, and the Honorable Rafael Anchia, Texas House of Representatives member for House District 103, in opposition to staff recommendation with provided comments on the draft rule
- Ginger McGuire, Rural Rental Housing Association of Texas, testified in opposition to staff recommendation with provided comments on the draft rule
- David Nisivoccia, San Antonio Housing Authority, testified in opposition to staff recommendation with provided comments on the draft rule
- Dr. Morris Stripling, San Antonio Housing Authority, testified in opposition to staff recommendation with provided comments on the draft rule
- Pedro Martinez, San Antonio Independent School District (“ISD”), testified in opposition to staff recommendation with provided comments on the draft rule
- Dr. Shari Albright, Trinity University, testified in opposition to staff recommendation with provided comments on the draft rule
- Sallie Burchett, Structure Development, testified in opposition to staff recommendation with provided comments on the draft rule
- Jackie Gorman, San Antonio for Growth on the Eastside/San Antonio Housing Commission for Preserving Diverse and Dynamic Neighborhoods., testified in opposition to staff recommendation with provided comments on the draft rule
- Daniel H. Arellano, Jr., Wheatley Courts resident, testified in opposition to staff recommendation with provided comments on the draft rule
- Mike Etienne, City of San Antonio, testified in opposition to staff recommendation with provided comments on the draft rule
- Janine Sisak, Texas Affiliation of Affordable Housing Providers, testified in opposition to staff recommendation with provided comments on the draft rule
- Bobby Bowling, Tropicana Development, testified in opposition to staff recommendation with provided comments on the draft rule
- Diana McIver, DMA Development, testified in opposition to staff recommendation with provided comments on the draft rule
- Donna Rickenbacker, Marque Real Estate Consultants, testified in opposition to staff recommendation with provided comments on the draft rule

- Tracey Fine, National Church Residences, testified in opposition to staff recommendation with provided comments on the draft rule
- Jean Latsha recited that she was appearing in a personal, non-professional capacity and testified in opposition to staff recommendation with provided comments on the draft rule
- Peggy Henderson, TDHCA, read the following names of persons in opposition to staff recommendation:
 - Sylvia Molina, San Antonio Housing Authority
 - Beverly Watts Davis, San Antonio Community
 - Arrie Porter, San Antonio Housing Authority
 - Elyse Harris, San Antonio Housing Authority
 - Lorraine Robles, San Antonio Housing Authority.
 - Tresia Jones, former Wheatley resident
 - Sabrina Malana, Wheatley Courts resident
 - Kevin Rodriguez, former Wheatley Courts resident
 - Gloria Gonzales, former Wheatley Courts resident
 - Jose DeHoyos, former Wheatley Courts resident
 - Linda Ann Najera, former Wheatley Courts resident
 - Michael A. Perez, Public Allies, SAHA Choice
 - Lakisha Hazel, CASA office of EastPoint
 - Stephanie Moreno, Americorps Public Allies
 - Georgia Baines, CASA
 - Nehemiah O'Neal, San Antonio for Growth on the Eastside
 - LaShawn Roberson
 - Sarah Jones, Urban Strategies
 - Stephanie Rivera
 - Olga Kayttman
 - Lakiesha Bean, Public Allies
 - Tim Alcott, San Antonio Housing Authority;
 - Dr. Emilio Castro, San Antonio ISD
- Walter Moreau, Foundation Communities, testified in opposition to staff recommendation with provided comments on the draft rule
- Joy Horak Brown, New Hope Housing, asked questions to clarify understanding of the draft rule
- Walter Moreau, Foundation Communities, testified in opposition to staff recommendation with provided comments on the draft rule
- Walter Moreau, Foundation Communities, testified in opposition to staff recommendation with provided comments on the draft rule

8) Action Item 7(b) – Presentation, Discussion, and Possible Action on orders adopting the repeals of 10 TAC Chapter 10 Subchapter A, concerning General Information and Definitions; Subchapter B, concerning Site and Development Requirements and Restrictions; Subchapter C, concerning Application Submission Requirements, Ineligibility Criteria, Board Decisions, and Waiver of Rules; and Subchapter G, concerning Fee Schedule, Appeals, and Other Provisions; and orders adopting the new Subchapter A, concerning General Information and Definitions; Subchapter B, concerning Site and Development Requirements and Restrictions; Subchapter C, concerning Application Submission Requirements, Ineligibility Criteria, Board Decisions, and Waiver of Rules for Applications; and Subchapter G, concerning Fee Schedule, Appeals, and Other Provisions; and directing their publication in the Texas Register – was presented by Ms. Holloway. The Board unanimously approved staff recommendation to repeal the old rules and adopt the new rules.

9) Action Item 7(c) – Presentation, Discussion, and Possible Action to adopt the 2016 Multifamily Programs Procedures Manual – was presented by Ms. Holloway. The Board unanimously approved staff recommendation to adopt the new manual.

10) Action Item 7(d) – Presentation, Discussion, and Possible Action on order adopting the repeal of 10 TAC Chapter 10 Subchapter D concerning Underwriting and Loan Policy and an order adopting new 10 TAC Chapter 10 Subchapter D concerning Underwriting and Loan Policy and directing its publication in the Texas Register – was presented by Brent Stewart, TDHCA Director of Real Estate Analysis. The Board unanimously approved staff recommendation to repeal the old rule and adopt the new rule.

11) Action Item 7(e) – Presentation, Discussion and Possible Action on an order adopting the repeal of 10 TAC Chapter 10 Subchapter E concerning Post Award and Asset Management Requirements and an order adopting new 10 TAC Chapter 10 Subchapter E concerning Post Award and Asset Management Requirements and directing its publication in the Texas Register – was presented by Raquel Morales, TDHCA Director of Asset Management. The Board unanimously approved staff recommendation to repeal the old rule and adopt the new rule.

12) At 12:31 p.m. the Board went into Executive Session and reconvened in open session at 1:24 p.m. No action was taken in or as a result of Executive Session.

13) The following public comment was made on matters other than items for which there were posted agenda items:

- Tamea Dula, Coats Rose, asked the Board to consider revising language in the Department’s carryover allocation agreement documents

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

There being no further business to come before the Board, the meeting adjourned at 1:55 p.m. The next meeting is set for Thursday, December 17, 2015.

Secretary

Approved:

Chair

Texas Department of Housing and Community Affairs Governing Board
Board Meeting Minutes Summary
December 17, 2015

On Thursday, the seventeenth day of December 2015, at 9:00 a.m., the regular monthly meeting of the Governing Board ("Board") of the Texas Department of Housing and Community Affairs ("TDHCA" or the "Department") was held in Room JHR 140, John H. Reagan Building, 105 W. 15th Street, Austin, Texas.

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

- J. Paul Oxer
- Dr. Juan Muñoz
- T. Tolbert Chisum
- Leslie Bingham Escareño
- Thomas H. Gann
- J.B. Goodwin

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

1) The Board unanimously adopted a resolution recognizing December 21, 2015, as Homeless Persons' Memorial Day in Texas.

2) The Consent Agenda as modified was approved unanimously by the Board with the exception of Item 1(i) – Presentation, Discussion, and Possible Action regarding the HOME funds available to 1500 MLK, LLC for development of Royal Gardens Mineral Wells; and Item 1(k) – Presentation, Discussion, and Possible Action on an amendment to a HOME Homeowner Rehabilitation Assistance Household Commitment Contract issued under Reservation Agreement 2012-0800 for the reconstruction of a single family home by WREM Literacy Group, Inc. under the Disaster set-aside 1002069. Item 1(i) was removed from consideration by staff and Item 1(k) was moved to the Action Item Agenda.

3) Action Item 1(k) – Presentation, Discussion, and Possible Action on an amendment to a HOME Homeowner Rehabilitation Assistance Household Commitment Contract issued under Reservation Agreement 2012-0800 for the reconstruction of a single family home by WREM Literacy Group, Inc. under the Disaster set-aside 1002069 – was presented by Jennifer Molinari, TDHCA Director of the HOME Program. Following public comment (listed below), the Board unanimously approved staff recommendation to amend the HOME contract in question.

- Cranston Alkebulan, Avila State Construction, testified in support of staff recommendation

4) On Action Items 3(a) and 3(b), the Board heard but took no action on reports from Brooke Boston, TDHCA Deputy Executive Director, on staff's progress with the 811 PRA Program and staff accomplishments in the Single Family Operations and My First Texas Home program areas. Tim Irvine, TDHCA Executive Director, provided additional information to Ms. Boston's reports.

5) On Action Item 3(c), the Board heard but took no action on a report from Elizabeth Yevich, TDHCA Director of the Housing Resource Center, on staff's progress on the Youth Count Texas! study. April Ferrino, Texas Network of Youth Services, and Naomi Trejo, TDHCA coordinator for homelessness programs and policy, provided additional information to Ms. Yevich's report.

6) Action Item 4 – Presentation, Discussion, and Possible Action on the Award of Comprehensive Energy Assistance Program and Community Services Block Grant Program contracts to Community Services of Northeast Texas, Inc. to provide services in Delta, Franklin, Hopkins, Lamar, Rains, Red River, and Titus counties – was presented by Michael DeYoung, TDHCA Director of Community Affairs. The Board unanimously approved staff recommendation to award the contracts to the aforementioned agency.

7) Action Item 5(a) – Presentation, Discussion and Possible Action regarding Material Amendments to Housing Tax Credit Application and Land Use Restriction Agreement #94039 Willow Pond Apartments in Dallas – was presented by Tom Gouris, TDHCA Deputy Executive Director, with additional information provided by Mr. Irvine. Following public comment (listed below), the Board unanimously approved staff recommendation to approve part of the material amendment request regarding one unit being used for community purposes but denying the part regarding converting one affordable unit to market rate.

- Rick Mabus, Willow Pond Apartments, testified in opposition to staff recommendation

8) Action Item 5(b) – Presentation, Discussion, and Possible Action regarding Placed in Service Deadline Extension pursuant to the Force Majeure Provision in the 2015 Qualified Allocation Plan for #13119 Emma Finke Villas in Beeville – was presented by Mr. Gouris. The Board unanimously approved staff recommendation to provide the extension.

9) Action Item 6 – Presentation, Discussion, and Possible Action on Timely Filed Appeals and Waivers under any of the Department's Program Rules for #15093 Stonebridge at Childress in Childress – was presented by Marni Holloway, TDHCA Director of Multifamily Finance, with additional information provided by Mr. Irvine, Mr. Eccles, and Mr. Gouris. Following public comment (listed below), the Board unanimously approved staff recommendation to deny the appeals.

- Jeff Spicer, State Street Housing, testified in opposition to staff recommendation
- Hunter Botts, Affordable Housing Partners, provided additional information in support of the appellant
- John Shackelford, attorney representing the appellant, testified in opposition to staff recommendation
- Brett Johnson, Overland Property Group, testified in support of staff recommendation
- Darrell Jack, Apartment Market Data, provided additional information in support of the appellant

10) Action Item 7 – Presentation, Discussion, and Possible Action on amendments extending the contract period for HOME Household Commitment Contracts issued under Reservation Agreements issued to the City of Paris and WREM Literacy Group for the reconstruction of single family homes that are located in areas subsequently designated as federal declared disaster areas, and Board authorization for staff to consider approving future extension requests for activities in federally declared disaster areas – was presented by Ms. Molinari. The Board unanimously approved staff recommendation to approve the amendment requests.

11) At 11:11 a.m. the Board went into Executive Session and reconvened in open session at 11:47 a.m. No action was taken in or as a result of Executive Session.

12) The following public comment was made on matters other than items for which there were posted agenda items:

- Ebenezer Anene, a HOME Program administrator, asked the Board that his request for a contract extension be placed on the next agenda

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

There being no further business to come before the Board, the meeting adjourned at 11:55 p.m. The next meeting is set for Thursday, January 28, 2016.

Secretary

Approved:

Chair

1b

BOARD ACTION REQUEST

LEGAL DIVISION

JANUARY 28, 2016

Presentation, Discussion, and Possible Action regarding the adoption of Agreed Final Orders concerning Villa Victoria Apartments (HTC 93156 / CMTS 1186)

RECOMMENDED ACTION

WHEREAS, Villa Victoria Apartments (“Property”), owned by Andrew P. Sheehy (“Owner”), has a history of uncorrected compliance findings relating to the applicable land use restriction agreement and the associated statutory and rule requirements;

WHEREAS, on November 18, 2014, owner’s representative met with the Administrative Penalty Committee and agreed, subject to Board approval, to enter into an Agreed Final Order assessing an administrative penalty of \$3,000, to be fully forgiven if all violations are resolved on or before April 1, 2015;

WHEREAS, that prior Agreed Final Order was violated and the following violations remain unresolved: household income above limit upon initial occupancy violation and annual eligibility certification violation relating to one unit, Amenities and Services Notice for three units, Fair Housing Disclosure Notice for 51 units, and one unit unavailable for rent;

WHEREAS, the administrative penalty of \$3,000 due under that prior Agreed Final Order as a result of failure to remedy was paid upon demand;

WHEREAS, TDHCA identified the following new violations that were not timely resolved and remain unresolved today: household income above limit upon initial occupancy violation for one unit and Tenant Rights and Resources Guide violation for one unit;

WHEREAS, on December 15, 2015, owner’s representative met with the Enforcement Committee and agreed, subject to Board approval, to enter into an Agreed Final Order assessing an administrative penalty of \$2,500, with a \$1,000 portion to be forgiven if all violations are resolved on or before February 29, 2016; and

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

NOW, therefore, it is hereby

RESOLVED, that an Agreed Final Order assessing an administrative penalty of \$2,500, subject to partial forgiveness as outlined above for noncompliance at Villa Victoria (HTC 93156 / CMTS 1186), substantially in the form presented at this meeting, and authorizing any non-substantive technical corrections, is hereby adopted as the order of this Board.

BACKGROUND

Andrew P. Sheehy is the owner of Villa Victoria Apartments, a low income apartment complex composed of 91 units, located in Waco, McLennan County. The management company at the time of the informal conference was Access Leasing. Villa Victoria is subject to a land use restriction agreement ("LURA") signed by the prior owner in 1994 in consideration for an allocation of housing tax credits in the amount of \$53,693 to rehabilitate the Property.

The following compliance violations were referred for an administrative penalty under a prior Agreed Final Order and remain unresolved:

1. Household income above limit upon initial occupancy violations for unit 223.
2. Annual Eligibility Certification violations for unit 223.
3. Failure to provide required notices of amenities and services to three units.
4. Failure to issue a Fair Housing Disclosure Notice for 51 units.
5. Failure to make unit 140 available for rent. Unit 140 was not timely restored after sustaining severe water damage.

The following new compliance violations were identified by the Compliance Division while reviewing corrective documentation. A new corrective action deadline was set, but no response was received. The violations were referred for an administrative penalty, remain unresolved, and are part of the new administrative penalty recommendation:

1. Household income above limit upon initial occupancy violations for unit 223. The original ineligible household subject to the prior Agreed Final Order moved out and was replaced by a second ineligible household. Although the new violation relates to the same unit, it pertains to a second ineligible household.
2. Tenant Rights and Resources Guide violation for unit 209.

Owner met with the Administrative Penalty Committee on December 15, 2015, and agreed to sign an Agreed Final Order with the following terms:

1. The maximum potential administrative penalty in the amount of \$2,500, subject to partial forgiveness as indicated below;
2. Owner must submit a \$1,500 portion of the administrative penalty on or before February 29, 2016;
3. Owner must correct the new violations as indicated in the attachments to the Agreed Final Order and submit full documentation of the corrections to TDHCA on or before February 29, 2016; and
4. If Owner complies with all requirements and addresses all violations as required by the attachments to the Agreed Final Order, a \$1,000 portion of the administrative penalty will be forgiven.
5. If Owner violates any provision of the Agreed Final Order, the remaining \$1,000 portion of the administrative penalty would immediately come due and payable.

Consistent with direction from the Department's Enforcement Committee, a probated and, upon successful completion of probation, partially forgivable administrative penalty in the amount of \$2,500 is recommended. This will be a reportable item of consideration under previous participation for any new award to the principals of the owner.

ENFORCEMENT ACTION AGAINST
ANDREW P. SHEEHY WITH
RESPECT TO VILLA VICTORIA
(HTC FILE # 93156 / CMTS # 1186)

§
§
§
§
§

BEFORE THE
TEXAS DEPARTMENT OF
HOUSING AND
COMMUNITY AFFAIRS

AGREED FINAL ORDER

General Remarks and official action taken:

On this 28th day of January, 2016, the Governing Board ("Board") of the Texas Department of Housing and Community Affairs ("TDHCA") considered the matter of whether enforcement action should be taken against **ANDREW P. SHEEHY**, an individual ("Sheehy" or "Respondent").

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

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

WAIVER

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

FINDINGS OF FACT

Jurisdiction:

1. In 1993, Beverly Partners Ltd. ("Prior Owner") was awarded an allocation of Low Income Housing Tax Credits by the Board, in an amount of \$53,693.00 to rehabilitate Villa Victoria ("Property") (HTC file No. 93156 / CMTS No. 1186 / LDLD No. 358).
2. Prior Owner signed a land use restriction agreement ("LURA") regarding the Property. The LURA was effective November 14, 1994, and filed of record at Volume 1833, Page 741 of the Official Public Records of Real Property of McClennan County, Texas

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

3. Respondent took ownership of the Property and signed an agreement with TDHCA to assume the duties imposed by the LURA and to comply fully with the terms thereof (Agreement to Assume and Comply), effective May 19, 2008, and filed the same in the Records at Document Number 2008016285, thereby binding Respondent to the terms of the LURA.
4. Respondent is approved by TDHCA as qualified to own, construct, acquire, rehabilitate, operate, manage, or maintain a housing development that is subject to the regulatory authority of TDHCA.

Compliance Violations¹:

5. Property has a history of violations and Respondent previously signed an Agreed Final Order on March 6, 2015, agreeing to a \$3,000 administrative penalty which was to be fully forgivable provided that Respondent complied with the requirements. The order was violated and the penalty due was paid.
6. An on-site monitoring review was conducted on January 23, 2014, to perform regular TDHCA monitoring and to determine whether Respondent had resolved prior violations of LURA requirements to lease units to low income households and maintain records demonstrating eligibility. Notifications of noncompliance were provided and a September 10, 2014, corrective action deadline was set. Corrective documentation was submitted during 2015, and additional violations were identified based upon the documentation received. Notification of noncompliance was provided on May 6, 2015 with respect to the newly identified violations, and a new deadline of August 4, 2015 was set, however, the following violations were not corrected before the deadline and remain uncorrected as of the date of this Agreed Final Order:
 - a. Respondent failed to provide documentation that household income was within prescribed limits upon initial occupancy for a new household occupying unit 223 on December 2, 2014, a violation of 10 TEX. ADMIN. CODE §10.612 (Tenant File Requirements) and Section 4 of the LURA, which require screening of tenants to ensure qualification for the program.
 - b. Respondent failed to execute a Tenant Rights and Resources Guide and Acknowledgment for Unit 209, a violation of 10 TEX. ADMIN. CODE §10.613 (Lease Requirements), which requires all developments to provide this Guide to each household, at the time of application and upon any subsequent change in common amenities, unit amenities, or required services.

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

7. On May 11, 2015 and July 1, 2015, TDHCA sent notice that Respondent had failed to timely submit their 2014 Annual Owner's Compliance Report, a violation of 10 TEX. ADMIN. CODE §10.607 (Reporting Requirements), which requires each development to submit an Annual Owner's Compliance Report.

The final part was submitted on November 18, 2015, 202 days past the deadline.

8. The following violations remain outstanding at the time of this order:
 - a. Household income above limit upon initial occupancy violations described in FOF # 6.a.
 - b. Tenant Rights and Resources Guide lease violation described in FOF 6.b.

CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §§2306.041-.0503, and 10 TEX. ADMIN. CODE §2.
2. Respondent is a "housing sponsor" as that term is defined in Tex. Gov't Code §2306.004(14).
3. Pursuant to IRC §42(m)(1)(B)(iii), housing credit agencies are required to monitor for noncompliance with all provisions of the IRC and to notify the Internal Revenue Service of such noncompliance.
4. Respondent violated Section 4 of the LURA and 10 TEX. ADMIN. CODE §10.612 in 2015, by failing to provide documentation that household incomes were within prescribed limits upon initial occupancy for unit 223.
5. Respondent violated 10 TEX. ADMIN. CODE §10.613 in 2015, by failing to provide a Tenant Rights and Resources Guide to the household in unit 209.
6. Respondent violated 10 TEX. ADMIN. CODE §10.607 in 2015, by failing to provide the Annual Owner's Compliance Report for the year 2014.
7. Because Respondent is a housing sponsor with respect to the Property, and has violated TDHCA rules and agreements, the Board has personal and subject matter jurisdiction over Respondent pursuant to TEX. GOV'T CODE §2306.041 and §2306.267.
8. Because Respondent is a housing sponsor, TDHCA may order Respondent to perform or refrain from performing certain acts in order to comply with the law, TDHCA rules, or the terms of a contract or agreement to which Respondent and TDHCA are parties, pursuant to Tex. Gov't Code §2306.267.
9. Because Respondent has violated rules promulgated pursuant to Tex. Gov't Code Chapter 2306 and has violated agreements with the Agency to which Respondent is a party, the Agency may impose an administrative penalty pursuant to TEX. GOV'T CODE §2306.041.

10. An administrative penalty of \$2,500 is an appropriate penalty in accordance with 10 TEX. ADMIN. CODE §2.

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

IT IS HEREBY ORDERED that Respondent is assessed an administrative penalty in the amount of \$2,500.00, subject to partial deferral as further ordered below.

IT IS FURTHER ORDERED that Respondent shall fully correct the file monitoring violations as indicated in Attachment 1, and submit full documentation of the corrections to TDHCA on or before February 29, 2016.

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

IT IS FURTHER ORDERED that Respondent shall pay and is hereby directed to pay a \$1,500 portion of the assessed administrative penalty by cashier's check payable to the "Texas Department of Housing and Community Affairs" on or before February 29, 2016.

IT IS FURTHER ORDERED that if Respondent timely and fully complies with the terms and conditions of this Agreed Final Order, correcting all violations as required in Attachment 1, satisfactory performance under this order will be accepted in lieu of the remaining assessed administrative penalty and the remaining \$1,000 amount of the administrative penalty will be deferred and forgiven.

IT IS FURTHER ORDERED that if Respondent fails to satisfy any conditions or otherwise violates any provision of this order, then the remaining administrative penalty in the amount of \$1,000 shall be immediately due and payable to the Department. Such payment shall be made by cashier's check payable to the "Texas Department of Housing and Community Affairs" upon the earlier of (1) within thirty days of the date the Department sends written notice to Respondent that it has violated a provision of this Order, or (2) the property closing date if sold before the terms and conditions of this Agreed Final Order have been fully satisfied.

[Remainder of page intentionally blank]

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

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

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

[Remainder of page intentionally blank]

Attachment 1

2015 File Monitoring Instructions

1. Household income violation for Unit 223: A new household moved in on 12/2/2014 and their file was submitted to the Department on 3/17/2015. It shows that the household is not income eligible to occupy the unit because the household's weekly pay plus overtime pay exceeds the maximum allowable limit.

| Circumstance with respect to Unit 223 | Required Action |
|--|--|
| If circumstances have changed for the household that occupied the unit on 12/2/2014 and they now qualify for occupancy | Perform a recertification using current circumstances and submit the full tenant file* |
| If occupied by a new qualified household | Submit the full tenant file* |
| If occupied by a nonqualified household on a month-to-month lease | A. Follow your normal procedures for terminating residency and provide a copy of documentation to TDHCA. B. As soon as the unit is occupied by a qualified household, you must submit the full tenant file*. Receipt after 2/29/2016 is acceptable for this circumstance provided that Requirement A above is fulfilled. |
| If occupied by a nonqualified household with a non-expired lease | A. Issue a nonrenewal notice to tenant and provide a copy to TDHCA. B. As soon as the unit is occupied by a qualified household, you must submit the full tenant file*. Receipt after 2/29/2016 is acceptable for this circumstance provided that Requirement A above is fulfilled. |
| If unit has been vacant <i>more than</i> 30 days | A. Unit must be made ready for occupancy and a letter certifying to that effect must be submitted to TDHCA. B. As soon as the unit is occupied by a qualified household, you must submit the full tenant file*. Receipt after 2/29/2016 is acceptable for this circumstance provided that Requirement A above is fulfilled. |
| If unit has been vacant <i>less than</i> 30 days | A. If unit is ready for occupancy, a letter certifying to that effect must be submitted to TDHCA. B. If unit is not ready for occupancy, submit a letter to TDHCA including details regarding work that is required and when the unit will be ready for occupancy (no more than 30 days from the date of vacancy). C. As soon as the unit is occupied by a qualified household, you must submit the full tenant file*. Receipt after 2/29/2016 is acceptable for this circumstance provided that Requirements A and B above are fulfilled. |

**Full Tenant File must include: tenant application, verifications of all sources of income and assets, tenant income certification, lease, lease addendum, and tenant rights and resources guide acknowledgment. *Full tenant file must include: tenant application, verifications of all sources of income and assets, tenant income certification, lease, lease addendum and Fair Housing Choice Disclosure Notice. Guidelines regarding how to complete a full tenant file are included at Attachment 2.*

3. Tenant Rights and Resources Guide for unit 209. Perform the following:

- A. Post a laminated copy of the Tenant Rights and Resources Guide in the common area of the leasing office. Link to Guide:
<http://www.tdhca.state.tx.us/pmcdocs/FairHousingDisclosureBooklet.doc>.
- B. If the household that occupied unit 209 on 2/1/2014 still occupies the unit, provide a copy of the Tenant Rights and Resources Guide to the household and have them sign the Tenant Rights and Resources Guide Acknowledgment. A copy of the Acknowledgment form is available at <http://www.tdhca.state.tx.us/pmcdocs/FairHousingDisclosureSignaturePage.pdf>.
- C. If the household that occupied unit 209 on 2/1/2014 has moved out without signing the Tenant Rights and Resources Guide Acknowledgment, submit a letter to TDHCA listing the move-out date. If the household moved out without signing the acknowledgment, the finding will be uncorrectable.

[remainder of page intentionally blank]

Attachment 2

Tenant File Guidelines

The following technical support does not represent a complete list of all file requirements and is intended only as a guide. Forms discussed below are available at: <http://www.tdhca.state.tx.us/pmcomp/forms.htm>.

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

3. **Verify Assets:** Regardless of their balances, applicants must report all assets owned, including assets such as checking or savings accounts. The accounts are typically disclosed on the application form, but you must review all documentation from the tenant to ensure proper documentation of the household's income and assets. For instance, review the credit report (if you pull one), application, pay stubs, and other documents to ensure that all information is consistent. Examples of ways to find assets that are frequently overlooked: Review pay stubs for assets such as checking and retirement accounts that the household may have forgotten to include in the application. These accounts must also be verified. Format of verifications:
 - a. **Under \$5000 Asset Certification Form:** If the total cash value of the assets owned by members of the household is less than \$5,000, as reported on the Intake Application, the TDHCA Under \$5,000 Asset Certification form may be used to verify assets. If applicable, follow the instructions to complete one form per household that includes everyone's assets, even minors, and have all adults sign and date using the date that the form is actually completed.
 - b. **First hand verifications** such as bank statements to verify a checking account. Ensure that you use a consistent number of consecutive statements, as identified in your management plan.
 - c. **3rd party verifications** using the TDHCA Asset Verification form. As with the "Employment Verification Form" discussed above, Part 1 must be completed by you and signed by the tenant. Part 2 must be completed by the employer. To prevent fraud, you must submit the form directly to the employer and must not allow the tenant to handle it. You should ensure that the person completing the employer portion has authority to do so and has access to all applicable information in order to verify the employment income. If you receive the verification via mail, retain the envelope. If you receive it via fax, ensure that the fax stamp is on it.
4. **Tenant Income Certification Form:** Upon verification of all income and asset sources disclosed on the application and any additional information found in the documentation submitted by the tenant, the next step is to annualize the sources on the Income Certification Form, add them together, and compare to the applicable income limit for household size which can be found at <http://www.tdhca.state.tx.us/pmcomp/irl/index.htm>. Be sure to include any income derived from assets. The form must include (and be signed by) each adult household member.
5. **Lease:** Must conform with your LURA and TDHCA requirements and indicate a rent below the maximum rent limits, which can be found at <http://www.tdhca.state.tx.us/pmcomp/irl/index.htm>. When determining the rent, ensure that the tenant's rent, plus the utility allowance, plus any housing subsidies, plus any mandatory fees, are below the maximum limits set by TDHCA. 10 Tex. Admin. Code §10.613(a) prohibits the eviction or termination of tenancy of low income households for reasons other than good cause throughout the affordability period in accordance with Revenue Ruling 2004-82. In addition, 10 Tex. Admin. Code §10.613(e) prohibits HTC developments from locking out or threatening to lock out any development resident, or seizing or threatening to seize personal property of a resident, except by judicial process, for purposes of performing necessary repairs or construction work, or in case of emergency. The prohibitions must be included in the lease or lease addendum. The Texas Apartment Association has an affordable lease addendum that has incorporated this required language. If you are not a TAA member, you can draft a lease addendum using the requirements outlined above.

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

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

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

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

In the event that there is a prior finding for a Fair Housing Disclosure Notice or Tenant Amenities and Services Notice, correction will be achieved by providing the household with the Tenant Rights and Resources Guide and receiving a signed acknowledgment. A copy of the acknowledgment form is available at:

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

Attachment 3:

Texas Administrative Code

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

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

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

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

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

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

Texas Government Code §2306.6706.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1c

BOARD ACTION REQUEST

LEGAL DIVISION

JANUARY 28, 2016

Presentation, Discussion, and Possible Action regarding the adoption of an Agreed Final Order concerning Whispering Woods Apartments (HTC 93063/ CMTS 1137)

RECOMMENDED ACTION

WHEREAS, Whispering Woods Apartments (HTC 93063/ CMTS 1137), owned by 5620 TX Lincoln Arlington, LLC (“Owner”), has uncorrected compliance findings relating to the applicable land use restriction agreement and the associated statutory and rule requirements;

WHEREAS, on December 15, 2015, Owner’s representatives participated in an informal conference with the Enforcement Committee and agreed, subject to Board approval, to enter into an Agreed Final Order assessing an administrative penalty of \$1,000, with a \$500 portion to be forgiven if all violations are resolved as specified in the Agreed Final Order on or before February 29, 2016;

WHEREAS, unresolved compliance findings include: three Fair Housing Disclosure Notice violations that cannot be corrected; five Notice of Amenities and Services violations; a property-wide violation for failure to post the Tenant Rights and Resources Guide in the leasing office; 37 Annual Eligibility Certification violations; and three Household Income violations; and

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

NOW, therefore, it is hereby

RESOLVED, that an Agreed Final Order assessing an administrative penalty of \$1,000, subject to partial forgiveness as outlined above for noncompliance at Whispering Woods Apartments (HTC 93063/ CMTS 1137), substantially in the form presented at this meeting, and authorizing any non-substantive technical corrections, is hereby adopted as the order of this Board.

BACKGROUND

5620 TX Lincoln Arlington, LLC ("Owner") is the owner of Whispering Woods Apartments ("Property"), a low income apartment complex comprised of 224 units, located in Arlington, Tarrant County. Records of the Texas Secretary of State list Michael Preet Nijjar as the manager of 5620 TX Lincoln Arlington, LLC. The property is managed by Nijjar Realty, Inc. d/b/a PAMA Management.

The Property is subject to a Land Use Restriction Agreement ("LURA") signed by a prior owner in 1995 in consideration for a housing tax credit allocation in the amount of \$171,682 to rehabilitate and operate the Property.

Owner previously participated in an informal conference with the Enforcement Committee in 2013, shortly after purchasing the property. At the time, the property was severely distressed; subject to condemnation proceedings by the City of Arlington and a pending foreclosure by the mortgage lender. The violations were resolved informally with the Committee and no administrative penalty was recommended. The property continues to undergo rehabilitation and is no longer subject to condemnation proceedings or foreclosure.

The following compliance violations identified during 2015 were referred for an administrative penalty and were resolved in November of 2015, after intervention by the Enforcement Committee:

1. Household income violation for unit 1126;
2. Annual Eligibility Certification violations for units 1004, 1005, 1006, 1007, 1013, 1017, 1025, 1026, 1030, 1035, 1037, 1046, 1047, 1048, 1052, 1060, 1065, 1067, 1075, 1090, 1092, 1099, 1100, 1104, 1110, 1112, 1113, 1119, 1125, 1129, 2002, 2004, 2014, 2017, 2029, 2032, 2036, 2037, 2039, 2041, 2043, 2044, 2046, 2048, 2059, 2089, 2092, 2093, 2102, 2103, 2105, 2109, 2123, 2124, 2125, 2131, 1036, 1041;

The following compliance violations identified during 2015 were referred for an administrative penalty and are unresolved:

1. Household income violations for units 1021, 1027, and 2004;
2. Annual Eligibility Certification violations for units 1014, 1019, 1020, 1023, 1024, 1033, 1044, 1045, 1055, 1059, 1086, 1087, 1091, 1093, 1094, 1109, 1114, 1115, 1124, 1131, 2003, 2007, 2009, 2011, 2031, 2033, 2042, 2093, 2095, 2096, 2098, 2113, 2115, 2116, 2127, 2129 and 2130;
3. Fair Housing Disclosure Notice violations for units 1005, 2004, and 2106;
4. Notice of Amenities and Services violations for units 1021, 1126, 2045, 1049, and 2106;
5. Tenant Rights and Resources Guide implementation violation;

Owner participated in an informal conference with the Enforcement Committee on December 15, 2015, and agreed to sign an Agreed Final Order with the following terms:

1. A \$1,000 administrative penalty, subject to partial forgiveness as indicated below;
2. Owner must correct the file monitoring violations as indicated in the Agreed Final Order, and submit full documentation of the corrections to TDHCA on or before February 29, 2016;

3. Owner must submit \$500 portion of the administrative penalty on or before February 29, 2016;

4. If Owner complies with all requirements and addresses all violations as required, the remaining administrative penalty in the amount of \$500 will be forgiven; and
5. If Owner violates any provision of the Agreed Final Order, the full administrative penalty will immediately come due and payable.

Consistent with direction from the Department's Enforcement Committee, a probated and, upon successful completion of probation, partially forgivable administrative penalty in the amount of \$1,000 is recommended. This will be a reportable item of consideration under previous participation for any new award to the principals of the owner.

ENFORCEMENT ACTION AGAINST
5620 TX LINCOLN ARLINGTON, LLC
WITH RESPECT TO WHISPERING
WOODS APARTMENTS
(HTC FILE # 93063 / CMTS # 1137)

§
§
§
§
§

BEFORE THE
TEXAS DEPARTMENT OF
HOUSING AND
COMMUNITY AFFAIRS

AGREED FINAL ORDER

General Remarks and official action taken:

On this 28th day of January, 2016, the Governing Board ("Board") of the Texas Department of Housing and Community Affairs ("TDHCA") considered the matter of whether enforcement action should be taken against **5620 TX LINCOLN ARLINGTON, LLC**, a Texas limited liability corporation ("Respondent").

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

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

WAIVER

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

FINDINGS OF FACT

Jurisdiction:

1. During 1995, Two Northridge, Ltd. ("Prior Owner") was awarded an allocation of Low Income Housing Tax Credits by the Board, in the amount of \$171,682 to rehabilitate and operate Whispering Woods Apartments ("Property") (HTC file No. 93063 / CMTS No. 1137 / LDDL No. 44).

2. Prior Owner signed a land use restriction agreement (“LURA”) regarding the Property. The LURA was effective January 18, 1995, and filed of record at Volume 11984, Page 554 of the Official Public Records of Real Property of Tarrant County, Texas (“Records”), as re-filed at Volume 12185, Page 1912. In accordance with Section 2 of the LURA, the LURA is a restrictive covenant/deed restriction encumbering the property and binding on all successors and assigns for the full term of the LURA.
3. Respondent took ownership of the Property and signed an agreement with TDHCA to assume the duties imposed by the LURA and to comply fully with the terms thereof (Agreement to Comply), effective April 22, 2015, and filed the same in the Records at Document Number D215088683, thereby binding Respondent to the terms of the LURA.
4. Respondent is a Texas limited liability corporation that is qualified to own, construct, acquire, rehabilitate, operate, manage, or maintain a housing development that is subject to the regulatory authority of TDHCA.

Compliance Violations¹:

5. An on-site monitoring review was conducted on March 25, 2015, to determine whether Respondent was in compliance with LURA requirements to lease units to low income households and maintain records demonstrating eligibility. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a July 13, 2015, corrective action deadline was set, however, the following violations were not corrected before the corrective action deadline:
 - a. Respondent failed to provide documentation that household incomes were within prescribed limits upon initial occupancy for units 1021, 1027, 1126, and 2004, a violation of 10 TEX. ADMIN. CODE §10.611 (Determination, Documentation and Certification of Annual Income) and Section 4 of the LURA, which require screening of tenants to ensure qualification for the program.

Acceptable corrective documentation for unit 1126 was submitted on November 18, 2015, 128 days after the deadline;
 - b. Respondent failed to provide an Annual Eligibility Certifications for units 1004, 1005, 1006, 1007, 1013, 1017, 1025, 1026, 1030, 1035, 1037, 1046, 1047, 1048, 1052, 1060, 1065, 1067, 1075, 1090, 1092, 1099, 1100, 1104, 1110, 1112, 1113, 1119, 1125, 1129, 2002, 2004, 2014, 2017, 2029, 2032, 2036, 2037, 2039, 2041, 2043, 2044, 2046, 2048, 2059, 2089, 2092, 2093, 2102, 2103, 2105, 2109, 2123, 2124, 2125, 2131, 1036, 1041, 1014, 1019, 1020, 1023, 1024, 1033, 1044, 1045, 1055, 1059, 1086, 1087, 1091, 1093, 1094, 1109, 1114, 1115, 1124, 1131, 2003, 2007, 2009, 2011, 2031, 2033, 2042, 2093, 2095, 2096, 2098, 2113, 2115, 2116, 2127, 2129 and 2130, a violation of 10 TEX. ADMIN. CODE §10.612 (Tenant File Requirements), which requires developments to annually collect an Annual Eligibility Certification form from each household.

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

Acceptable corrective documentation was submitted for the following units was submitted on November 17, 2015, 127 days after the corrective deadline: 1004, 1005, 1006, 1007, 1013, 1017, 1025, 1026, 1030, 1035, 1037, 1046, 1047, 1048, 1052, 1060, 1065, 1067, 1075, 1090, 1092, 1099, 1100, 1104, 1110, 1112, 1113, 1119, 1125, 1129, 2002, 2004, 2014, 2017, 2029, 2032, 2036, 2037, 2039, 2041, 2043, 2044, 2046, 2048, 2059, 2089, 2092, 2093, 2102, 2103, 2105, 2109, 2123, 2124, 2125, 2131, 1036, 1041. The following remain unresolved: 1014, 1019, 1020, 1023, 1024, 1033, 1044, 1045, 1055, 1059, 1086, 1087, 1091, 1093, 1094, 1109, 1114, 1115, 1124, 1131, 2003, 2007, 2009, 2011, 2031, 2033, 2042, 2093, 2095, 2096, 2098, 2113, 2115, 2116, 2127, 2129 and 2130.

- c. Respondent failed to provide the Fair Housing Disclosure Notice for units 1005, 2004, and 2106, a violation of 10 TEX. ADMIN. CODE §10.613 (Lease Requirements), which requires all developments to provide prospective households with a fair housing disclosure notice within a certain time period. This form has since been combined with the Notice of Amenities and Services into a replacement document called a “Tenant Rights and Resources Guide.”

These notice violations are uncorrectable because the affected households have moved out.

- d. Respondent failed to provide a Notice of Amenities and Services to units 1021, 1126, 2045, 1049, and 2106, a violation of 10 TEX. ADMIN. CODE §10.613 (Lease Requirements), which required owners to provide to each household, at the time of execution of an initial lease and whenever there was a subsequent change in amenities and services, a notice describing those amenities and services. This form has since been combined with the Fair Housing Disclosure Notice into a replacement document called a “Tenant Rights and Resources Guide.”
- e. Respondent failed to implement the Tenant Rights and Resources Guide properly because a copy was not posted in the office, a violation of 10 TEX. ADMIN. CODE §10.613 (Lease Requirements), which requires a laminated copy of the Guide to be posted in a common area of the leasing office.

A certification was submitted in November of 2015, indicating that the guide has now been posted as required, but a copy of the guide was not submitted and the violation remains unresolved.

- 6. The following violations remain outstanding at the time of this order:
 - a. Household income violations described in FOF #5.a;
 - b. Annual eligibility certification violations described in FOF #5.b;
 - c. Fair Housing Disclosure Notice violations described in FOF #5.c;
 - d. Notice of Amenities and Services violations described in FOF #5.d; and
 - e. Tenant Rights and Resources Guide violation described in FOF #5.e.

CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §§2306.041-.0503, 10 TEX. ADMIN. CODE §2;

2. Respondent is a "housing sponsor" as that term is defined in Tex. Gov't Code §2306.004(14);
3. Pursuant to IRC §42(m)(1)(B)(iii), housing credit agencies are required to monitor for noncompliance with all provisions of the IRC and to notify the Internal Revenue Service of such noncompliance;
4. Respondent violated representations made on page 1 of the LURA, Section 4 of the LURA and 10 TEX. ADMIN. CODE §10.611 in 2015 by failing to provide documentation that household incomes are within prescribed limits upon initial occupancy for 4 units;
5. Respondent violated 10 TEX. ADMIN. CODE §10.612 in 2015 by failing to collect Annual Eligibility Certifications for 95 units;
6. Respondent violated 10 TEX. ADMIN. CODE §10.613 in 2015, by failing to execute the Fair Housing Disclosure Notice during the appropriate time frame for 3 units;
7. Respondent violated 10 TEX. ADMIN. CODE §10.613 in 2015, by failing to execute the Notice of Amenities and Services notice during the appropriate time frame for 5 units;
8. Respondent violated 10 TEX. ADMIN. CODE §10.613 in 2015, by failing to post a copy of the Tenant Rights and Resources Guide in a common area of the leasing office.
9. Because Respondent is a housing sponsor with respect to the Property, and has violated TDHCA rules and agreements, the Board has personal and subject matter jurisdiction over Respondent pursuant to TEX. GOV'T CODE §2306.041 and §2306.267.
10. Because Respondent is a housing sponsor, TDHCA may order Respondent to perform or refrain from performing certain acts in order to comply with the law, TDHCA rules, or the terms of a contract or agreement to which Respondent and TDHCA are parties, pursuant to Tex. Gov't Code §2306.267.
11. Because Respondent has violated rules promulgated pursuant to Tex. Gov't Code Chapter 2306 and has violated agreements with the Agency to which Respondent is a party, the Agency may impose an administrative penalty pursuant to TEX. GOV'T CODE §2306.041.
12. An administrative penalty of \$1,000 is an appropriate penalty in accordance with 10 TEX. ADMIN. CODE §2.

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

IT IS HEREBY ORDERED that Respondent is assessed an administrative penalty in the amount of \$1,000, subject to partial deferral as further ordered below.

IT IS FURTHER ORDERED that Respondent shall pay and is hereby directed to pay a \$500 portion of the assessed administrative penalty by cashier's check payable to the "Texas Department of Housing and Community Affairs" on or before February 29, 2016.

IT IS FURTHER ORDERED that Respondent shall fully correct the file monitoring violations as indicated in Attachments 1 - 3 and submit full documentation of the corrections to TDHCA on or before February 29, 2016.

IT IS FURTHER ORDERED that Respondent shall follow the requirements of 10 Tex. Admin. Code 10.406, a copy of which is included at Attachment 5, and obtain approval from the Department prior to consummating a sale of the property, if contemplated.

IT IS FURTHER ORDERED that if Respondent timely and fully complies with the terms and conditions of this Agreed Final Order, correcting all violations as required, the satisfactory performance under this order will be accepted in lieu of the remaining assessed administrative penalty and the remaining \$500 of the administrative penalty will be deferred and forgiven.

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

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

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

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

[Remainder of page intentionally blank]

Attachment 1

File Monitoring Violation Resources and Instructions

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

http://texreg.sos.state.tx.us/public/readtacSext.ViewTAC?tac_view=5&ti=10&pt=1&ch=10&sch=F&rl=Y

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

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

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

Video/Audio Training: <http://www.tdhca.state.tx.us/pmcomp/presentations.htm>

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

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

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

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

4. **Fair Housing Disclosure Notice (units 1005, 2004, and 2106):** The notice has since been replaced by the Tenants Rights and Resource Guide as indicated at 10 TEX. ADMIN. CODE §10.613(k). The violations are uncorrectable, however, because the households that triggered the findings for units 1005, 2004, and 2106 have vacated the units without completing the required form.

Instruction: None. There is no corrective action available and the finding will remain outstanding.

5. **Notice of Amenities and Services (units 1021, 1126, 2045, 1049, and 2106):** The notice has since been replaced by the Tenants Rights and Resource Guide as indicated at 10 TEX. ADMIN. CODE §10.613(k).

Instruction: Implement Tenants Rights and Resource Guide as indicated at 10 TEX. ADMIN. CODE §10.613(k) and submit signed and dated Tenants Rights and Resource Guide Acknowledgments for the units listed above. If the tenant has moved out without signing this form, submit a letter to TDHCA including the move-out date and acknowledging that the finding cannot be resolved.

6. **Tenant Rights and Resources Guide – implementation:** Owner submitted a certification that a laminated copy of the Guide has been posted in a common area of the leasing office, however, a copy was not provided.

Instruction: Resubmit the certification along with a completed copy of the Tenant Rights and Resources Guide.

7. **Annual Eligibility Certification violations (units 1014, 1019, 1020, 1023, 1024, 1033, 1044, 1045, 1055, 1059, 1086, 1087, 1091, 1093, 1094, 1109, 1114, 1115, 1124, 1131, 2003, 2007, 2009, 2011, 2031, 2033, 2042, 2093, 2095, 2096, 2098, 2113, 2115, 2116, 2127, 2129 and 2130):**

| Circumstance with respect to units listed above | Instruction: |
|--|---|
| If unit is occupied by a qualified household | <p>Have the household complete one of the following forms: Income Certification or Annual Eligibility Certification, and submit a properly signed and dated copy.</p> <p>See Attachment 2 for details regarding why previous submissions were not accepted for each unit</p> |
| If unit is listed as “does not income qualify” in Attachment 2 | <p>A. Issue a nonrenewal notice to tenant and provide a copy to TDHCA.</p> <p>B. As soon as the unit is occupied by a qualified household, you must submit the full tenant file*. Receipt after 2/29/2015 is acceptable for this circumstance provided that Requirement A above is fulfilled.</p> |
| If unit is listed as “vacant” in Attachment 2 and has been vacant <i>more than 30 days</i> | <p>A. Unit must be made ready for occupancy and a letter certifying to that effect must be submitted to TDHCA.</p> <p>B. As soon as the unit is occupied by a qualified household, you must submit the full tenant file, including the tenant application, verifications of all sources of income and assets, tenant income certification, lease, lease addendum and Fair Housing Choice Disclosure Notice. Receipt after 2/29/2016 is acceptable for this circumstance provided that Requirement A above is fulfilled.</p> |
| If unit is listed as “vacant” in Attachment 2 and has been vacant <i>less than 30 days</i> | <p>A. If unit is ready for occupancy, a letter certifying to that effect must be submitted to TDHCA.</p> <p>B. If unit is not ready for occupancy, submit a letter to TDHCA including details regarding work that is required and when the unit will be ready for occupancy (no more than 30 days from the date of vacancy).</p> <p>C. As soon as the unit is occupied by a qualified household, you must submit the full tenant file, including the tenant application, verifications of all sources of income and assets, tenant income certification, lease, lease addendum and Fair Housing Choice Disclosure Notice. Receipt after 2/29/2016 is acceptable for this circumstance provided that Requirements A and B above are fulfilled.</p> |

8. Household income violations (units 1021, 1027, and 2004):

| Circumstance with respect to units listed above | Instruction |
|---|---|
| If unit is occupied by a qualified household | Follow the instructions that are outlined separately for each unit in Attachment 3. If the circumstances outlined in the instruction letter at Attachment 3 no longer exist, follow the instructions below. |
| If unit is occupied by a new qualified household | Submit the full tenant file*. |
| If unit is occupied by a nonqualified household on a month-to-month lease | <p>A. Follow your normal procedures for terminating residency and provide a copy of documentation to TDHCA.</p> <p>B. As soon as the unit is occupied by a qualified household, you must submit the full tenant file*. Receipt after 2/29/2015 is acceptable for this circumstance provided that Requirement A above is fulfilled.</p> |
| If unit is occupied by a nonqualified household with a non-expired lease | <p>A. Issue a nonrenewal notice to tenant and provide a copy to TDHCA.</p> <p>B. As soon as the unit is occupied by a qualified household, you must submit the full tenant file*. Receipt after 2/29/2015 is acceptable for this circumstance provided that Requirement A above is fulfilled.</p> |
| If unit has been vacant <i>more than</i> 30 days | <p>A. Unit must be made ready for occupancy and a letter certifying to that effect must be submitted to TDHCA.</p> <p>B. As soon as the unit is occupied by a qualified household, you must submit the full tenant file*. Receipt after 2/29/2015 is acceptable for this circumstance provided that Requirement A above is fulfilled.</p> |
| If unit has been vacant <i>less than</i> 30 days | <p>A. If unit is ready for occupancy, a letter certifying to that effect must be submitted to TDHCA.</p> <p>B. If unit is not ready for occupancy, submit a letter to TDHCA including details regarding work that is required and when the unit will be ready for occupancy (no more than 30 days from the date of vacancy).</p> <p>C. As soon as the unit is occupied by a qualified household, you must submit the full tenant file*. Receipt after 2/29/2015 is acceptable for this circumstance provided that Requirements A and B above are fulfilled.</p> |

**Full tenant file must include: tenant application, verifications of all sources of income and assets, tenant income certification, lease, lease addendum and Fair Housing Choice Disclosure Notice. Guidelines regarding how to complete a full tenant file are included at Attachment 4.*

Attachment 2:
Annual Eligibility Certification Comments by TDHCA

| Unit # | Noncompliance Date | Comment |
|--------|--------------------|---|
| 1014 | 02/01/2015 | Not Dated by Resident |
| 1019 | 11/01/2012 | Not Dated by Resident |
| 1020 | 08/01/2014 | Not Dated by Resident |
| 1023 | 11/01/2014 | Not Dated by Resident |
| 1024 | 03/08/2013 | AEC not submitted |
| 1033 | 12/01/2014 | Not Dated by Resident |
| 1044 | 03/01/2015 | Not Dated by Resident |
| 1045 | 09/21/2012 | Not Dated by Resident |
| 1055 | 06/01/2014 | Not Dated by Resident |
| 1059 | 10/06/2013 | AEC submitted dated 6/20/2012 |
| 1086 | 10/01/2014 | Vacant Unit - When new household moves in, send full tenant file* |
| 1087 | 11/15/2012 | AEC Not Submitted |
| 1091 | 09/01/2012 | Not Dated by Resident |
| 1093 | 06/11/2014 | Not Dated by Resident |
| 1094 | 05/01/2014 | Not Dated by Resident |
| 1109 | 09/01/2014 | Not Dated by Resident |
| 1114 | 09/01/2014 | Not Dated by Resident |
| 1115 | 07/01/2014 | Not Dated by Resident |
| 1124 | 11/01/2014 | New household moved on 7/1/ 2015 and does not income qualify (1 person and income is \$45,500) |
| 1131 | 06/10/2014 | Not Dated by Resident |
| 2003 | 05/15/2013 | Not Dated by Resident |
| 2007 | 07/01/2014 | Not Dated by Resident |
| 2009 | 02/07/2015 | Not Dated by Resident |
| 2011 | 05/01/2014 | Not Dated by Resident |
| 2031 | 10/01/2014 | Not Dated by Resident |
| 2033 | 03/01/2015 | Not Dated by Resident |
| 2042 | 03/07/2013 | Vacant Unit - When new household moves in, send full tenant file* |
| 2093 | 01/27/2015 | Not Dated by Resident |
| 2095 | 07/01/2012 | Not Dated by Resident |
| 2096 | 12/12/2012 | Not Dated by Resident |
| 2098 | 05/12/2014 | Not Dated by Resident |
| 2113 | 05/01/2014 | Not Dated by Resident |
| 2115 | 07/26/2014 | Not Dated by Resident |
| 2116 | 09/01/2014 | Not Dated by Resident |
| 2127 | 05/01/2014 | Not Dated by Resident |
| 2129 | 12/18/2014 | New household moved in on 7/11/2015 and does not income qualify (the property did not properly income qualify the resident / HH refused to sign Income Certification) |
| 2130 | 09/01/2013 | Not Dated by Resident |

**Full tenant file must include: tenant application, verifications of all sources of income and assets, tenant income certification, lease, lease addendum and Fair Housing Choice Disclosure Notice.*

Attachment 3:

Household income violation – instructions by unit

| | | |
|---------------------------|---|---|
| Unit # 2004 | Bldg. # 701 | BIN # TX9302324 |
| Finding | Household income above income limit upon initial occupancy / Program Unit not leased to Low-income household | |
| Noncompliance Date | 09/01/2013 | Current Status Uncorrected - Not Reportable to IRS |
| Reason | The total combined household's income (\$47,782.28) is over the income limit (\$41,620) at initial occupancy. The household was screened for income and the income was verified; however there was no Income Certification in the file. | |
| Corrective Action | Certify the household with current circumstances and submit to the Department the Income Certification, verifications of income and assets, tenant release and consent form, tenant rights and resources guide acknowledgement page, applications, lease (1st and last page) and affordable housing lease addendum. If the household does not income qualify, once the household vacates the unit, occupy the unit with a qualifying household and submit to the Department the Income Certification, verifications of income and assets, tenant release and consent form, tenant rights and resources guide acknowledgement page, applications, lease (1st and last page) and affordable housing lease addendum. | |
| Unit # 1021 | Bldg. # 707 | BIN # TX9302330 |
| Finding | Household income above income limit upon initial occupancy / Program Unit not leased to Low-income household | |
| Noncompliance Date | 10/01/2014 | Current Status Uncorrected - Not Reportable to IRS |
| Reason | The household was screened for income and the income was verified; however there was no Income Certification in the file. | |
| Corrective Action | Complete the Income Certification (pages 1-3) and have the resident sign and date the Income Certification. Submit a copy of the completed Income Certification. | |
| Unit # 1027 | Bldg. # 707 | BIN # TX9302330 |
| Finding | Household income above income limit upon initial occupancy / Program Unit not leased to Low-income household | |
| Noncompliance Date | 02/01/2015 | Current Status Uncorrected - Not Reportable to IRS |
| Reason | The total combined household's income (\$38,948.92) is over the income limit (\$33,240) at initial occupancy. | |
| Corrective Action | Certify the household with current circumstances and submit to the Department the Income Certification, verifications of income and assets, tenant release and consent form, tenant rights and resources guide acknowledgement page, applications, lease (1st and last page) and affordable housing lease addendum. If the household does not income qualify, once the | |
| UNIT FINDINGS | household vacates the unit, occupy the unit with a qualifying household and submit to the Department the Income Certification, verifications of income and assets, tenant release and consent form, tenant rights and resources guide acknowledgement page, applications, lease (1st and last page) and affordable housing lease addendum. | |

Attachment 4

Guidelines for Completing Full Tenant File

The following technical support does not represent a complete list of all file requirements and is intended only as a guide. TDHCA staff recommends that all onsite staff responsible for accepting and processing applications sign up for First Thursday Training in order to get a full overview of the process. Sign up at <http://www.tdhca.state.tx.us/pmcomp/COMPtrain.html>. Forms discussed below are available at: <http://www.tdhca.state.tx.us/pmcomp/forms.htm>.

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

3. **Verify Assets:** Regardless of their balances, applicants must report all assets owned, including assets such as checking or savings accounts. The accounts are typically disclosed on the application form, but you must review all documentation from the tenant to ensure proper documentation of the household's income and assets. For instance, review the credit report (if you pull one), application, pay stubs, and other documents to ensure that all information is consistent. Examples of ways to find assets that are frequently overlooked: Review pay stubs for assets such as checking and retirement accounts that the household may have forgotten to include in the application. These accounts must also be verified. Format of verifications:
 - a. **Under \$5000 Asset Certification Form:** If the total cash value of the assets owned by members of the household is less than \$5,000, as reported on the Intake Application, the TDHCA Under \$5,000 Asset Certification form may be used to verify assets. If applicable, follow the instructions to complete one form per household that includes everyone's assets, even minors, and have all adults sign and date using the date that the form is actually completed.
 - b. **First hand verifications** such as bank statements to verify a checking account. Ensure that you use a consistent number of consecutive statements, as identified in your management plan.
 - c. **3rd party verifications** using the TDHCA Asset Verification form. As with the "Employment Verification Form" discussed above, Part 1 must be completed by you and signed by the tenant. Part 2 must be completed by the employer. To prevent fraud, you must submit the form directly to the employer and must not allow the tenant to handle it. You should ensure that the person completing the employer portion has authority to do so and has access to all applicable information in order to verify the employment income. If you receive the verification via mail, retain the envelope. If you receive it via fax, ensure that the fax stamp is on it.
4. **Tenant Income Certification Form:** Upon verification of all income and asset sources disclosed on the application and any additional information found in the documentation submitted by the tenant, the next step is to annualize the sources on the Income Certification Form, add them together, and compare to the applicable income limit for household size which can be found at <http://www.tdhca.state.tx.us/pmcomp/irl/index.htm>. Be sure to include any income derived from assets. The form must include (and be signed by) each adult household member.
5. **Lease:** Must conform with your LURA and TDHCA requirements and indicate a rent below the maximum rent limits, which can be found at <http://www.tdhca.state.tx.us/pmcomp/irl/index.htm>. When determining the rent, ensure that the tenant's rent, plus the utility allowance, plus any housing subsidies, plus any mandatory fees, are below the maximum limits set by TDHCA. 10 Tex. Admin. Code §10.613(a) prohibits the eviction or termination of tenancy of low income households for reasons other than good cause throughout the affordability period in accordance with Revenue Ruling 2004-82. In addition, 10 Tex. Admin. Code §10.613(e) prohibits HTC developments from locking out or threatening to lock out any development resident, or seizing or threatening to seize personal property of a resident, except by judicial process, for purposes of performing necessary repairs or construction work, or in case of emergency. The prohibitions must be included in the lease or lease addendum. The Texas Apartment Association has an affordable lease addendum that has incorporated this required language. If you are not a TAA member, you can draft a lease addendum using the requirements outlined above.

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

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

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

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

In the event that there is a prior finding for a Fair Housing Disclosure Notice, Tenant Amenities and Services Notice, the Tenant Rights and Resources Guide was not provided timely, or the household does not certify to receipt of the Tenant Rights and Resources Guide, correction will be achieved by providing the household with the Tenant Rights and Resources Guide and receiving a signed acknowledgment. A copy of the acknowledgment form is available at: <http://www.tdhca.state.tx.us/pmcdocs/FairHousingDisclosureSignaturePage.pdf>.

Attachment 5:

Texas Administrative Code

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1d

BOARD ACTION REQUEST

LEGAL DIVISION

JANUARY 28, 2016

Presentation, Discussion, and Possible Action regarding the adoption of an Agreed Final Order concerning LULAC Village Park (HTC 04290 / CMTS 4094)

RECOMMENDED ACTION

WHEREAS, LULAC Village Park (HTC 04290 / CMTS 4094), owned by Texas LULAC Village Housing, L.P. (“Owner”), has uncorrected compliance findings relating to the applicable land use restriction agreement and the associated statutory and rule requirements;

WHEREAS, on December 15, 2015, Owner’s representatives participated in an informal conference with the Enforcement Committee and agreed, subject to Board approval, to enter into an Agreed Final Order assessing an administrative penalty of \$5,000, to be forgiven if all violations are addressed on or before April 27, 2016, as specified in the Agreed Final Order;

WHEREAS, unresolved compliance findings include: a supportive services violation for failure to provide an Individual Development Account (“IDA”) Program, and failure to provide evidence of material participation by a qualified nonprofit; and

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

NOW, therefore, it is hereby

RESOLVED, that an Agreed Final Order assessing an administrative penalty of \$5,000, subject to full or partial forgiveness as outlined above for noncompliance at LULAC Village Park (HTC 04290 / CMTS 4094), substantially in the form presented at this meeting, and authorizing any non-substantive technical corrections, is hereby adopted as the order of this Board.

BACKGROUND

Texas LULAC Village Housing, L.P. ("Owner") is the owner of LULAC Village Park ("Property"), a low income apartment complex comprised of 152 units, located in Corpus Christi, Nueces County. The general partner of the Owner is Texas Lulac Village Development, L.L.C., and is managed by the Apartments of the Village, a non-profit corporation, its managing member. The officers of the Apartments of the Village are Manuel L. Gonzales, President and Director, Raul Vasquez, Jr., Director and V.P., Antonio Tony Jimenez, Secretary and Treasurer, and Ramiro Gambi Gamboa, Director and Trustee. At the time of the informal conference the Property was managed by Capstone Real Estate Services.

The Property is subject to a Land Use Restriction Agreement ("LURA") signed in 2006 in consideration for a housing tax credit allocation in the annual amount of \$846,083 to rehabilitate and operate the Property.

The following compliance violations identified during 2013 were referred for an administrative penalty and remain unresolved:

1. Supportive services violation for failure to provide an Individual Development Account ("IDA") Program as required by the LURA. The list of required supportive services in Appendix A of the LURA includes more services than were actually required to receive points during the application phase and IDA is no longer available in the area. TDHCA's Asset Management Division recommended that Owner submit a material LURA amendment request to remove IDA from the list of required supportive services, which will resolve the finding if approved.
2. Failure to provide evidence of material participation by a qualified nonprofit. The nonprofit for this organization, The Apartments of the Village, has regained its tax exempt status but has not provided documentation regarding that reinstatement, nor have they submitted evidence that the organization holds the required ownership role or materially participates as required under the LURA.

Owner participated in an informal conference with the Enforcement Committee on December 15, 2015, and agreed to sign an Agreed Final Order with the following terms:

1. A \$5,000 administrative penalty, subject to full forgiveness as indicated below;
2. Owner must correct the violations as indicated in the Agreed Final Order ("Order"), and submit full documentation of the corrections to TDHCA on or before April 27, 2016;
3. If Owner complies with all requirements and addresses all violations as required by the Order, the full administrative penalty will be forgiven;
4. If Owner addresses the supportive services finding as indicated in Attachment 1 of the Order, a \$2,500 portion of the administrative penalty will be deferred and forgiven regardless of performance under the remainder of the Order. If however, the Owner fails to address the supportive services finding as required, that \$2,500 portion of the administrative penalty would immediately become due and payable;

There is a \$2,500 processing fee to submit a material LURA amendment request. Using the above forgiveness structure, it will cost Owner the same amount to comply with the Order by submitting a material LURA amendment request as it would cost to violate the terms of the Order, which incentivizes Owner to resolve the violation in a permanent manner, thus avoiding future administrative penalty referrals for the same problem; and

5. If Owner violates any other provision of the Agreed Final Order, the remaining \$2,500 portion of the administrative penalty would immediately come due and payable.

Consistent with direction from the Department's Enforcement Committee, a probated and, upon successful completion of probation, fully forgivable administrative penalty in the amount of \$5,000 is recommended. This will be a reportable item of consideration under previous participation for any new award to the principals of the owner.

ENFORCEMENT ACTION AGAINST
TEXAS LULAC VILLAGE HOUSING,
L.P. WITH RESPECT TO
LULAC VILLAGE PARK
(HTC FILE # 04290 / CMTS # 4094)

§
§
§
§
§

BEFORE THE
TEXAS DEPARTMENT OF
HOUSING AND
COMMUNITY AFFAIRS

AGREED FINAL ORDER

General Remarks and official action taken:

On this 28th day of January, 2016, the Governing Board ("Board") of the Texas Department of Housing and Community Affairs ("TDHCA") considered the matter of whether enforcement action should be taken against **TEXAS LULAC VILLAGE HOUSING, L.P.**, a Texas limited partnership ("Respondent").

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

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

WAIVER

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

FINDINGS OF FACT

Jurisdiction:

1. During 2006, Respondent was awarded an allocation of Low Income Housing Tax Credits by the Board, in an annual amount of \$846,083 to rehabilitate and operate LULAC Village Park ("Property") (HTC file No. 04290 / CMTS No. 4094 / LDLD No. 573).

2. Respondent signed a land use restriction agreement (“LURA”) regarding the Property. The LURA was effective September 30, 2006, and filed of record at Document Number 2006059973 of the Official Public Records of Real Property of Nueces County, Texas (“Records”).
3. Respondent is a Texas limited partnership that is qualified to own, construct, acquire, rehabilitate, operate, manage, or maintain a housing development that is subject to the regulatory authority of TDHCA.

Compliance Violations¹:

4. An on-site monitoring review was conducted on September 19, 2013, to determine whether Respondent was in compliance with LURA requirements to lease units to low income households and maintain records demonstrating eligibility. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a January 22, 2014, corrective action deadline was set, however, the following violations were not corrected before the corrective action deadline:
 - a. Respondent failed to provide evidence of provision of social services (also known as supportive services), a violation of 10 TEX. ADMIN. CODE §10.614 (Monitoring for Social Services), which outlines monitoring requirements for social services, and a violation of Appendix A of the LURA which requires the provision of a number of listed supportive services.

Owner has provided acceptable evidence that the majority of the supportive services listed at Appendix A are being provided, but was unable to provide evidence that the Individual Development Account (IDA) Program is being provided. The finding remains unresolved.
 - b. Respondent failed to provide evidence of material participation by a qualified nonprofit, a violation of 10 TEX. ADMIN. CODE §10.615 (Monitoring for Non-Profit Participation or HUB Participation) which outlines requirements for material participation, and a violation of Appendix A of the LURA which requires The Apartments of the Village to be a qualified nonprofit organization as defined by Section 42(h)(5)(C) of the Internal Revenue Code, to be managing General Partner of Respondent, and to materially participate in the operation and development of the Property, as defined by Section 469(h) of the Internal Revenue Code.

The Apartments of the Village has now been reinstated by the IRS as a tax exempt organization, but has not established that it holds the required ownership interest or that it materially participates. The finding remains unresolved.

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

5. The following violations remain outstanding at the time of this order:
 - a. Supportive services violation described in FOF #4.a; and
 - b. Nonprofit material participation violation described in FOF #4.b;
-

CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §§2306.041-.0503, 10 TEX. ADMIN. CODE § 1.14 and 10 TEX. ADMIN. CODE Chapter 60, both of which were replaced by 10 TEX. ADMIN. CODE §2 as of November 19, 2014.
2. Respondent is a "housing sponsor" as that term is defined in Tex. Gov't Code §2306.004(14).
3. Pursuant to IRC §42(m)(1)(B)(iii), housing credit agencies are required to monitor for noncompliance with all provisions of the IRC and to notify the Internal Revenue Service of such noncompliance.
4. Respondent violated 10 TEX. ADMIN. CODE §10.614 and Appendix A of the LURA in 2013, by failing to provide evidence that all required social services / supportive services were being provided;
5. Respondent violated 10 TEX. ADMIN. CODE §10.615 and Appendix A of the LURA in 2013, by failing to provide evidence of material participation by a qualified nonprofit;
6. Because Respondent is a housing sponsor with respect to the Property, and has violated TDHCA rules and agreements, the Board has personal and subject matter jurisdiction over Respondent pursuant to TEX. GOV'T CODE §2306.041 and §2306.267.
7. Because Respondent is a housing sponsor, TDHCA may order Respondent to perform or refrain from performing certain acts in order to comply with the law, TDHCA rules, or the terms of a contract or agreement to which Respondent and TDHCA are parties, pursuant to Tex. Gov't Code §2306.267.
8. Because Respondent has violated rules promulgated pursuant to Tex. Gov't Code Chapter 2306 and has violated agreements with the Agency to which Respondent is a party, the Agency may impose an administrative penalty pursuant to TEX. GOV'T CODE §2306.041.
9. An administrative penalty of \$5,000 is an appropriate penalty in accordance with 10 TAC §§60.307 and 60.308, which were in place at the time of the violation. It remains appropriate under the replacement rule at 10 TEX. ADMIN. CODE §2, which became effective on November 19, 2014.

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

IT IS HEREBY ORDERED that Respondent is assessed an administrative penalty in the amount of \$5,000, subject to deferral as further ordered below.

IT IS FURTHER ORDERED that Respondent shall fully correct the file monitoring violations as indicated in Attachment 1 and submit full documentation of the corrections to TDHCA on or before April 27, 2016.

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

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

IT IS FURTHER ORDERED that if Respondent addresses the social services / supportive services violation as indicated in Attachment 1, satisfactory performance of that corrective action under this order will be accepted in lieu of a \$2,500 portion of the assessed administrative penalty, and that \$2,500.00 portion will be deferred and forgiven regardless of performance under the remainder of this Agreed Final Order.

IT IS FURTHER ORDERED that if Respondent fails to address the social services / supportive services violation as indicated in Attachment 1, then a \$2,500 portion of the administrative penalty shall be immediately due and payable to the Department. Such payment shall be made by cashier's check payable to the "Texas Department of Housing and Community Affairs" within thirty days of the date the Department sends written notice to Respondent that it has violated a provision of this order pertaining to social services / supportive services.

IT IS FURTHER ORDERED that if Respondent fails to satisfy any other conditions or otherwise violates any other provision of this order, then the remaining \$2,500.00 portion of the administrative penalty shall be immediately due and payable to the Department. Such payment shall be made by cashier's check payable to the "Texas Department of Housing and Community Affairs" upon the earlier of (1) within thirty days of the date the Department sends written notice to Respondent that it has violated a provision of this Order, or (2) the property closing date if sold before the terms and conditions of this Agreed Final Order have been fully satisfied.

IT IS FURTHER ORDERED that, if a material LURA amendment request is submitted as indicated at Attachment 1, it shall be submitted by email to ysella.kaseman@tdhca.state.tx.us or by mail to the following address:

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

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

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

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

[Remainder of page intentionally blank]

Approved by the Governing Board of TDHCA on _____, 2016.

By: _____
Name: J. Paul Oxer
Title: Chair of the Board of TDHCA

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

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

Before me, the undersigned notary public, on this _____ day of _____, 2016, personally appeared J. Paul Oxer, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

(Seal)

Notary Public, State of Texas

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this _____ day of _____, 2016, personally appeared James "Beau" Eccles, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

(Seal)

Notary Public, State of Texas

STATE OF TEXAS

§
§
§

COUNTY OF _____

BEFORE ME, _____, a notary public in and for the State of _____, on this day personally appeared _____, known to me or proven to me through _____ to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that (he/she) executed the same for the purposes and consideration therein expressed, who being by me duly sworn, deposed as follows:

1. "My name is _____, I am of sound mind, capable of making this statement, and personally acquainted with the facts herein stated.
2. I hold the office of _____ for Respondent. I am the authorized representative of Respondent, owner of the Property, which is subject to a Land Use Restriction Agreement monitored by the TDHCA in the State of Texas, and I am duly authorized by Respondent to execute this document.
3. Respondent knowingly and voluntarily enters into this Agreed Final Order, and agrees with and consents to the issuance and service of the foregoing Agreed Order by the Board of the Texas Department of Housing and Community Affairs."

RESPONDENT:

TEXAS LULAC VILLAGE HOUSING, L.P.,
a Texas limited partnership

TEXAS LULAC VILLAGE DEVELOPMENT, L.L.C., a Texas
limited liability company, its general partner

THE APARTMENTS OF THE VILLAGE, a Texas
nonprofit corporation, its managing member

By: _____

Name: _____

Title: _____

Given under my hand and seal of office this _____ day of _____, 2016.

Signature of Notary Public

Printed Name of Notary Public

NOTARY PUBLIC IN AND FOR THE STATE OF _____

My Commission Expires: _____

Attachment 1

File Monitoring Violation Instructions

1. Refer to the following link for rule(s) at 10 TEX. ADMIN. CODE §10 referenced below:
[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=10&sch=F&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=10&sch=F&rl=Y)
2. Supportive Services. One of the following must be performed on or before 4/27/2016 in order to reduce the administrative penalty by \$2,500.00 as ordered above:
 - i. Provide the required services under the Individual Development Account Program and submit evidence that the services have been provided; – OR –
 - ii. Submit all necessary parts of a material LURA amendment request, including the \$2,500.00 processing fee, in order to request removal of the Individual Development Account Program requirement from the LURA. Material LURA Amendment Request instructions are available at page 17 of:
<http://www.tdhca.state.tx.us/asset-management/docs/PostCarryoverActivitiesManual.pdf>.
Any questions regarding the amendment process can be directed to Colton Sanders at 512.936.7839 or colton.sanders@tdhca.state.tx.us.
If you wish to include a request for the \$2,500 processing fee to be waived, you must pay the \$2,500 processing fee and submit a written request for a waiver that includes details supporting why forgiveness would be appropriate.
3. Material participation of The Apartments of the Village. Submit all of the following documentation:
 - i. Evidence of tax exempt status: Provide evidence of reinstatement by the IRS, along with copies of Forms 990 and associated IRS transcripts for all years from 2012 forward;
 - ii. Evidence of ownership interest: Provide evidence, such as corporate documentation, proving that Apartments of the Village controls the general partner for Respondent. Letters from Owner certifying to its ownership are not sufficient. Actual corporate formation and operational agreements must be submitted.
 - iii. Evidence of material participation: Provide letter from The Apartments of the Village outlining how the organization materially participates as required by the LURA (excerpt below) and 10 TEX. ADMIN. CODE §10.615. Also enclosed for reference at Attachment 2 is a copy of an excerpt from the 8823 Audit Guide, which outlines how TDHCA monitors for this requirement.

Material Participation by Qualified Nonprofit Organization

Throughout the Compliance Period, a "qualified nonprofit organization" within the meaning of Section 42(h)(5)(C) of the Code shall hold a controlling interest the Project as required by the Department Rules, shall materially participate (within the meaning of Section 469(h) of the Code) in the development and operation of the Project and shall otherwise meet the requirements of Section 42(h)(5) of the Code. At the time this Declaration is filed, the qualified nonprofit organization which shall own such interest and shall so materially participate in the development and operation of the Project is Apartments of the Village (Formerly Known as LULAC Village Park Trust) and is the [managing General Partner] or [Managing Member] of the Project Owner. The Project Owner shall notify the Department (i) of any change in the status or role of such organization with respect to the Project and (ii) if such organization is proposed to be replaced by a different qualified nonprofit organization.

Attachment 2

Chapter 22, Category 11q of the Guide for Completing Form 8823

(see attached)

Chapter 22
Category 11q
Other Noncompliance

Qualified Nonprofit Organization Failed to Materially Participate

Definition

IRC §42(h)(5) requires that each state set aside at least 10% of its state housing credit ceiling for allocations to projects in which qualified nonprofit organizations own an interest, and materially participate in the development and operation of the projects. "Qualified nonprofit organization" is defined as an IRC §501(c)(3) or 501(c)(4) organization exempt from tax under IRC §501(a) that is determined by the state agency as not being affiliated with or controlled by a for-profit organization, and one of the exempt purposes of the organization includes the fostering of low-income housing.

For purposes of this allocation, a nonprofit organization must have an ownership interest in the low-income housing project throughout the 15-year compliance period and materially participate in the *development* and *operation* of the project. Whether a nonprofit sponsor materially participates will depend on the application of IRC §469(h) to the facts and circumstances of a given project.

Under IRC §469(h)(1), the nonprofit must participate on a *regular, continuous, and substantial* basis in the development and operation of the project.¹ Although this standard is vague, the legislative history suggests the following guidelines in defining material participation in a business activity:

1. Material participation is most likely to be established in an activity that constitutes the principal business/activity of the taxpayer,
2. Involvement in the actual operations of the activity should occur. That is, the services provided must be integral to the operations of the activity. Simply consenting to someone else's decisions or periodic consultation with respect to general management decisions is not sufficient.
3. Participation must be maintained throughout the year. Periodic consultation is not sufficient.
4. Regular on-site presence at operations is indicative of material participation.
5. Providing services as an independent contractor is not sufficient.

Accordingly, a nonprofit entity will be considered to materially participate where it is regularly, continuously, and substantially involved in providing services integral to

¹ Treas. Reg. §1.469-5T provides rules for determining the material participation for individuals. IRC §469(h)(4) and Treas. Reg. §1.469-5T(g)(3) provide rules for determining the material participation of certain corporations. Because neither of these provisions applies to nonprofit organizations, they should be reviewed for illustrative purposes only. The general facts and circumstances test of IRC §469(h)(1) is the test applicable to nonprofit organizations.

the development and operations of a project.

Pursuant to IRC §42(h)(5)(D), the ownership and material participation test can be met by the organization if it owns stock in a qualified corporation that satisfies the ownership and material participation test. A qualified corporation must be a corporation that is 100 percent owned at all times during its existence by one or more qualified nonprofit organizations.

In Compliance

For purposes of reviewing projects for compliance with the requirements of IRC §42(h)(5) during the 15-year compliance period, the state agencies' responsibility is limited to consideration of whether the qualified nonprofit entity is *materially participating* in the *operation* of the project; i.e., both management decision making and the day-to-day operations. In order to materially participate, the qualified nonprofit must be engaged in the activities on a basis that is regular, continuous, and substantial.

Example 1: Qualified Nonprofit Organization Materially Participates

A for-profit organization and a qualified nonprofit organization are general partners for an LIHC project. The state agency sent the review notification letter to the nonprofit and the nonprofit's executive director was on site at the time of the review to answer questions and participate in the physical inspection. The nonprofit received the compliance report, corrected a noncompliance issue and reported back to the state agency.

The owner has demonstrated management involvement.

Example 2: Property Managed by Nonprofit Representatives

A qualified nonprofit organization owns an LIHC project. Not having the expertise to operate an LIHC property on a day-to-day basis, the nonprofit hires an affordable housing management company. The management company reports to, and is paid by, the qualified nonprofit organization.

The application of the material participation rules under IRC §469 should be flexible. In this case, the owner has demonstrated both management decision making and control of the day-to-day operations through their oversight of the management company.

Out of Compliance

A taxpayer is out of compliance if:

1. The qualified nonprofit organization does not materially participate (as determined under IRC §469(h)(1)), or

2. The qualified nonprofit organization does not materially participate in both the *development and operation* of the project; i.e., both management decisions and day-to-day activities.

A property is out of compliance for any taxable year where the entity does not participate on a basis that is regular, continuous and substantial within the meaning of IRC §469(h)(1) for that year. Noncompliance can be identified by interviewing the qualified nonprofit organization's management representatives and observation while at the property site.

Example 1: Qualified Nonprofit Does Not Participate in Management Decisions

A for-profit organization and qualified nonprofit organization are general partners for an LIHC project. The nonprofit organization fully participated in the development of the project, but has not participated in (directly or through a representative) any monthly management meetings in year 3 of the compliance period and does not otherwise participate on a regular, continuous, or substantial basis.

The property is out of compliance for year 3 of the compliance period.

Example 2: Management Company Employee Provides Volunteer Services

A for-profit organization and qualified nonprofit organization are general partners for an LIHC project. The third party management company operating the project reports to the for-profit general partner. The management company employs a property manager who signed an agreement to be a "volunteer" for the non-profit and provide services for the nonprofit organization.

The property is not in compliance because the property manager's agreement to be a volunteer is part of its employment responsibilities to the for-profit organization.

Should a state agency become aware of noncompliance with other requirements imposed under IRC §42(h)(5), Form 8823 should be filed noting the issue. Areas of noncompliance may include:

1. The qualified nonprofit organization loses its exempt status. As part of the preparation for a review of an LIHC property owned by a qualified nonprofit organization under IRC §42(h)(5), state agencies may confirm that the nonprofit is a qualified tax-exempt organization by using the IRS website (www.irs.gov). Enter "78" into the "Search IRS site for" feature; the response will be "Chances are you are looking for Publication 78, Search for Exempt Organizations"; clicking on the underline portion will provide an alphabetical listing of exempt organizations. The state agency should request documentation of tax-exempt status if the organization is not included on the list.
2. The qualified nonprofit organization does not have an ownership interest in the low-income housing project.

Back in Compliance

LIHC projects are considered back in compliance in a taxable year when a qualified nonprofit organization owns an interest in the project and satisfies the material participation test set forth in IRC §469(h)(1) for that taxable year.

Example 1: Qualifying Nonprofit Organization Begins Attending Management Meetings

A for-profit organization and a qualified nonprofit organization are general partners for an LIHC project. The nonprofit organization materially participated in the on-going operation of the project in years 2, 3, and 4. They did not materially participate in year 5. It was determined that in year 7 of the compliance period, the nonprofit organization materially participated.

The property is out of compliance as of December 31st of year 5 and back in compliance as of December 31st of year 7.

Reference

1. IRC §42(h)(5)
2. Senate Report. 99-313, 99th Cong. 2nd Session, 1986-3 C.B. (Vol. 3) 732

Attachment 3:

Texas Administrative Code

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

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

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

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

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

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

Texas Government Code §2306.6706.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1e

BOARD ACTION REQUEST

LEGAL DIVISION

JANUARY 28, 2016

Presentation, Discussion, and Possible Action regarding the adoption of an Agreed Final Order concerning Lovett Manor (HTC 02119/ CMTS 3252)

RECOMMENDED ACTION

WHEREAS, Lovett Manor, owned by Lovett Manor, Ltd., (“Owner”) has a history of uncorrected compliance findings relating to the applicable land use restriction agreement and the associated statutory and rule requirements;

WHEREAS, Owner’s representatives have agreed, subject to Board approval, to enter into an Agreed Final Order stipulating that violations occurred, and assessing no administrative penalty;

WHEREAS, all findings that had been referred for an administrative penalty were resolved informally after consideration by the Enforcement Committee;

WHEREAS, the findings were resolved after the deadline that had been set by the Committee; and

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

NOW, therefore, it is hereby

RESOLVED, that an Agreed Final Order, stipulating that violations occurred at Lovett Manor (HTC 02119/ CMTS 3252), substantially in the form presented at this meeting, and authorizing any non-substantive technical corrections, is hereby adopted as the order of this Board.

BACKGROUND

The Lovett Manor, Ltd. ("Owner") is the owner of Lovett Manor ("Property"), a low income apartment complex composed of 198 units, located in Houston Harris County. The Property is subject to a Land Use Restriction Agreement ("LURA") signed in 2004 in consideration for a housing tax credit allocation in the annual amount of \$1,085,628 to build and operate the Property. The Owner is managed by co-general partners, Lovett Manor Management, LLC and Lovett Manor Construction, LLC. The former is managed by Artisan/American Corp., Elizabeth H. Young, President. The latter is managed by Inland General Construction Co., Vernon R. Young Jr., Director. At the time of informal conference, Property was managed by Artisan Management Company.

The following compliance violations were identified during the 2014 file monitoring review, were referred for an administrative penalty, and were resolved after intervention by the Enforcement Committee:

1. Utility Allowance Violation.
2. Failure to meet additional state required rent and occupancy restrictions. Appendix A of the LURA requires 64 units to be occupied by tenants at or below 40% of area median income and 64 units to be occupied by tenants at or below 50% of area median income, with rents no higher than the allowable tax credit rents at each level. At the time of the monitoring review, the Department found that only 46 units were restricted at the 40% requirement and 62 units restricted at the 50% requirement.

Leading up to the originally scheduled informal conference date of November 17, 2015, there was significant correspondence between the Department and Owner regarding the appropriate rent refunds, and the Enforcement Committee Secretary opted to reschedule the informal conference to December 15, 2015, in order to provide adequate time for Department review since there was not adequate information for the Committee to make an informed recommendation at the originally scheduled conference date. Final acceptable corrective documentation was submitted on November 23, 2015.

Although the property has not been referred to the Committee previously and all correctable violations have been resolved, it is not appropriate to close the administrative penalty referral with a warning letter because the Committee deadline was not met. However, corrective documentation was received before the rescheduled informal conference to address all correctable violations, and Owner representatives have agreed to sign an Agreed Final Order stipulating that violations had occurred, and assessing an administrative penalty of \$0 for noncompliance at Lovett Manor.

Consistent with direction from the Department's Enforcement Committee, an Agreed Final Order stipulating that a violation occurred is recommended, with an administrative penalty in the amount of \$0. This will be a reportable item of consideration under previous participation for any new award to the principals of the owner.

ENFORCEMENT ACTION AGAINST
LOVETT MANOR, LTD. WITH
RESPECT TO LOVETT MANOR (HTC
FILE # 02119 / CMTS # 3252)

§
§
§
§
§

BEFORE THE
TEXAS DEPARTMENT OF
HOUSING AND
COMMUNITY AFFAIRS

AGREED FINAL ORDER

General Remarks and official action taken:

On this 28th day of January, 2015, the Governing Board (“Board”) of the Texas Department of Housing and Community Affairs (“TDHCA”) considered the matter of whether enforcement action should be taken against **LOVETT MANOR, LTD.**, a Texas limited partnership (“Respondent”).

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

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

WAIVER

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

FINDINGS OF FACT

Jurisdiction:

1. During 2004, Respondent was awarded an allocation of Low Income Housing Tax Credits by the Board, in an annual amount of \$1,085,628 to build and operate Lovett Manor (“Property”) (HTC file No. 02119 / CMTS No. 3252 / LDLD No. 571).
2. Respondent signed a land use restriction agreement (“LURA”) regarding the Property. The LURA was effective November 5, 2004, and filed of record at Volume 59785, Page

1832 of the Official Public Records of Real Property of Harris County, Texas (“Records”).

3. Respondent is a Texas limited partnership that is qualified to own, construct, acquire, rehabilitate, operate, manage, or maintain a housing development that is subject to the regulatory authority of TDHCA.

Compliance Violations¹:

4. An on-site monitoring review was conducted on May 19, 2014, to determine whether Respondent was in compliance with LURA requirements to lease units to low income households and maintain records demonstrating eligibility. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a December 30, 2014, corrective action deadline was set, however, the following violations were not corrected before the corrective action deadline:

- a. Respondent failed to properly calculate the utility allowance for the property, a violation of 10 TEX. ADMIN. CODE §10.614 (Utility Allowances), which requires all developments to establish a utility allowance.

The violation was resolved on November 23, 2015, 328 days past the deadline, after intervention by the Enforcement Committee.

- b. Respondent failed to meet additional state required rent and occupancy restrictions, a violation of Appendix A of the LURA, which requires 64 units to be occupied by tenants at or below 40% of area median income and 64 units to be occupied by tenants at or below 50% of area median income, with rents no higher than the allowable tax credit rents at each level. At the time of the monitoring review, the Department found that only 46 units were restricted at the 40% requirement and 62 units were restricted at the 50% requirement. This is also a violation of 10 TEX. ADMIN. CODE §10.615 (Managing Additional Income and Rent Restrictions for HTC, Exchange, and TCAP Developments), which provides specific details regarding how the above LURA requirements are monitored by the Department, and 10 TEX. ADMIN. CODE §10.622, which requires rent refunds of overcharged amounts.

The violation was resolved on November 23, 2015, 328 days past the deadline, after intervention by the Enforcement Committee.

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

CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §§2306.041-.0503, 10 TEX. ADMIN. CODE § 1.14 and 10 TEX. ADMIN. CODE Chapter 60, both of which were replaced by 10 TEX. ADMIN. CODE §2 as of November 19, 2014.
2. Respondent is a "housing sponsor" as that term is defined in Tex. Gov't Code §2306.004(14).
3. Pursuant to IRC §42(m)(1)(B)(iii), housing credit agencies are required to monitor for noncompliance with all provisions of the IRC and to notify the Internal Revenue Service of such noncompliance.
4. Respondent violated 10 TEX. ADMIN. CODE §10.614 in 2014 by failing to properly calculate the utility allowance;
5. Respondent violated Appendix A of the LURA, 10 TEX. ADMIN. CODE §10.615, and 10 TEX. ADMIN. CODE §10.622 in 2014 by failing to meet additional state required rent and occupancy restrictions after rents were overcharged and not timely refunded once the violations were discovered.
6. Because Respondent is a housing sponsor with respect to the Property, and has violated TDHCA rules and agreements, the Board has personal and subject matter jurisdiction over Respondent pursuant to TEX. GOV'T CODE §2306.041 and §2306.267.
7. Because Respondent is a housing sponsor, TDHCA may order Respondent to perform or refrain from performing certain acts in order to comply with the law, TDHCA rules, or the terms of a contract or agreement to which Respondent and TDHCA are parties, pursuant to Tex. Gov't Code §2306.267.
8. Because Respondent has violated rules promulgated pursuant to Tex. Gov't Code Chapter 2306 and has violated agreements with the Agency to which Respondent is a party, the Agency may impose an administrative penalty pursuant to TEX. GOV'T CODE §2306.041.
9. No administrative penalty is appropriate because the violations were corrected prior to the informal conference, but after referral to the enforcement committee, in accordance with 10 TAC §§60.307 and 60.308, which were in place at the time of the violation. It remains appropriate under the replacement rule at 10 TEX. ADMIN. CODE §2, which became effective on November 19, 2014.

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

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

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

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

[remainder of page intentionally blank]

Attachment 1:

Texas Administrative Code

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1f

BOARD ACTION REQUEST
ASSET MANAGEMENT DIVISION
JANUARY 28, 2016

Presentation, Discussion, and Possible Action regarding a material amendment to the HOME and Housing Tax Credit (“HTC”) Application for The Trails at Carmel Creek (HTC #13201, HOME #1002027)

RECOMMENDED ACTION

WHEREAS, in 2013 The Trails at Carmel Creek received an award of 9% Housing Tax Credits for the new construction of 61 multifamily units targeting seniors in the City of Hutto;

WHEREAS, the Development Owner is now requesting approval to change the unit mix from 48 one bedroom units and 13 two bedroom units, as committed at the time of application, to the as built unit mix of 47 one bedroom units and 14 two bedroom units due to a design error by the architect, which was carried into construction by the contractor;

WHEREAS, the change in the number of two bedroom units also necessitates an increase (to two) of the number of two bedroom units that are also HOME units and a one unit reduction (to seven) in the number of one bedroom units that are also HOME units;

WHEREAS, Board approval is required for any change that would materially alter a Development, including a modification of the number or units or bedroom mix of units, as directed in Texas Government Code §2306.6712 and 10 TAC §10.405(a)(4)(B) and the owner has complied with the amendment requirements therein;

WHEREAS, the requested changes do not negatively affect the Development, impact the viability of the transaction, impact scoring items in the tax credit application, or affect the amount of the tax credits awarded; and

WHEREAS, the Development Owner acknowledges that the Development will still meet the construction requirements in 10 TAC Chapter 1, Subchapter B;

NOW, therefore, it is hereby

RESOLVED, that the requested application amendment is granted and the Executive Director and his designees are each authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

BACKGROUND

The Trails at Carmel Creek was submitted and approved during the 2013 9% Housing Tax Credit cycle. The Application proposed new construction of 61 multifamily units in the City of Hutto.

On December 21, 2015, the owner, Hutto DMA Housing, L.P., (Diana McIver, Manager of DMA Trails at Carmel Creek, LLC, its General Partner), submitted a material amendment request for a change in the unit mix from 48 one bedroom units and 13 two bedroom units (a total of 61 units) to 47 one bedroom units and 14 two bedroom units (a total of 61 units). According to the Development Owner, while preparing the LURA, it was recognized that an additional two bedroom unit and one less one bedroom unit had been designed by the architect and subsequently built by the contractor. The Owner has stated that they are taking measures to prevent such errors from occurring in the future. At the time of application, the Net Rentable Area (“NRA”) was listed as 53,198 but with the additional two bedroom unit and slight increases in square footages of other planned units, the as built NRA is 54,015.

According to the Owner, there are no other material changes to the Development and the same total number of units and affordable unit mix will be offered. No cost items are expected to change or affect this transaction’s financial viability as a result of this error.

Staff has reviewed the original application and scoring documentation against this amendment request and has concluded that none of the changes would have resulted in selection or threshold criteria changes that would have affected the application score. In order to maintain the proportionality of HOME units with regard to the HOME funding for this development however, the mix for two bedroom HOME units should be two rather than the one unit identified in the application materials. Staff evaluated the economics of these changes and determined that it would have no material impact on the financial success of the Development.

Staff recommends approval of the amendment request.



December 3, 2015

VIA EMAIL: laura.debellas@tdhca.state.tx.us

Ms. Laura Debellas
Asset Manager
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701

Re: Request for Amendment for Trails at Carmel Creek (TDHCA# 13201)
300 Carl Stern Drive Hutto, TX 78634 Williamson County

Dear Ms. Debellas:

Please accept this letter as a formal amendment request for the above named housing tax credit development. When we were preparing the LURA request, we discovered that our architect had designed and our contractor subsequently built 47 one bedroom units, and 14 two bedroom units, as opposed to the 48 one bedroom units and 13 two bedroom units committed at application.

While we are taking measures to prevent this from happening in the future, we still must request that the Board accept our as-built unit mix of 47 one bedroom/one bath units, and 14 two bedroom/two bath units. In a sense, while we are not delivering exactly what was approved in the application, we are over-delivering in terms of square footage.

It should also be noted that we are still delivering the number of affordable units in the same unit mix as committed at application, and this change would not have impacted the scoring that lead to the award of housing tax credits for this project. We have provided an amendment fee in the amount of \$2,500 and we request that this amendment be approved.

If you have any questions or require additional information, please do not hesitate to contact me at (512) 328-3232 x 4514 or valentind@dmacompanies.com.

Sincerely,

Diana McIver & Associates Inc.

Valentin DeLeon
Development Coordinator

Enclosures

cc:



Preliminary Tabulation

Site Area: +/- 6.25 acres
 Density: 9.76 units / acre
 Parking Provided: 76 spaces
 34 tandem spaces
 Total Provided: 110 spaces

1 bedroom units: 48 units (79%)
 2 bedroom units: 13 units (21%)
 Total Units: 61 units

Total Net Rentable Area: 53,198 sf
 Total Circulation Area: 6,157 sf
 Total Community Amenity Area: 7,368 sf
 Mechanical & Support: 1,292 sf

Unit Types

COTTAGES

1 Bedroom/1 Bath Units:
 C-A1 855 sf 10 units
 C-A1b 848 sf 2 units
 C-A1c 855 sf 12 units
 Subtotal: 24 units
 2 Bedroom/2 Bath Units:
 C-B1 1,131 sf 10 units
 Subtotal: 10 units
 TOTAL Cottage Units: 34 units

MANOR HOUSE APARTMENTS

1 Bedroom/1 Bath Units:
 A1-A 738 sf 1 unit
 A1-B 713 sf 4 units
 A1-C 753 sf 2 units
 A1-D 738 sf 4 units
 A1-E 713 sf 4 units
 A1-F 778 sf 2 units
 A2-A 824 sf 4 units
 A2-B 824 sf 2 units
 A2-C 824 sf 1 unit
 Subtotal: 24 units
 2 Bedroom / 2 Bath Units:
 B1-A 1,026 sf 1 units
 B1-B 1,066 sf 2 units
 Subtotal: 3 units
 TOTAL Apartment Units: 27 units

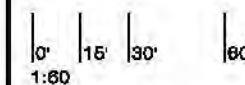
Notes:
 Site is entirely out of 100 or 500 year flood plain
 No easements shown



The Trails at Carmel Creek
 Hutto, Texas

Site Plan

22 February 2013



NelsenPartners

This document represents design progress and does not in all cases depict final locations of building elements and materials. Its provision, either electronic or hard copy, is to communicate design intent only.



First Floor Manor House:

- 1 br/1 bath: 8 Units
- 2 br/2 bath: 1 Unit

Total Units: 9 Unit

Total Community Amenity Area: 6,377 SF

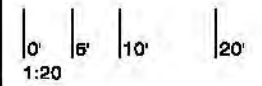
Total Floor Area: 16,990 SF



The Trails at Carmel Creek
Hutto, Texas

Manor House - First Floor
Building I

22 February 2013



NelsenPartners

This document represents design progress and does not in all cases depict final locations of building elements and materials. Its provision, either electronic or hard copy, is to communicate design intent only.



Second Floor Manor House:

- 1 br/1 bath: 16 Units
- 2 br/2 bath: 2 Units

Total Units: 18 Units

Total Community Amenity Area: 999 SF

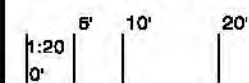
Total Floor Area: 18245 SF



The Trails at Carmel Creek
Hutto, Texas

Manor House - Second Floor
Building I

22 February 2013



NelsenPartners

This document represents design progress and does not in all cases depict final locations of building elements and materials. Its provision, either electronic or hard copy,

PROJECT DATA

| BUILDING FLOOR BREAKDOWN: | GROSS FLOOR AREA | ONE BED | TWO BED | ACCESSIBLE ONE BED | ACCESSIBLE TWO BED |
|---------------------------|------------------|---------|---------|--------------------|--------------------|
| MANOR HOUSE | | | | | |
| BLDG 1A - GROUND FLOOR | 16,439 | 4 | - | - | 1 |
| BLDG 1A - SECOND FLOOR | 15,150 | 11 | 2 | 1 | - |
| BLDG 1B - GROUND FLOOR | 3,680 | 4 | - | - | - |
| BLDG 1B - SECOND FLOOR | 3,680 | 4 | - | - | - |
| BUILDING 2 | 8,974 | 4 | 1 | - | 1 |
| BUILDING 3 | 8,867 | 4 | 2 | - | - |
| BUILDING 4 | 8,867 | 4 | 2 | - | - |
| BUILDING 5 | 7,867 | 3 | 2 | - | - |
| BUILDING 6 | 8,867 | 4 | 2 | - | - |
| BUILDING 7 | 7,283 | 3 | 1 | 1 | - |
| TOTAL | 87,674 | 45 | 12 | 2 | 2 |

CODE ANALYSIS

CODES

| | |
|-----------------|--|
| BUILDING CODE | 2009 INTERNATIONAL BUILDING CODE |
| FIRE CODE | 2009 INTERNATIONAL FIRE CODE WITH LOCAL AMENDMENTS |
| MECHANICAL CODE | 2009 INTERNATIONAL MECHANICAL CODE |
| PLUMBING CODE | 2009 INTERNATIONAL PLUMBING CODE |
| ELECTRICAL CODE | 2008 NATIONAL ELECTRICAL CODE |

ACCESSIBILITY STANDARDS

TEXAS ACCESSIBILITY STANDARDS - COMPLIANCE REQUIRED AT ALL PUBLIC AREAS
 FAIR HOUSING ACT DESIGN MANUAL
 UNIFORM FEDERAL ACCESSIBILITY STANDARDS

PROJECT DESCRIPTION

PROJECT IS AN AFFORDABLE SENIOR HOUSING PROJECT WITH COMMUNITY FUNCTIONS. THE PROJECT WILL PROVIDE 61 UNITS COMPRISED WITHIN A TWO-STORY MANOR HOUSE AND 5 & 6 PLEX BUILDINGS. THE RESIDENTIAL UNITS ARE DESIGNED TO BE RENTAL ONLY - THE DESIGN IS FOR A MULTI-FAMILY RENTAL AND DOES NOT ANTICIPATE CONVERSION TO CONDOMINIUMS. PROJECT INCLUDES SITE IMPROVEMENTS ON 6.25 ACRE SITE.

CONSTRUCTION TYPE / OCCUPANCY

PROJECT CONSISTS OF EIGHT BUILDINGS. BUILDINGS 1A & 1B ARE SEPARATED THROUGH THE USE OF A FIRE WALL. BUILDINGS 2 THRU 7 ARE STAND ALONE FIVE AND SIX PLEXES. THE BUILDINGS WILL BE CONSTRUCTION TYPE V-A AT BUILDINGS 1A & 1B AND CONSTRUCTION TYPE V-B AT BUILDINGS 2 THRU 7 AND ALL WILL BE FULLY SPRINKLERED. PER HUTO FIRE RESCUE AMENDMENTS, BUILDING 1A & 1B SHALL ALSO HAVE THE ATTIC SPRINKLERED PER SECTION 903.2. OCCUPANCIES INCLUDE B (BUILDING 1A GROUND FLOOR COMMON AREAS) & R-2 AT ALL OTHER RESIDENTIAL AREAS. TO MEET ALLOWABLE AREAS, FIRE WALLS DIVIDE BUILDINGS 1A & 1B INTO TWO FIRE AREAS. REFER TO CODE DIAGRAMS SHEET A101 AND A102 FOR ANALYSIS OF BUILDING ALLOWABLE AREAS, ALLOWABLE HEIGHTS, OCCUPANCY COUNTS AND EXITING.

FIRE WALLS (SECTION 706)

FIRE WALLS PROVIDE A COMPLETE SEPARATION AND ARE CONSTRUCTED SO THAT THEY ARE STRUCTURALLY SUPPORTED BY EITHER SIDE. TWO LAYERS OF GYPSUM LINER PANELS ARE SUPPORTED WITH ALUMINUM CLIPS TO INDEPENDENT STRUCTURE AT EACH SIDE OF THE WALL - UL ASSEMBLY U373.

NON-SEPARATED OCCUPANCIES (SECTION 508.3)

NO SEPARATION IS REQUIRED BETWEEN NON-SEPARATED SPACES WHEN THE ALLOWABLE BUILDING AREA AND HEIGHT OF A BUILDING OR PORTION OF A BUILDING IS BASED ON THE MOST RESTRICTIVE ALLOWANCES FOR THE OCCUPANCY GROUPS UNDER CONSIDERATION FOR THE TYPE OF CONSTRUCTION FOR THE BUILDING.

FIRE RATING REQUIREMENTS (TABLE 601)

| STRUCTURAL FRAME | CONSTRUCTION TYPE | |
|---------------------------------------|-------------------|-----|
| | V-A | V-B |
| BEARING WALLS (INTERIOR AND EXTERIOR) | 1 HOUR | 0 |
| FLOOR CONSTRUCTION | 1 HOUR | 0 |
| ROOF CONSTRUCTION | 1 HOUR | 0 |
| NONBEARING WALLS | 0 HOUR | 0 |

FIRE PARTITIONS (SECTION 709)

WALLS SEPARATING DWELLING UNITS IN THE SAME BUILDING SHALL BE SEPARATED WITH FIRE PARTITIONS WITH MIN. RATING OF 1-HOUR. FIRE PARTITIONS TO TERMINATE AT UNDER SIDE OF RATED ROOF/FLOOR ASSEMBLY.

OTHER FIRE RATING REQUIREMENTS

SHAFTS ARE ONE HOUR RATED PER SECTION 708

CORRIDORS RATINGS (TABLE 1018.1)
 R-2 = 0.5 HOUR RATED
 B = 0 RATING

EXIT ENCLOSURES ARE RATED MINIMUM ONE HOUR WHERE CONNECTING LESS THAN FOUR STORIES PER SEC. 1022.1.
 INSTALL FIREBLOCKING AND DRAFTSTOPPING PER 717.3 AND 717.4.
 FIREBLOCKING AND DRAFTSTOPPING SHALL BE INSTALLED IN COMBUSTIBLE CONCEALED LOCATIONS (717.1)

DRAFTSTOPPING SHALL BE INSTALLED IN ATTICS, MANSARDS, OVERHANGS OR OTHER CONCEALED ROOF SPACES.
 DRAFTSTOPPING SHALL SUBDIVIDE ATTIC SPACE INTO AREAS NOT EXCEEDING 3000 SF OR ABOVE EVERY TWO DWELLING UNITS, WHICHEVER IS SMALLER.
 DRAFTSTOPPING IS NOT REQUIRED IF THE AUTOMATIC SPRINKLER SYSTEM IS ALSO INSTALLED IN THE COMBUSTIBLE CONCEALED SPACES (717.4.2)

COLUMN FIRE RESISTANCE PROTECTION SHALL BE PROVIDED ON ALL SIDES FOR FULL COLUMN LENGTH INCLUDING CONNECTIONS TO OTHER STRUCTURAL MEMBERS (704.2)

SECONDARY STRUCTURAL MEMBERS THAT ARE REQUIRED TO HAVE FIRE RESISTANCE RATING MAY BE PROTECTED BY THE MEMBRANE OR CEILING OF A HORIZONTAL ASSEMBLY (704.4)

FIRE WALLS, FIRE BARRIERS, FIRE PARTITIONS AND SMOKE PARTITIONS REQUIRED TO HAVE PROTECTED OPENINGS SHALL BE PERMANENTLY IDENTIFIED WITH SIGNS LOCATED IN ACCESSIBLE CONCEALED FLOOR, FLOOR-CEILING OR ATTIC SPACES. SIGNS SHALL BE REPEATED AT INTERVALS NOT EXCEEDING 30 FEET MEASURED HORIZONTALLY.
 LETTERING SHALL BE NOT LESS THAN 1/2" IN HEIGHT. EXCEPTION: SIGNAGE IS NOT REQUIRED IN R-2 OCCUPANCIES WITH NON-REMOVABLE DECORATIVE CEILING. (703.6)

DOORS INSTALLED IN A FIRE WALL, SHAFT ENCLOSURE, AND REFUSE CHUTES AND ACCESS AND TERMINATION ROOMS SHALL BE AUTOMATIC-CLOSING BY THE ACTUATION OF SMOKE DETECTORS OR BY LOSS OF POWER TO THE SMOKE DETECTOR OR HOLD-OPEN DEVICE. (715.4.8.3)

ROOF ASSEMBLY SHALL BE MINIMUM CLASS B ASSEMBLY TESTED IN ACCORDANCE WITH ASTM E108 OR UL790

PORTABLE FIRE EXTINGUISHERS

MAXIMUM TRAVEL DISTANCE TO FIRE EXTINGUISHER 75'
 MAXIMUM FLOOR AREA PER UNIT OF "A" 3,000 SF
 FIRE EXTINGUISHERS ARE 3A-40B-C

BUILDING 1A - GROUND FLOOR
 16,439 / 9,000 = 2 FIRE EXTINGUISHERS MINIMUM
 BUILDING 1A - SECOND FLOOR
 15,150 / 9000 = 2 FIRE EXTINGUISHERS MINIMUM
 BUILDING 1B- GROUND FLOOR
 3,680 / 9000 = 1 FIRE EXTINGUISHER MINIMUM
 BUILDING 1B - SECOND FLOOR
 3,680 / 9000 = 1 FIRE EXTINGUISHER MINIMUM

REFER TO BUILDING PLANS FOR MANOR HOUSE FIRE EXTINGUISHER PLACEMENT.

ALL GARDEN AND COTTAGE APARTMENT UNITS TO HAVE 2-1/2 POUND DRY CHEMICAL EXTINGUISHER AND ALL GARAGES TO HAVE ONE 3A-40B-C EXTINGUISHER

PLUMBING FIXTURE TABULATIONS

PLUMBING FIXTURES REQUIRED FOR OFFICE
 122 OCCUPANTS = 61 MEN / 61 WOMEN

| MEN | WOMEN |
|-----------------|-------|
| 1 WC / 1 URINAL | 2 WC |
| 1 LAV | 2 LAV |

EXIT REQUIREMENTS

PER TABLE 1005.1, EXIT WIDTH SHALL BE 0.3 INCHES PER OCCUPANT AT STAIRWAYS AND 0.2 INCHES PER OCCUPANT AT OTHER EGRESS COMPONENTS. PER SECTION 1009.1, EXCEPTION 1, STAIRWAYS SERVING AN OCCUPANT LOAD OF LESS THAN 50 SHALL HAVE A WIDTH OF NOT LESS THAN 36 INCHES.

REFER TO DIAGRAMS AT SHEET A101 AND A102 FOR OCCUPANCY COUNTS AND PROVIDED EXIT CAPACITIES.

THE LENGTH OF COMMON PATH OF EGRESS TRAVEL SHALL NOT BE MORE THAN 125 FEET IN AN R-2 OCCUPANCY IF PROVIDED WITH AN APPROVED AUTOMATIC SPRINKLER SYSTEM. EXIT ACCESS TRAVEL DISTANCE IS 250 FEET IN BUILDINGS PROVIDED WITH AN AUTOMATIC SPRINKLER SYSTEM.

FLOOR IDENTIFICATION SIGNAGE SHALL BE PLACED AT 5'-0" ABOVE THE LANDING OF EACH LEVEL WITHIN THE STAIR ENCLOSURES CONTAINING THE FOLLOWING INFORMATION:

- FLOOR LEVEL
- TERMINUS OF TOP AND BOTTOM
- IDENTIFICATION OF STAIR
- LEVEL OF DISCHARGE
- DIRECTION TO DISCHARGE LEVEL

FLOOR LEVEL IDENTIFICATION SIGNAGE IN TACTILE CHARACTERS SHALL BE LOCATED AT EACH FLOOR LEVEL LANDING ADJACENT TO THE DOOR(S) LEADING INTO THE CORRIDOR (1022.8)

PER IBC SECTION 1022.1, WHERE TWO OR MORE EXITS ARE REQUIRED, NOT MORE THAN 1/2 OF THE TOTAL NUMBER OF EXITS SHALL BE HORIZONTAL EXITS. FIRE DOORS IN HORIZONTAL EXITS SHALL BE SELF-CLOSING OR AUTOMATIC CLOSING WHEN ACTIVATED BY A SMOKE DETECTOR (1023.3)

EMERGENCY ESCAPE AND RESCUE OPENINGS ARE NOT REQUIRED IN BUILDINGS EQUIPPED THROUGHOUT WITH AN APPROVED AUTOMATIC SPRINKLER SYSTEM (1023.1)

SOUND TRANSMISSION

PARTITIONS AND FLOOR/CEILING ASSEMBLIES BETWEEN ADJACENT DWELLING UNITS OR SERVICE AREAS - STC NOT LESS THAN 50. IIC NOT LESS THAN 50. PENETRATIONS SHALL BE SEALED OR INSULATED TO MAINTAIN THE REQUIRED RATINGS. REFER TO SHEET A701.

UNIT MATRIX:

Unit Types

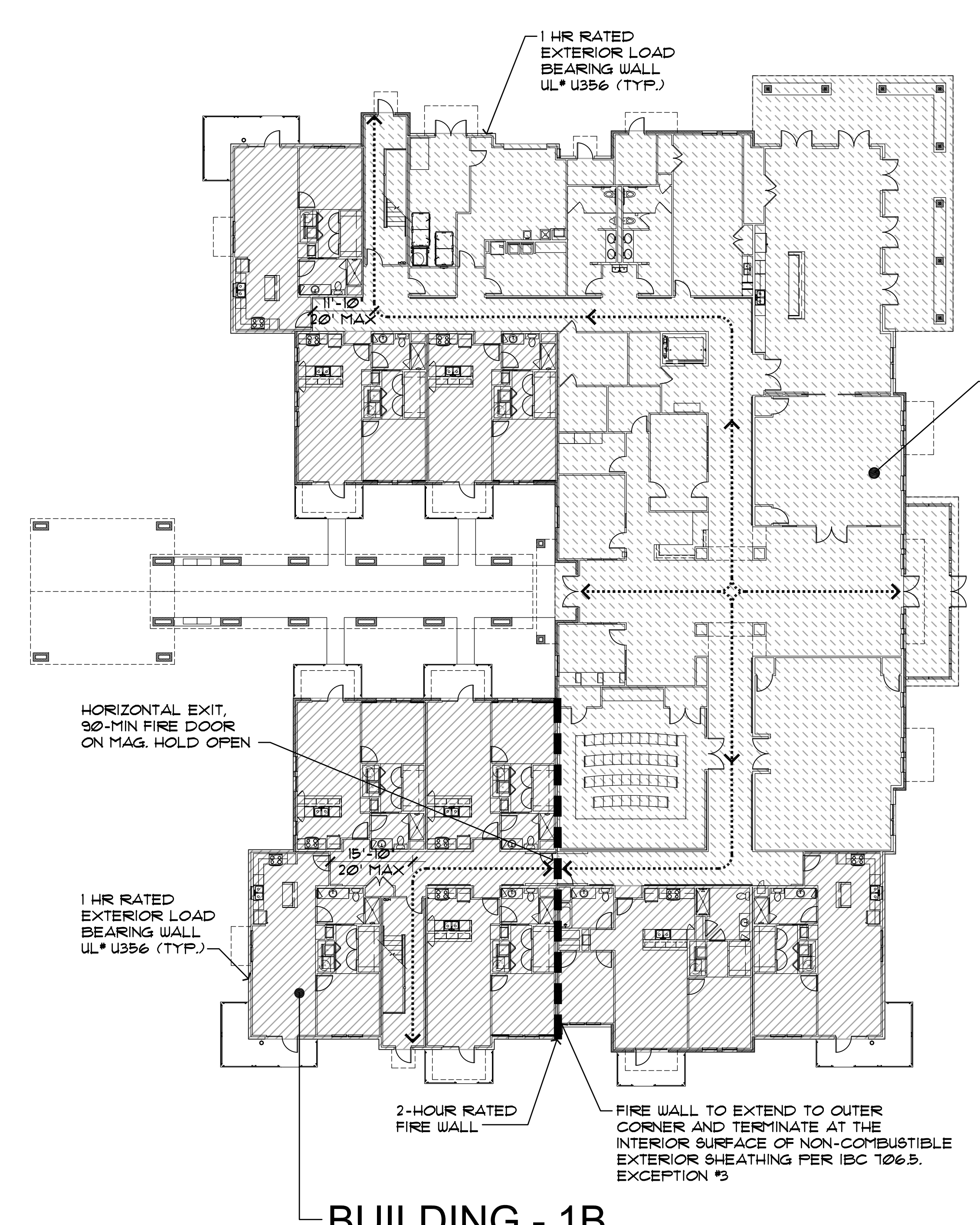
| | | | |
|------------------------------------|------------------|--------------------------------|------------------|
| COTTAGES (buildings 2, 3, 4, 6, 7) | | MANOR HOUSE (buildings 1A, 1B) | |
| 1 Bedroom/1 Bath Units: | | 1 Bedroom/1 Bath Units: | |
| C-A1 | 855 sf 9 units | A1-A | 738 sf 1 unit |
| C-A1-HC | 923 sf 1 unit | A1-B | 713 sf 2 units |
| C-A1c | 855 sf 10 units | A1-C | 753 sf 1 units |
| Subtotal: | 20 units | A1-C-HC | 753 sf 1 units |
| 2 Bedroom/2 Bath Units: | | A1-D | 738 sf 2 units |
| C-B1 | 1,131 sf 4 units | A1-E | 713 sf 2 units |
| C-B1-HC | 1,208 sf 1 unit | A1-F | 803 sf 2 units |
| C-B1a | 1,131 sf 4 units | A1-G | 817 sf 1 units |
| Subtotal: | 9 units | A1-H | 713 sf 2 units |
| TOTAL Cottage Units: | 29 units | A1-J | 713 sf 2 units |
| GARDENS (building 5) | | A1-K | 738 sf 1 unit |
| 1 Bedroom/1 Bath Units: | | A2-A | 824 sf 3 units |
| G-1a | 893 sf 1 unit | A2-B | 824 sf 3 units |
| G-1b | 859 sf 1 unit | A2-C | 824 sf 1 unit |
| G-1c | 859 sf 1 unit | Subtotal: | 24 units |
| Subtotal: | 3 units | 2 Bedroom / 2 Bath Units: | |
| 2 Bedroom/2 Bath Units: | | B1-A | 1,155 sf 2 unit |
| G-2 | 1,101 sf 1 unit | B1-A-HC | 1,115 sf 1 units |
| G-2a | 1,101 sf 1 unit | Subtotal: | 3 units |
| Subtotal: | 2 units | TOTAL Manor House Units: | 27 units |
| TOTAL Garden Units: | 5 units | | |

Hutto Fire Rescue
 Plan Review Type Building
 X Reviewed
 Reviewed w/Comments
 Resubmittal Required
PLANS AND COMMENTS TO REMAIN ON SITE
 Reviewed By: [Signature] Date: 9-12-14

Plans Revised for fire compartmentation - later rework - ok
 SEP 12 2014
 David Chuliak
 Original comment = still apply

REVISION

RECEIVED
 SEP 03 2014
 Building Permits
 & Inspections



BUILDING - 1A

| | |
|---------------------|------------------|
| OCCUPANCY: | B |
| GROSS AREA (FLOOR): | 12,108 SF |
| OCCUPANT COUNT: | 12,108/100 = 122 |
| EXIT ACCESS TRAVEL: | 300' |
| CONSTRUCTION TYPE: | V-A |
| TABULAR AREA: | 10,000 |
| TABULAR HEIGHT: | 50' / 3 STORIES |

| | |
|---------------------|-----------------|
| OCCUPANCY: | R-2 |
| GROSS AREA (FLOOR): | 4,331 SF |
| OCCUPANT COUNT: | 4,331/200 = 22 |
| REQUIRED * EXITS: | 2 |
| EXITS PROVIDED: | 4 |
| CONSTRUCTION TYPE: | V-A |
| TABULAR AREA: | 12,000 |
| TABULAR HEIGHT: | 50' / 3 STORIES |

BUILDING 1A - GROUND FLOOR
 MIXED-USE FIRE AREA
 CONSTRUCTION TYPE V-A
 NFPA 13R AT RESIDENTIAL, NFPA 13 AT BUSINESS OCCUPANCY

| | | |
|---------------------------|-----------|---------------------------------------|
| OCCUPANCY: | B | FRONTAGE AREA INCREASE: 506.2 |
| GROSS AREA (FLOOR): | 12,108 SF | F=546 |
| TABULAR AREA (TABLE 503): | 10,000 SF | P=636 100 [546 - 25] 30 = 535 |
| | | W=30 |
| OCCUPANCY: | R-2 | ALLOWED AREA: (TABLE 503) |
| GROSS AREA (FLOOR): | 4,331 SF | B 10,000 + 1,535 = 21,621 per floor |
| TABULAR AREA (TABLE 503): | 12,000 SF | R-2 12,000 + 1,535 = 18,414 per floor |
| | | B 12,108 / 21,621 = 0.438 |
| | | R-2 4,331 / 18,414 = 0.235 |
| | | 0.673 < 1.0 |
| | | COMPLIES |

TOTAL ACTUAL AREA (FLOOR): 16,439 SF
 16,439 < 18,414
 ACTUAL AREA < R-2 ALLOWED AREA

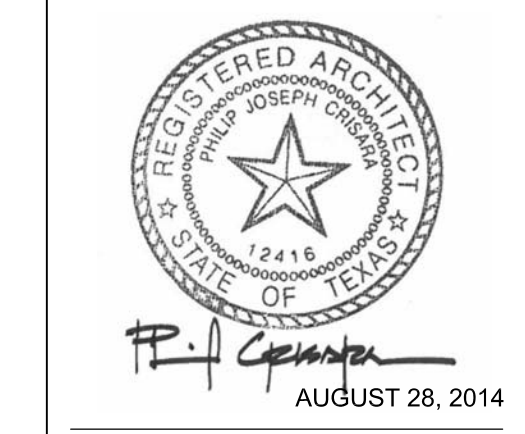
MOST RESTRICTIVE OCCUPANCY: R-2
 R-2 ALLOWED AREA (FLOOR): 18,414 SF
 COMPLIES WITH NON-SEPARATED OCCUPANCIES (SECTION 508.3 OF 2009 IBC)

BUILDING - 1B

| | |
|---|---------------------------------------|
| OCCUPANCY: | R-2 |
| GROSS AREA (FLOOR): | 3,680 SF |
| OCCUPANT COUNT: | 3,680/200 = 19 |
| REQUIRED * EXITS: | 2 |
| EXITS PROVIDED: | 2 |
| CONSTRUCTION TYPE: | V-A |
| TABULAR AREA: | 12,000 |
| BUILDING 1B - FRONTAGE AREA INCREASE: 506.2 | |
| F=137.5' | |
| P=254' 100 [137.5 - 25] 30 = 292 | |
| W=30' | |
| ALLOWED AREA: | R-2 12,000 + 1,292 = 15,503 per floor |

FIRE NOTES:
 1. PER HUTO FIRE RESCUE AMENDMENTS, BUILDING 1A AND 1B SHALL HAVE THE ATTIC SPRINKLERED AS PER SECTION 903.2
 2. SPRINKLER HEADS WILL NOT BE ALLOWED TO BE LOCATED ABOVE SHELVING IN CLOSETS.
 3. KNOX CAPS ARE REQUIRED FOR FDC AND STANDPIPE CONNECTIONS.
 4. KNOX BOX TO BE MOUNTED AT AN ENTRANCE DOOR CLOSEST TO THE FIRE ALARM PANEL AND RISER ROOM.

Nelson Partners, Inc.
 Architecture Planning Interiors
 Austin - Scottsdale
 905 Congress Avenue
 Austin, Texas 78701
 tel 512.457.8400
 fax 512.457.8770
 www.nelsenpartners.com



The Trails at Carmel Creek
 Hutto, Texas

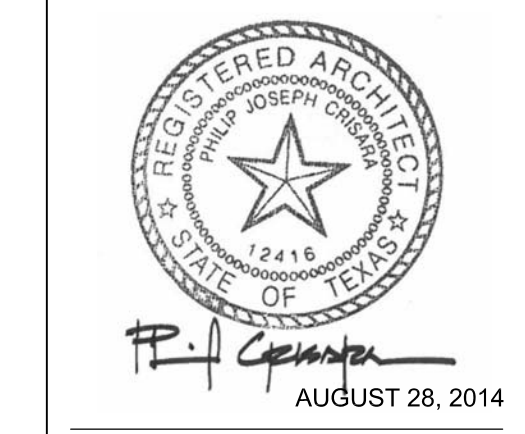
| Date | 2014-05-07 | Permit Issue |
|-----------|-----------------|--------------------|
| Revisions | | |
| △ | JULY 1, 2014 | CITY PLAN REVISION |
| △ | AUGUST 28, 2014 | CITY PLAN REVISION |

Drawings and written material appearing herein constitute original and unpublished work of the architect and may not be duplicated, used, or disclosed without written consent of the architect.

© 2014 NELSEN PARTNERS, INC.

Project No.
 31309

A101
 CODE DIAGRAMS

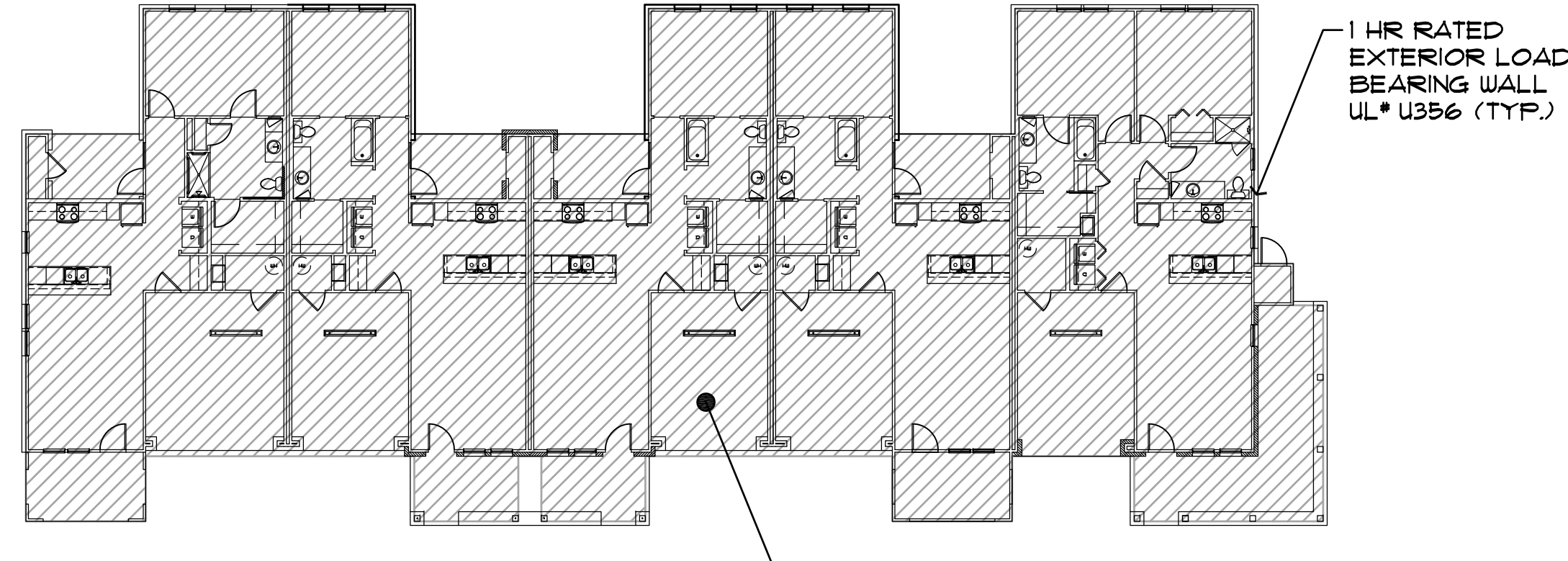


Hutto Fire Rescue
 Plan Review Type: Building
 Reviewed
 Reviewed w/Comments
 Resubmittal Required
PLANS AND COMMENTS TO REMAIN ON SITE
 Reviewed By: *[Signature]* Date: 9-12-14

Plans Revised per fire comments letter 8/20/14 - ok
 SEP 12 2014
 David Chulak
 Original comments still apply
 REVISION

BUILDING - 7
AREA CALCULATIONS

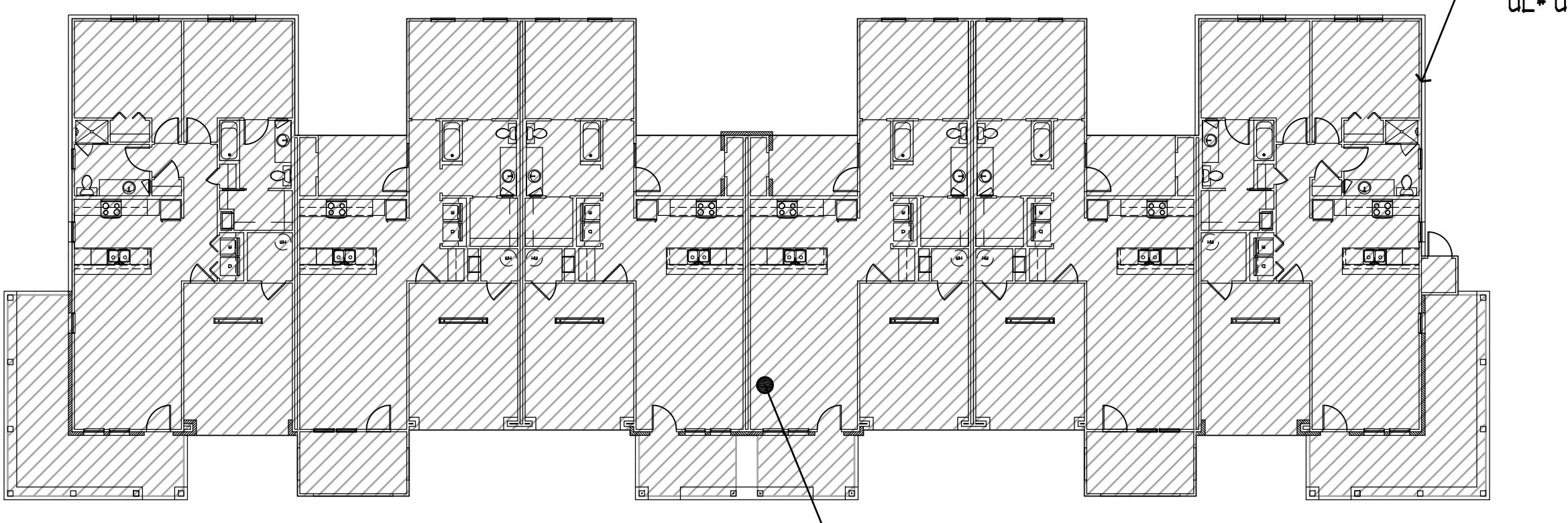
| | |
|--------------------------------------|----------|
| OCCUPANCY: | R-2 |
| GROSS AREA (FLOOR): | 7,283 SF |
| NFPA 13R AT ALL AREAS | |
| CONSTRUCTION TYPE: | V-B |
| TABULAR AREA: | 7,000 |
| FRONTAGE AREA INCREASE: 506.2 | |
| F=410' | |
| P=531.5' 100 [410 - 25] 25 = 60.4 | |
| W=29' | |
| ALLOWED AREA: | |
| R-2 7,000 * 1.604 = 11,228 per floor | |



BUILDING - 7

BUILDING - 2
AREA CALCULATIONS

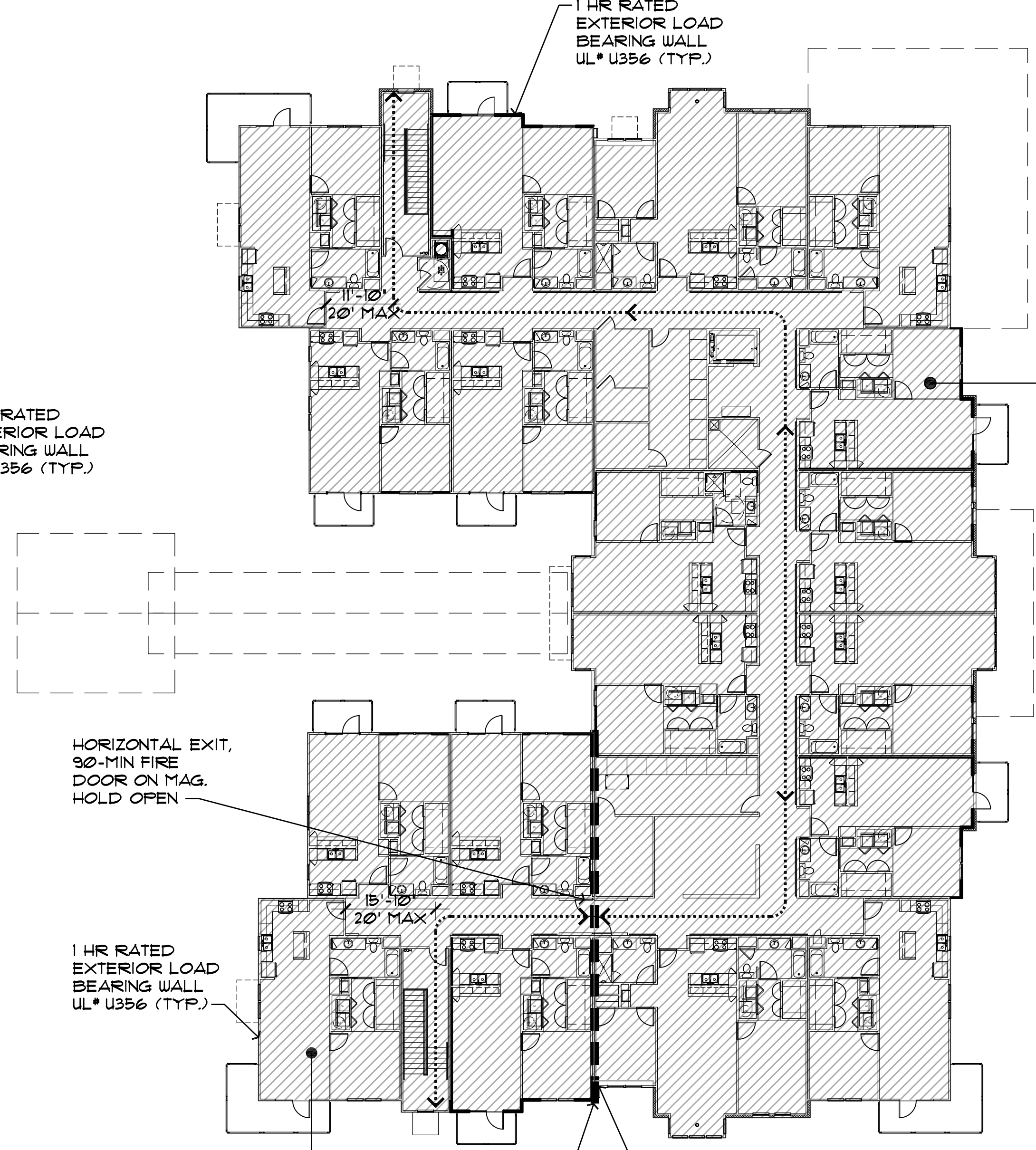
| | |
|--------------------------------------|----------|
| OCCUPANCY: | R-2 |
| GROSS AREA (FLOOR): | 8,914 SF |
| NFPA 13R AT ALL AREAS | |
| CONSTRUCTION TYPE: | V-B |
| TABULAR AREA: | 7,000 |
| FRONTAGE AREA INCREASE: 506.2 | |
| F=583' | |
| P=656' 100 [583 - 25] 26 = 56.1 | |
| W=26' | |
| ALLOWED AREA: | |
| R-2 7,000 * 1.561 = 10,927 per floor | |



BUILDINGS - 3, 4 & 6 (BLDG - 2 SIMILAR)

BUILDINGS - 3, 4 & 6
AREA CALCULATIONS

| | |
|--------------------------------------|----------|
| OCCUPANCY: | R-2 |
| GROSS AREA (FLOOR): | 8,867 SF |
| NFPA 13R AT ALL AREAS | |
| CONSTRUCTION TYPE: | V-B |
| TABULAR AREA: | 7,000 |
| FRONTAGE AREA INCREASE: 506.2 | |
| F=584' | |
| P=651' 100 [584 - 25] 26 = 56.1 | |
| W=26' | |
| ALLOWED AREA: | |
| R-2 7,000 * 1.561 = 10,927 per floor | |



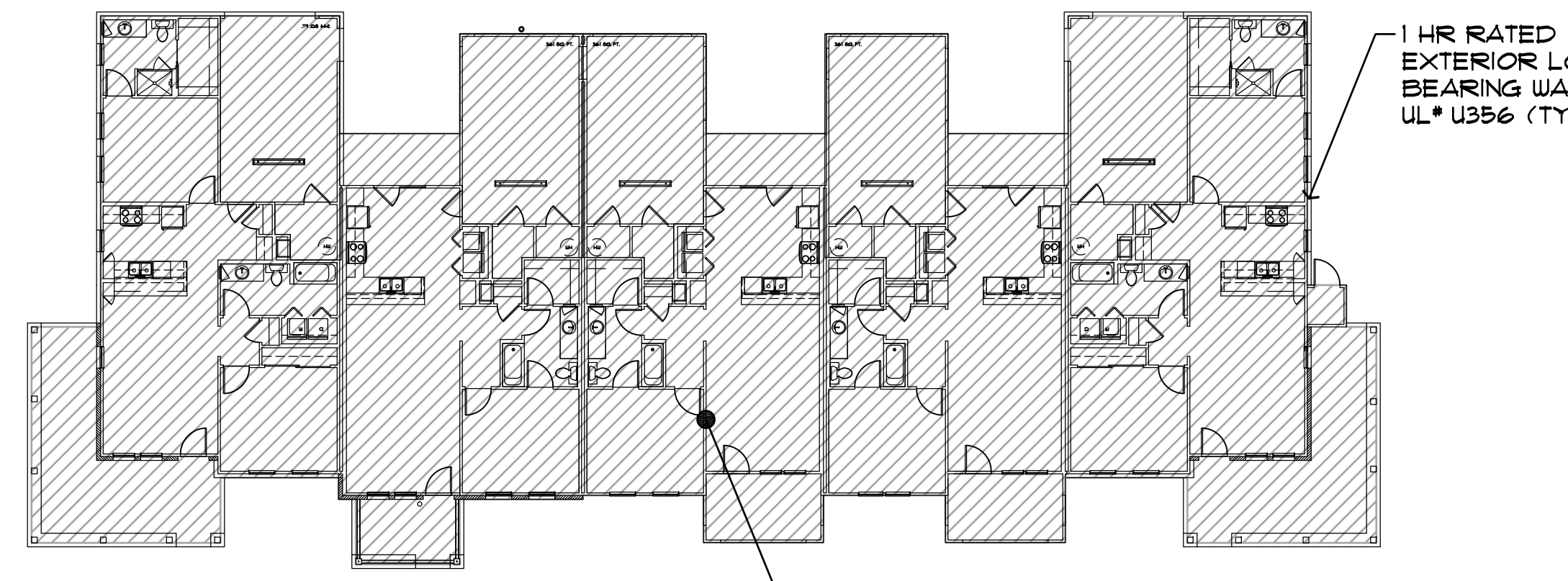
BUILDING - 1A

| | |
|---|-------------------------------|
| OCCUPANCY: | R-2 |
| GROSS AREA (FLOOR): | 15,150 SF |
| OCCUPANT COUNT: | 15,150/200 = 76 |
| REQUIRED # EXITS: | 2 |
| EXITS PROVIDED: | 2 |
| OCCUPANT LOAD PER EXIT: | 16/2 = 38 |
| OCCUPANT LOAD < 50 = STAIR WIDTH 36" MIN. | (SEE IBC 1009.1, EXCEPTION 1) |
| CONSTRUCTION TYPE: | V-A |
| TABULAR AREA: | 12,000 |
| BUILDING 1B - | |
| FRONTAGE AREA INCREASE: 506.2 | |
| F=546' | |
| P=636' 100 [546 - 25] 26 = 53.5 | |
| W=30' | |
| ALLOWED AREA: | |
| R-2 12,000 * 1.535 = 18,414 per floor | |

FIRE NOTES:
 1. PER HUTTO FIRE RESCUE AMENDMENTS, BUILDING 1A AND 1B SHALL HAVE THE ATTIC SPRINKLERED AS PER SECTION 903.2.8.
 2. SPRINKLER HEADS WILL NOT BE ALLOWED TO BE LOCATED ABOVE SHELVING IN CLOSETS.
 3. KNOX CAPS ARE REQUIRED FOR FDC AND STANDPIPE CONNECTIONS.
 4. KNOX BOX TO BE MOUNTED AT AN ENTRANCE DOOR CLOSEST TO THE FIRE ALARM PANEL AND RISER ROOM.

BUILDING - 5
AREA CALCULATIONS

| | |
|-------------------------------------|----------|
| OCCUPANCY: | R-2 |
| GROSS AREA (FLOOR): | 7,867 SF |
| NFPA 13R AT ALL AREAS | |
| CONSTRUCTION TYPE: | V-B |
| TABULAR AREA: | 7,000 |
| FRONTAGE AREA INCREASE: 506.2 | |
| F=564' | |
| P=564' 100 [564 - 25] 26 = 65 | |
| W=26' | |
| ALLOWED AREA: | |
| R-2 7,000 * 1.65 = 11,550 per floor | |



BUILDING - 5

BUILDING - 1B

| | |
|---------------------------------------|----------------|
| OCCUPANCY: | R-2 |
| GROSS AREA (FLOOR): | 3,680 SF |
| OCCUPANT COUNT: | 3,680/200 = 19 |
| REQUIRED # EXITS: | 2 |
| EXITS PROVIDED: | 2 |
| CONSTRUCTION TYPE: | V-A |
| TABULAR AREA: | 12,000 |
| BUILDING 1B - | |
| FRONTAGE AREA INCREASE: 506.2 | |
| F=137.5' | |
| P=254' 100 [137.5 - 25] 30 = 29.2 | |
| W=30' | |
| ALLOWED AREA: | |
| R-2 12,000 * 1.292 = 15,503 per floor | |

01 SECOND FLOOR - CODE DIAGRAM
 SCALE: 1/16"=1'-0"

02 GROUND FLOOR - COTTAGES AND GARDENS
 SCALE: 1/16"=1'-0"

Date: 2014-05-07 Permit Issue
 Revisions:
 AUGUST 28, 2014 CITY PLAN REVISION

Drawings and written material appearing herein constitute original and unpublished work of the architect and may not be duplicated, used, or disclosed without written consent of the architect.
 © 2014 NELSEN PARTNERS, INC.

The Trails at Carmel Creek
 Hutto, Texas

1g

BOARD ACTION REQUEST
ASSET MANAGEMENT DIVISION
JANUARY 28, 2016

Presentation, Discussion, and Possible Action regarding a material amendment to the Housing Tax Credit (“HTC”) application for Paddock at Norwood (#13402)

RECOMMENDED ACTION

WHEREAS, in 2013 Paddock at Norwood received an award of 4% Housing Tax Credits for the new construction of 228 multifamily units in Austin;

WHEREAS, the Development Owner is now requesting a reduction of 3% or more in the Development’s common area square footage;

WHEREAS, Board approval is required for any change that would materially alter a Development as directed in Texas Government Code §2306.6712 and 10 TAC §10.405(a) and the owner has complied with the amendment requirements therein;

WHEREAS, the requested changes do not negatively affect the Development, impact the viability of the transaction, impact scoring items in the tax credit application, or affect the amount of the tax credits awarded; and

WHEREAS, the Development Owner acknowledges that the Development will still meet the construction requirements in 10 TAC Chapter 1, Subchapter B;

NOW, therefore, it is hereby

RESOLVED, that the requested application amendment is granted and the Executive Director and his designees are each authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

BACKGROUND

Paddock at Norwood was submitted and approved during the 2013 4% Housing Tax Credit cycle. The Application proposed new construction of 228 multifamily units in Austin.

On December 10, 2015, the owner, LDG Norwood LP (Robert Onion, Representative of Strategic Housing Finance Corporation of Travis County, 100% owner of SHFC Paddock, LLC, the General Partner), submitted a material amendment request for a reduction in the square footage of the Common Area. The reduction in Common Area was identified during the Asset Manager's review of the final cost certification submitted for this Development. The owner stated that the Building/Unit Type configuration page submitted with the 2013 application, which was used by Real Estate Analysis staff in the underwriting of the Development, showed the entire slab measurements for the clubhouse (5,352 square feet) as opposed to the actual space enclosed by the walls of the building as defined by the Department in 10 TAC §10.3(83) and as verified by the Architect (4,094 square feet), which has resulted in a reduction of 23.5% from what was included in the original application and approved by the Board. According to the Owner, the clubhouse was built as they believed it was originally submitted and the discrepancy exists in the Tax Credit Application as to how the square footage of the slab versus enclosed space was described. From this perspective there are no real reductions in square footages nor were there any other material changes to the Development. While the cost of the clubhouse at application would have been slightly lower it would not have impacted the projects overall conclusion of development cost. Moreover, none of the Applicant's cost items from application are expected to change or affect this transaction's financial viability as a result of this error.

Staff has reviewed the original application and scoring documentation against this amendment request and has concluded that using the smaller square footage for the enclosed space of the clubhouse would not have resulted in selection or threshold criteria changes that would have affected the application score.

Staff recommends approval of the amendment request.



of TRAVIS COUNTY

*502 East Highland Mall Blvd.
Suite 106-B
Austin, Texas 78752
(512)480-8245
Fax (512)480-8248*

Ms. Laura Debellas
Texas Department of Housing and Community Affairs
221 E.11th Street
Austin, TX 78701-2410

RE: Material Amendment for Paddock at Norwood #13402

Ms. Debellas,

LDG Norwood, LP is requesting under Subchapter E, Section 10.405(4)(D), a material amendment to the Housing Tax Credit Application to change the representation of Common Area square footage. The footprint of the community building was included rather than the amount of square footage enclosed by the walls of the building as certified by the Architect.

The square footage underwritten at the time of application showed the clubhouse square footage to be 5,352 square feet on the Building/Unit Type configuration page. The 5,352 square feet is a measurement of the building footprint, which includes porches and patios to determine the amount of area of permeable surfaces. At the time of cost certification, the Architect certified to 4,094 square feet of community building space which is the actual space enclosed by the walls of the building. This is also the same square footage depicted on the layout of the clubhouse plan submitted at the time of application.

Although the clubhouse was built as submitted, the discrepancies within the Tax Credit Application show a reduction in common area of 3% or more, and thus a material amendment is necessary.

The necessity for the amendment was not reasonably foreseeable at the time of application. We respectfully request for approval of this amendment.



EDG Norwood LP
Robert F. Onion
Authorized Representative/Asset Manager

1h

BOARD ACTION REQUEST
COMMUNITY AFFAIRS DIVISION
JANUARY 28, 2016

Presentation, Discussion, and Ratification of Low Income Home Energy Assistance Program ("LIHEAP") Awards for the PY 2016 Weatherization Assistance Program ("WAP") and one 2016 LIHEAP Comprehensive Energy Assistance Program ("CEAP") Award to Webb County Community Action Agency

RECOMMENDED ACTION

WHEREAS, the Department develops a LIHEAP State Plan each year to administer the CEAP and WAP;

WHEREAS, the PY 2016 LIHEAP State Plan was approved by the Board at its meeting of July 30, 2015, and submitted to the U.S. Department of Health and Human Services ("USHHS") and such submission included the entities to be awarded funds for LIHEAP WAP consistent with the formula methodology detailed in 10 TAC §5.503, Distribution of WAP Funds;

WHEREAS, the Board Action approval included the award of funds for CEAP in specified amounts, but denoted several entities for which those awards were conditioned by the Executive Award and Review Advisory Committee ("EARAC");

WHEREAS, one of those entities, Webb County Community Action Agency, is now satisfactorily approved by EARAC and is recommended to receive their contract for the Board approved award amount;

WHEREAS, the Board Action approval inadvertently did not itemize the award list for LIHEAP WAP as part of the Plan approval, and staff is now obtaining Board authorization; and

WHEREAS, a weatherization provider for the area previously served by Tri County Community Action (who has relinquished their role) has not yet been identified and an RFA will soon be released, as previously authorized by the Board, and the identified replacement will be the recipient of the contract award amount indicated in these awards;

NOW, therefore, it is hereby

RESOLVED, that the CEAP award to Webb County Community Action Agency is ratified through its approval by EARAC;

FURTHER RESOLVED, that the PY 2016 LIHEAP State Plan WAP awards, in the amount of \$16,215,757, in the form presented to this meeting, are hereby ratified as of January 1, 2016, pursuant to the intent of the Board on July 30, 2015, through its Plan approval and submission to USHHS;

FURTHER RESOLVED, that to the extent conditions are placed on these awards as noted below by EARAC, those conditions will be resolved to the satisfaction of EARAC prior to contract execution; and

FURTHER RESOLVED, that the Executive Director or his designee are hereby authorized, empowered, and directed, for and on behalf of this Board to contract for the awards represented in the Plan and in connection therewith to execute, deliver, and cause to be performed such amendments, documents, and other writings as they or any of them may deem necessary or advisable to effectuate the foregoing.

BACKGROUND

A draft of the 2016 LIHEAP State Plan was approved at the Board meeting of June 16, 2015, for release for public comment. The Draft Plan and announcement of a public hearing was made available on the Department's website and by listserv email distribution, on June 17, 2015. The Department conducted four public hearings on July 7, 8, 9, and 13, 2015; the public comment period closed at 12:00 p.m. on Tuesday, July 14, 2015, and comments were presented to the board. On July 30, 2015, the Board approved the final form of the 2016 LIHEAP State Plan, which was subsequently submitted to the U.S. Department of Health and Human Services and included award lists for both LIHEAP activities (CEAP and WAP) based on the formula methodologies detailed in 10 TAC Chapter 5.

CEAP Award:

The Board Action approval of July 30, 2015, also included the award of funds for CEAP in specified amounts, but denoted several entities for which those awards were conditioned by the Executive Award and Review Advisory Committee ("EARAC"). One of those entities, Webb County Community Action Agency was not approved, nor disapproved, but on January 15, 2016, the contract was satisfactorily approved by EARAC and has now been awarded \$1,100,174 with an effective contract start date of January 1, 2016.

WAP Awards:

As noted above, the PY 2016 LIHEAP State Plan was approved by the Board at its meeting of July 30, 2015, and submitted to USHHS. While the Board Action item approval included the award of funds for CEAP in specified amounts by subrecipient, inadvertently it did not itemize the award list for LIHEAP WAP. The submission to USHHS did include the lists of entities to be awarded funds for CEAP and WAP consistent with the formula methodology detailed in 10 TAC §5.503, Distribution of WAP Funds. The list of LIHEAP WAP awards is provided below. It should be noted that a weatherization provider for the area previously served by Tri County Community Action (who previously relinquished their role) has not yet been identified. Staff is in the process of releasing an RFA, as previously authorized by the Board, and the identified replacement will be the recipient of the contract award amount indicated in the award list below.

The Previous Participation Rule (10 TAC, Chapter 1, Subchapter C, §1.302) includes a review of LIHEAP WAP awards prior to contract execution. The review has been performed and the following entities have been identified with concerns or conditions:

| Agency | Issue |
|-------------------------------------|--|
| Community Services Incorporated | Organization is not recommended for award at this time. Award is earmarked for the service area, with provider contract deferred because of ongoing concerns. |
| Big Bend Community Action Committee | Action by EARAC deferred for completion of previous participation review. Award can proceed into a contract as executed by the Executive Director only pending EARAC approval. |
| Combined Community Action | Approved conditioned on resolution of outstanding compliance issues prior to contract execution. |

LIHEAP WAP funding provides for the installation of weatherization measures to increase energy efficiency of a home including caulking, weather-stripping, adding ceiling, wall, and floor insulation, patching holes in the building envelope, duct work, and repair or replacement of energy inefficient heating and cooling systems. Additionally, the funds allow for subgrantees to complete financial audits, household energy audits, outreach and engagement activities, and program administration. Further, funding provides for State administration and State training and technical assistance activities.

2016 LIHEAP WAP Subgrantee Awards

| Subrecipient | Total Allocation |
|--|------------------|
| Alamo Area Council of Governments | \$1,351,618 |
| Big Bend Community Action Committee, Inc.* | 217,685 |
| Brazos Valley Community Action Agency | 532,228 |
| City of Fort Worth | 791,655 |
| Combined Community Action, Inc.* | 343,824 |
| CA Committee of Victoria | 480,042 |
| Community Action Corp. of South Texas | 1,845,772 |
| Community Council of South Central Texas | 313,639 |
| Community Services, Inc.** | 943,088 |
| Concho Valley Community Action Agency | 283,987 |
| Dallas County Department of Human Services | 1,301,729 |
| Economic Opportunities Advancement Corp. of Planning Region XI | 301,608 |
| El Paso Community Action Program - Project BRAVO | 735,448 |
| Greater East Texas Community Action Program | 935,037 |
| Hill Country Community Action Association, Inc. | 429,048 |
| Neighborhood Centers, Inc. | 2,071,108 |
| Nueces County Community Action Agency | 253,229 |
| Panhandle Community Service | 437,306 |
| Rolling Plains Management Corporation | 600,991 |
| South Plains Community Action Association, Inc. | 395,159 |
| Texoma Council of Governments | 473,183 |
| Travis County HSD | 483,384 |
| TBD – Area Served Previously by Tri-County Community Action | 262,494 |
| West Texas Opportunities, Inc. | 432,495 |
| * Indicates a condition of award as noted in previous table | |
| ** Not currently recommended for an award as noted in previous table | \$16,215,757 |

1i

BOARD ACTION REQUEST
COMMUNITY AFFAIRS DIVISION
JANUARY 28, 2016

Presentation, Discussion, and Possible Action regarding authorization to release a Notice of Funding Availability ("NOFA") for Fiscal Year 2016 Emergency Solutions Grants Program ("ESG"), and to Authorize Specific Continuum of Care ("CoC") Lead Agencies to Perform a Local ESG Competition

RECOMMENDED ACTION

WHEREAS, ESG funds are annually awarded to the State of Texas by the U.S. Department of Housing and Urban Development ("HUD");

WHEREAS, the Texas Legislature designated the Texas Department of Housing and Community Affairs (the "Department") to administer the ESG pursuant to Texas Government Code §2306.094;

WHEREAS, eligible activities under the 2016 ESG grant were approved by the Board as part of the 2016 One Year Action Plan ("OYAP");

WHEREAS, ESG funds will be made available to eligible applicants to carry out the purpose of the ESG based on a competitive process;

WHEREAS, consistent with the use of the CoC regions as the geographic approach to disseminating funds statewide, the Department requested through a Pre-Application process that CoC lead agencies perform local competition and award processes so that homelessness fund decision making can stay focused at the local level; and

WHEREAS, several CoC lead agencies satisfactorily responded to the Pre-Application and will provide specific services relating to local competition and awards through contract with the Department;

NOW, therefore, it is hereby

RESOLVED, that the Executive Director be granted the authority to release a Notice of Funding Availability for Fiscal Year 2016 ESG funds;

FURTHER RESOLVED, that to the extent that subsequent revisions to the NOFA are required in order to facilitate the use of the funds by the applicants, the Board also authorizes staff to make such revisions in accordance with, and to the extent limited by the ESG federal and state regulations;

FURTHER RESOLVED, that the award and commitment of funds in response to this NOFA will be presented to the Board for approval and if, subsequent to the award of funds from the FY2016 NOFA, additional ESG funds become available either through a supplemental appropriation or recapture, or if prior year funds become available, the additional funding will be used to fully fund any application partially funded in the FY2016 NOFA and then make additional awards to compliant TDHCA ESG Subrecipients that have a current contract with the Department. The minimum amount of an additional award under this process is \$25,000, which will be presented to the Board for ratification;

FURTHER RESOLVED, that staff is authorized to contract with the CoC lead agencies responsive to the Pre-Application to perform specific services relating to local competition; and

FURTHER RESOLVED, that staff is authorized, empowered, and directed, for and on behalf of the Department to execute such documents, instruments and writings and perform such other act as may be necessary to effectuate the foregoing.

BACKGROUND

ESG is funded by HUD, and for Program Year ("PY") 2016 the Department expects to receive level funding of approximately \$8,891,395. Federal program rules require the Department to commit all funds within 60 days of receipt of an award letter from HUD; the Department anticipates receipt of this letter by summer 2016. The Department's anticipated contract period for PY2016 ESG is September 1, 2016, through August 31, 2017.

The ESG Program focuses on assisting people to regain stability quickly in permanent housing after experiencing a housing crisis and/or homelessness and also assists persons who are at-risk of homelessness. ESG funds can be used for the rehabilitation or conversion of buildings for use as emergency shelter for persons experiencing homelessness; the payment of certain expenses related to operating emergency shelters; essential services related to emergency shelters and street outreach for persons experiencing homelessness; and homelessness prevention and rapid re-housing assistance.

This year the NOFA and application materials have been recrafted and reorganized as follows:

- A new performance measure was added that will require subrecipients to track and report on the type of residence of the person being assisted prior to project entry so that we can better gauge whether a client was previously in foster care home or foster care group home; hospital or other residential non-psychiatric medical facility; jail, prison or juvenile detention facility; long-term care facility or nursing home.
- A new line item is added that allows for an HMIS data review by the local HMIS lead agency. HMIS Lead Agencies, which are agencies within each CoC which provide guidance on how to use and share information in HMIS, will be able to apply for ESG funding to review TDHCA's Subrecipient HMIS data and verify that the Subrecipient submission into TDHCA's custom database is accurate.

- The service area for use of ESG funding was clarified so that the minimum allowable service area is one or multiple counties in Texas. ESG funds will not be permitted to be awarded within municipal boundaries smaller than the municipal boundaries of a county in an effort to expand access to ESG services.
- A scoring item for Housing First was added: “Housing First is an approach that centers on providing homeless people with housing quickly and then providing services as needed. What differentiates a Housing First approach from other strategies is that there is an immediate and primary focus on helping individuals and families quickly access and sustain permanent housing.”¹ ESG Applicants will be scored on whether their programs for Rapid Re-Housing or Homelessness Prevention include the Housing First model as a way to incentivize the use of this strategy in Texas.
- A scoring item for Using a Coordinated Assessment System was added, which is a system that “make[s] rapid, effective, and consistent client-to-housing and service matches—regardless of a client’s location within a CoC’s geographic area—by standardizing the access and assessment process and by coordinating referrals across the CoC.”² ESG Applicants will receive points for using the CoCs Coordinated Assessment, also known as Coordinated Access, Coordinated Entry, or the No-Wrong-Door Approach.
- Subrecipients will be required to now submit a Language Access Plan (“LAP”) describing how they will reach and serve persons with Limited English Proficiency, per Executive Order 13166.
- A requirement that subrecipients utilize eCart reporting was added. eCart is a reporting requirement designed by HUD that is configured to load report level, aggregate information from a Homeless Management Information System (“HMIS”) and produce all statistical information required by HUD on clients served in projects funded under ESG.
- In an effort to fund contracts earlier, the contract period will begin one month earlier than in the past. Instead of contracting from October 1, 2016, through September 30, 2017, the 2016 ESG funds will be contracted from September 1, 2016, through August 31, 2017.

Allocations

The NOFA will allocate funds as follows:

- Consistent with the policy identified in the HUD-approved One Year Action Plan, ESG funds will be reserved for each of the HUD-designated 2016 Continuum of Care (“CoC”) Regions using a formula that is based on a combination of the region’s proportionate share of the state’s population of persons in poverty and the region’s proportionate share of the state’s population of homeless persons.
- Eligible Applications will be ranked by score within the CoC region in which they are geographically located. ESG funds reserved for each region will be obligated starting with the applicant with the highest score until the next application cannot be fully funded.

¹ National Alliance to End Homelessness. <http://www.endhomelessness.org/library/entry/what-is-housing-first>

² HUD Exchange. <https://www.hudexchange.info/resource/3143/continuum-of-cares-coordinated-assessment-system/>

- As noted above, several of the CoC Lead Agencies are taking responsibility for the competitive award process within their CoC geographic area. TDHCA released a CoC Lead Agency Pre-Application on December 10, 2015, and as a result of that Pre-Application, the following organizations will take responsibility for running a local competition of TDHCA's ESG funding: Metro Dallas Homeless Alliance, Tarrant County Homeless Coalition, Coalition for the Homeless of Houston/Harris County, El Paso Coalition for the Homeless, and the City of Amarillo. Award recommendations up to the amount of the regionally available amount reflected in the NOFA will be provided from the CoC Lead Agencies to staff.
- Within each CoC region, applicants may request no less than \$125,000 unless the initial amount available in the CoC region is less than \$125,000. In those cases, applicants must request an amount equal to the available allocation for that region. The purpose of this minimum is twofold: first, to ensure that administrative funds at the state and local level are used more efficiently through the oversight of fewer contracts, and secondly to more fully encourage local collaboration within the CoC.
- Remaining funds from each region with too few qualifying applications will be pooled together along with any remaining funds from each region that was not able to completely fund the next qualified application, in an effort to fully fund as many applications as possible, starting with the region with the greatest proportional share of its allocation still unallocated at that time and proceeding with the next highest scoring application, one application per region in a rotation, until each region has had an application added in this method or no funds remain.
- Any funds still remaining will then be pooled together and distributed to the next unfunded eligible application in rank order by score in each region, with one application per region in a rotation, starting within the regions with the greatest proportional share of the state's homeless population that did not have an application that was funded in the previous step, and continuing with applications from each of the regions with the greatest proportional share of the state's homeless population that did receive additional funds under the previous step.
- As a final distribution option, if there are not enough eligible applicants to be funded and there are still funds remaining, the Department may award recommended applicants with an award amount in excess of the funds requested and above the award amount limits identified in the NOFA, starting with the regions with the greatest proportional share of the state's homeless population, awarding Applications in rank order by score.
- If, subsequent to the announcement of awards made under the FY2016 NOFA, additional ESG funds become available either through a supplemental appropriation or recapture, or if prior year funds become available, the additional funding will first be used to fully fund any application partially funded in the FY2016 NOFA and then used to make additional awards to compliant TDHCA ESG Subrecipients with a current (2015) contract. Any additional awards will be presented to the Board for ratification.

1j

BOARD ACTION REQUEST

MULTIFAMILY FINANCE DIVISION

JANUARY 28, 2016

Presentation, Discussion, and Possible Action Regarding HOME funds available to 1500 MLK, LLC for the development of Royal Gardens Mineral Wells

RECOMMENDED ACTION

WHEREAS, 1500 MLK, LLC was awarded \$280,356 in HOME funds as well as an allocation of 9% Housing Tax Credits (“HTC”) on July 26, 2012, to construct an affordable multifamily rental property known as Royal Gardens Mineral Wells;

WHEREAS, \$252,320.40 in HOME funds were drawn over the course of construction, leaving \$28,035.60 in unexpended HOME funds;

WHEREAS, prior to completion, the property was destroyed by fire in April 2014;

WHEREAS, 1500 MLK, LLC paid off the principal balance of the HOME loan in June 2015 and was issued a new allocation of 9% HTC in July 2015;

WHEREAS, the Board took action in July 2015 to forgive accrued interest on the HOME loan and release TDHCA’s lien on the property while maintaining the HOME Land Use Restriction Agreement (“LURA”) that was executed on April 15, 2013; and

WHEREAS, in order for the development to retain its character as a HOME project under HUD requirements, it is necessary that 1500 MLK, LLC regularly draw a nominal amount on the remaining HOME award funds until the project is complete;

NOW, therefore, it is hereby

RESOLVED, the Board, on behalf of the Department, reinstates the HOME award for 1500 MLK, LLC in the form of a grant not to exceed the previous undrawn amount and authorizes the Executive Director or his assignee to execute such documents and instruments as he or they may deem necessary or advisable to effectuate the foregoing.

BACKGROUND

1500 MLK, LLC was awarded HOME funds in the amount of \$280,356 in the form of a repayable loan on July 26, 2012. The award of HOME funds was made in conjunction with an allocation of 9% Housing Tax Credits. The borrower closed on the HOME loan and all other financing on April

15, 2013, and started construction soon thereafter. On April 2, 2014, as the property was within weeks of receiving Certificates of Occupancy, it was completely destroyed by fire. In the months following the fire, the borrower and Department had several discussions regarding a reallocation of 9% credits. In June 2015, the borrower and Department reached an agreement whereby 1500 MLK, LLC would receive a reallocation of 9% credits and the \$252,320.40 in HOME funds that had been drawn down would be repaid, with the remaining balance of \$28,035.60 anticipated to be de-obligated and redistributed to a future HOME award. The Department's Loan Servicing division acknowledged repayment of \$252,320.40 in HOME funds on June 4, 2015. While the Department's lien was released as a result, the Department's HOME LURA, which restricts 19 units for households at or below of the 60% Area Median Income for 30 years, remains in place.

Since the reallocation of 9% credits and the release of lien, the Department has discovered that it is necessary for 1500 MLK, LLC to complete two to three draws of HOME funds over the next 12 to 18 months until construction is complete in order to maintain the project's status as a HOME activity within HUD's Integrated Disbursement and Information System (IDIS). HUD requires that activities in IDIS maintain frequent draw activity in order to demonstrate progress toward completion, so IDIS flags activities with draws more than six months apart. Failure to comply with requirements may impact the Department's ability to access HOME funds through the IDIS system. To maintain compliance with HUD requirements and assure that the 19 HOME units in the development are not jeopardized, the Department will make a de minimis amount, not to exceed the remaining \$28,035.60, available to be drawn for reimbursement of eligible expenses under an agreement that does not require repayment.

1k

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
JANUARY 28, 2016

Presentation, Discussion, and Possible Action on Previously Approved Determination Notices

RECOMMENDED ACTION

WHEREAS, Woodland Christian Towers received an award of 4% Housing Tax Credits at the Board Meeting of November 12, 2015;

WHEREAS, the Certification of Reservation from the Texas Bond Review Board (“BRB”) was originally issued on July 14, 2015, and expired on December 11, 2015;

WHEREAS, according to the Applicant, unforeseen delays caused by the bid process required by Harris County meant they would not be able to close by the deadline associated with the Certificate of Reservation and the Reservation was withdrawn from the BRB prior to the Board Meeting of November 12, 2015;

WHEREAS, a new Certification of Reservation was issued on January 19, 2016 and the Applicant has indicated there have been no other material changes made to the Application that necessitates a re-evaluation; and

WHEREAS, staff is requesting the Board to authorize the issuance of the Determination Notice, with the original conditions of the award intact, based on the new Certification of Reservation from the BRB, as it does not materially affect the underwriting analysis by which the original Determination Notice was approved;

NOW, therefore, it is hereby

RESOLVED, that the issuance of a Determination Notice of \$560,932 in 4% Housing Tax Credits, subject to underwriting conditions that may be applicable as found in the Real Estate Analysis report posted to the Department’s website for Woodland Christian Towers is hereby approved as presented to this meeting.

BACKGROUND

Woodland Christian Towers involves the rehabilitation and acquisition of an existing development, originally constructed in 1971, located at 600 East Tidwell Road in Houston, Harris County an area that does not have a zoning ordinance. The development has 127 units, all of which will be rent and income restricted at 60% of Area Median Family Income. The census tract (2205.00) has a median household income of \$19,188, is in the fourth quartile, and has a poverty rate of 29%.

On November 13, 2015, it came to staff’s attention that the Applicant had withdrawn the original Certification of Reservation when they realized they were not going to be able to close on the financing prior to the December 11, 2015, expiration date associated with the Reservation. The withdrawal occurred

prior to the Board meeting and as a result invalidates the action taken by the Board in approving the issuance of the Determination Notice. While the Certification of Reservation was originally issued as a Priority 3 designation under Texas Government Code §1372.0321 and, therefore, applying for housing tax credits with the Department was not required, the underwriting analysis and financial feasibility depended upon housing tax credits as a funding source. At the time staff became aware of the returned Certification of Reservation, the Determination Notice had not yet been issued. The Applicant indicated there have been no changes to the Application from what was originally approved and they are on schedule for an early February closing. Staff recommends approval of the issuance of a Determination Notice.

11

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
JANUARY 28, 2016

Presentation, Discussion, and Possible Action on Inducement Resolution No. 16-009 for Multifamily Housing Revenue Bonds Regarding Authorization for Filing Applications for Private Activity Bond Authority on the 2016 Waiting List for Skyline Place Apartments

RECOMMENDED ACTION

WHEREAS, a bond pre-application for Skyline Place Apartments was submitted to the Department for consideration of an inducement resolution;

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

WHEREAS, the inducement allows staff to submit an application to the Bond Review Board (“BRB”) to await a Certificate of Reservation;

NOW, therefore, it is hereby

RESOLVED, the Inducement Resolution No. 16-009 to proceed with the application submissions to the BRB for possible receipt of State Volume Cap issuance authority from the 2016 Private Activity Bond Program for Skyline Place Apartments (#16600) is hereby approved in the form presented to this meeting.

BACKGROUND

The BRB administers the state’s annual private activity bond authority for the State of Texas. The Department is an issuer of Private Activity Bonds and is required to induce an application for bonds prior to the submission to the BRB. Approval of the inducement resolution does not constitute approval of the Development but merely allows the Applicant the opportunity to move into the full application phase of the process. Once the application receives a Certificate of Reservation, the Applicant has 150 days to close on the private activity bonds.

During the 150-day process, the Department will review the complete application for compliance with the Department’s Rules and underwrite the transaction in accordance with the Real Estate Analysis Rules. The Department will schedule and conduct a public hearing, and the complete application, including a transcript from the hearing, will then be presented to the Board for a decision on the issuance of bonds as well as a determination on the amount of housing tax credits anticipated to be allocated to the development.

Each year, the State of Texas is notified of the cap on the amount of private activity tax exempt revenue bonds that may be issued within the state. Approximately \$604 million is set aside for multifamily until August 15th for the 2016 program year, which includes the TDHCA set aside of approximately \$120 million. Inducement Resolution No. 16-009 would reserve approximately \$19 million in state volume cap.

The existing development is located at 4700 Wimbelton Way in Dallas, Dallas County, and will include the acquisition and rehabilitation of 318 units serving the general population. This transaction is proposed to be Priority 3 with all of the units rent and income restricted at 60% of the Area Median Family Income (“AMFI”). The Department has not received any letters of support or opposition for this development.

RESOLUTION NO. 16-009

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

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

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

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

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

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

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

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

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

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

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

ARTICLE 1

OFFICIAL INTENT; APPROVAL OF CERTAIN ACTIONS

Section 1.1. Authorization of Issue. The Department declares its intent to issue its Multifamily Housing Revenue Bonds (the "Bonds") in one or more series and in amounts estimated to be sufficient to (a) fund a loan or loans to the Owners to provide financing for the respective Developments in an aggregate principal amount not to exceed those amounts, corresponding to the Developments, set forth in Exhibit A; (b) fund a reserve fund with respect to the Bonds if needed; and (c) pay certain costs incurred in connection with the issuance of the Bonds. Such Bonds will be issued as qualified residential rental development bonds. Final approval of the Department to issue the Bonds shall be subject to: (i) the review by the Department's credit underwriters for financial feasibility; (ii) review by the Department's staff and legal counsel of compliance with federal income tax regulations and State law requirements regarding tenancy in the respective Development; (iii) approval by the Bond Review Board, if required; (iv) approval by the Attorney General of the State of Texas (the "Attorney General"); (v) satisfaction of the Board that the respective Development meets the Department's public policy criteria; and (vi) the ability of the Department to issue such Bonds in compliance with all federal and State laws applicable to the issuance of such Bonds.

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

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

connection with the acquisition and construction or rehabilitation of the Developments; (b) to fund any reserves that may be required for the benefit of the holders of the Bonds; and (c) to pay certain costs incurred in connection with the issuance of the Bonds.

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

Section 1.5. Limited Obligations. The Owners may commence with the acquisition and construction or rehabilitation of the Developments, which Developments will be in furtherance of the public purposes of the Department as aforesaid. On or prior to the issuance of the Bonds, each Owner will enter into a loan agreement, on terms agreed to by the parties, on an installment payment basis with the Department under which the Department will make a loan to the applicable Owner for the purpose of reimbursing the Owner for the Costs of the Development and the Owner will make installment payments sufficient to pay the principal of and any premium and interest on the applicable Bonds. The proposed Bonds shall be special, limited obligations of the Department payable solely by the Department from or in connection with its loan or loans to the Owner to provide financing for its Development, and from such other revenues, receipts and resources of the Department as may be expressly pledged by the Department to secure the payment of the Bonds.

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

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

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

Section 1.9. No Commitment to Issue Bonds. Neither the Owners nor any other party is entitled to rely on this Resolution as a commitment to issue the Bonds and to loan funds, and the Department reserves the right not to issue the Bonds either with or without cause and with or without notice, and in such event the Department shall not be subject to any liability or damages of any nature.

Neither the Owners nor any one claiming by, through or under the Owners shall have any claim against the Department whatsoever as a result of any decision by the Department not to issue the Bonds.

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

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

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

Section 1.13. Declaration of Official Intent. This Resolution constitutes the Department’s official intent for expenditures on Costs of the Developments which will be reimbursed out of the issuance of the Bonds within the meaning of Sections 1.142-4(b) and 1.150-2, Title 26, Code of Federal Regulations, as amended, and applicable rulings of the Internal Revenue Service thereunder, to the end that the Bonds issued to reimburse Costs of the Developments may qualify for the exemption provisions of Section 142 of the Code, and that the interest on the Bonds (except for any taxable Bonds) will therefore be excludable from the gross incomes of the holders thereof under the provisions of Section 103(a)(1) of the Code.

Section 1.14. Execution and Delivery of Documents. The Authorized Representatives named in this Resolution are each hereby authorized to execute and deliver all Applications, certificates, documents, instruments, letters, notices, written requests and other papers, whether or not mentioned herein, as may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution.

Section 1.15. Authorized Representatives. The following persons are hereby named as Authorized Representatives of the Department for purposes of executing, attesting, affixing the Department’s seal to, and delivering the documents and instruments and taking the other actions referred to in this Article 1: the Chair or Vice Chair of the Board, the Executive Director of the Department, the Deputy Executive Director of Asset Analysis and Management of the Department, the Director of Bond Finance of the Department, the Director of Texas Homeownership of the Department, the Director of Multifamily Finance of the Department, and the Secretary or any Assistant Secretary to the Board. Such persons are referred to herein collectively as the “Authorized Representatives.” Any one of the Authorized Representatives is authorized to act individually as set forth in this Resolution.

ARTICLE 2

CERTAIN FINDINGS AND DETERMINATIONS

Section 2.1. Certain Findings Regarding Developments and Owners. The Board finds that:

- (a) the Developments are necessary to provide decent, safe and sanitary housing at rentals that individuals or families of low and very low income and families of moderate income can afford;
- (b) the Owners will supply, in their Development, well-planned and well-designed housing for individuals or families of low and very low income and families of moderate income;
- (c) the Owners are financially responsible;
- (d) the financing of the Developments is a public purpose and will provide a public benefit;
and
- (e) the Developments will be undertaken within the authority granted by the Act to the Department and the Owners.

Section 2.2. No Indebtedness of Certain Entities. The Board hereby finds, determines, recites and declares that the Bonds shall not constitute an indebtedness, liability, general, special or moral obligation or pledge or loan of the faith or credit or taxing power of the State, the Department or any other political subdivision or municipal or political corporation or governmental unit, nor shall the Bonds ever be deemed to be an obligation or agreement of any officer, director, agent or employee of the Department in his or her individual capacity, and none of such persons shall be subject to any personal liability by reason of the issuance of the Bonds.

Section 2.3. Certain Findings with Respect to the Bonds. The Board hereby finds, determines, recites and declares that the issuance of the Bonds to provide financing for the Developments will promote the public purposes set forth in the Act, including, without limitation, assisting persons and families of low and very low income and families of moderate income to obtain decent, safe and sanitary housing at rentals they can afford.

ARTICLE 3

GENERAL PROVISIONS

Section 3.1. Books and Records. The Board hereby directs this Resolution to be made a part of the Department's books and records that are available for inspection by the general public.

Section 3.2. Notice of Meeting. This Resolution was considered and adopted at a meeting of the Board that was noticed, convened, and conducted in full compliance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, and with §2306.032 of the Texas Government Code, regarding meetings of the Board.

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

[Execution page follows]

PASSED AND APPROVED this 28th day of January, 2016.

[SEAL]

By: _____
Chair, Governing Board

ATTEST:

Secretary to the Governing Board

EXHIBIT "A"

Description of the Owner and the Development

| Project Name | Owner | Principals | Amount Not to Exceed |
|--|--|---|----------------------|
| Skyline Place Apartments | Dalcors Skyline, Ltd., a Texas limited partnership | General Partner: Dalcors Skyline GP, LLC, a Texas limited liability company | \$19,000,000.00 |
| Costs: Acquisition/rehabilitation of a 318-unit affordable, multifamily housing development known as Skyline Place Apartments, located at 4700 Wimbelton Way, Dallas, Dallas County, TX 75227. | | | |

1m

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
JANUARY 28, 2016

Presentation, Discussion, and Possible Action regarding a Waiver of 10 TAC §10.204(8)(B), Uniform Multifamily Rules related to the Submission of an Alternative Utility Allowance and a Determination Notice for Housing Tax Credits with another Issuer.

RECOMMENDED ACTION

WHEREAS, a 4% Housing Tax Credit application for Freedom Hills Ranch Apartments was submitted to the Department on September 16, 2015;

WHEREAS, a Certification of Reservation from the Texas Bond Review Board (“BRB”) was issued on October 14, 2015, was subsequently withdrawn and a Carryforward Designation was issued on January 19, 2016 and will expire on December 31, 2019;

WHEREAS, the proposed issuer of the bonds is the San Antonio Housing Trust Finance Corporation;

WHEREAS, the applicant requested a waiver pursuant to §10.207(a) of the Uniform Multifamily Rules regarding §10.204(8)(B), relating to the submission of an alternative utility allowance before submission of the application;

WHEREAS, staff determined that failure to submit the alternative utility allowance request prior to submission of the application did not hinder the financial feasibility review process performed by the Real Estate Analysis Division (“REA”); and

WHEREAS, the Executive Award and Review Advisory Committee (“EARAC”) recommends the issuance of the Determination Notice with the condition that closing occur within 120 days (on or before May 27, 2016); and

WHEREAS, in accordance with 10 TAC §1.301(d)(1), the compliance history is designated as an Medium Portfolio Category 3 and deemed acceptable by EARAC after review and discussion;

NOW, therefore, it is hereby

RESOLVED, the Board hereby grants the waiver relating to §10.204(8)(B) of the Uniform Multifamily Rules, regarding the requirement to submit the use of an alternative utility allowance prior to submission of the Application;

FURTHER RESOLVED, that the issuance of a Determination Notice of \$1,260,760 in 4% Housing Tax Credits, subject to underwriting conditions that may be applicable as found in the Real Estate Analysis report posted to the Department’s website for Freedom Hills Ranch Apartments is hereby approved as presented to this meeting; and

FURTHER RESOLVED, that provided the Applicant has not closed on the bond financing on or before May 27, 2016, the Board authorizes EARAC to approve or deny an extension of the Determination Notice date subject to an updated previous participation review, if necessary.

BACKGROUND

General Information: Freedom Hills Ranch Apartments, proposed to be located at 6010 Ray Ellison Drive in San Antonio, Bexar County, involves the new construction of 252 units of which three will be rent and income restricted at 50% of Area Median Family Income (“AMFI”) and the remaining 249 will be rent and income restricted at 60% AMFI. The development will serve the general population and is zoned appropriately. The census tract (1615.03) has a median household income of \$39,719, is in the third quartile and has a poverty rate of 31%.

Waiver Request: The Applicant requested the use of the Written Local Estimate to calculate the utility allowance; which requires Department review and approval. The use of this alternative method was not requested prior to application submission (September 16, 2015) as required under §10.204(8)(B) of the Uniform Multifamily Rules. The Applicant submitted the documentation in early October 2015, and an approval was granted on October 15, 2015, with the condition that no more than 180 days and no less than 90 days prior to commencement of leasing activities, the Owner must submit an updated utility allowance to the Department for approval. The approved utility allowances were used to evaluate the development and to complete the underwriting thereof.

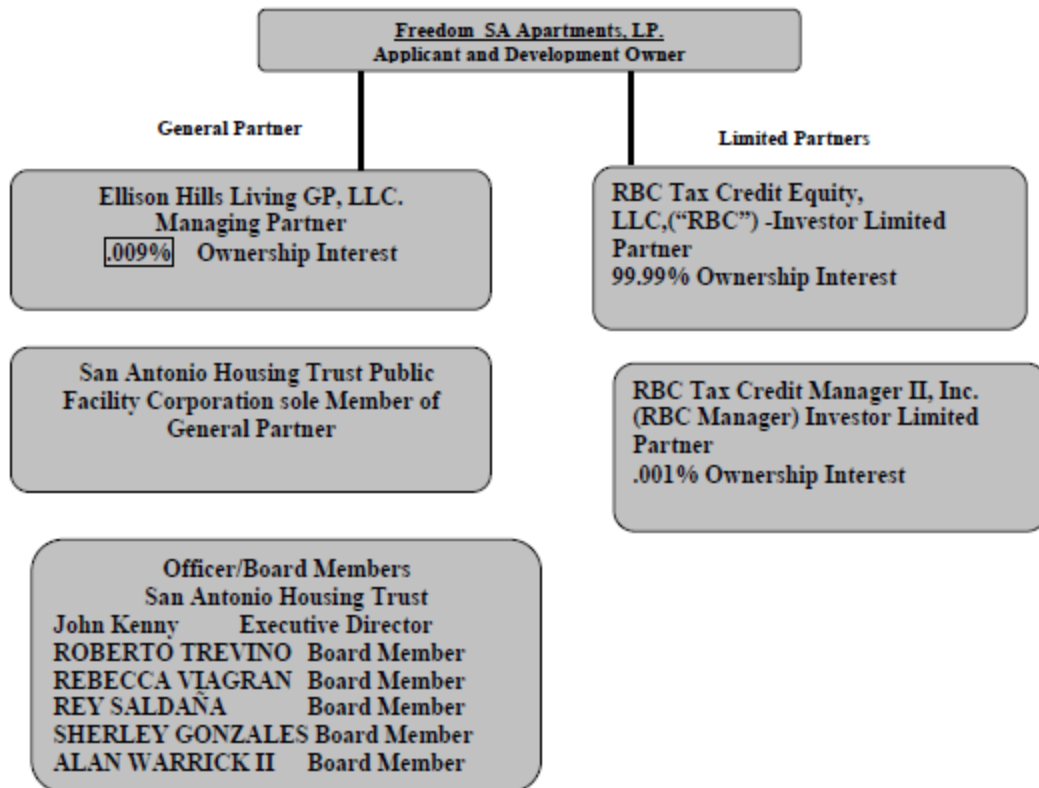
The requirement to submit the request to use an alternative utility allowance method prior to submission of the Application is to avoid delays associated with staff time in processing the requests which could result in delays in the underwriting analysis by REA staff. Moreover, such delays could prevent the applicant from ultimately closing on the Private Activity Bonds within the timeframe set forth by the BRB under the Certificate of Reservation. No such delays were an issue in this case as a result of not submitting the utility request before submission of the application. Pursuant to Chapter 2306.6701 the Department’s purpose is to encourage the development of appropriate types of rental housing for households that have difficulty finding suitable rental housing in the private marketplace as well as providing for and encouraging the participation of nonprofit organizations in the acquisition, development, and operation of affordable housing developments. The Freedom Hills Ranch Apartments ownership structure involves a nonprofit general partner which advances the purpose under §2306. Staff recommends granting the waiver in this particular circumstance but notes that this recommendation is not to suggest that the deadlines imposed by the Department’s rules are to be taken lightly.

Conditions to Award: It was recommended by EARAC that any Board approval of the Determination Notice include a condition related to the closing of the bonds. Specifically, EARAC recommends that the closing must occur on or before 120 days (May 28, 2016) and that if closing has not occurred by such date, the Board authorizes EARAC to approve or deny an extension of the Determination Notice date subject to an updated previous participation review, if necessary. This condition is generally consistent with the requirements of a bond transaction utilizing non-traditional carryforward. At the time the application was submitted there was a Certificate of Reservation (e.g. non-traditional carryforward); however, prior to the posting of these materials staff learned that the Certificate of Reservation was withdrawn and a Carryforward Designation (e.g. Traditional Carryforward) was issued. For non-traditional carryforward

reservations, a statutory 150-day deadline from the date of the reservation for closing is imposed and the Determination Notice for any associated 4% award expires if closing does not occur within this timeframe or if the financing structure or terms change. Traditional carryforward reservations are not specifically addressed in the rule and this recommendation addresses the proposal in a manner to result in consistency. Staff believes that closing within a reasonable period after Board action is important and consistent with the constraints present for most other bond transactions.

Organizational Structure: The Borrower is Freedom SA Apartments, L.P., and includes the entities and principals as indicated in the organization chart below. The EARAC met on January 15, 2016, and considered the previous participation review documentation relating to the organizational structure as noted above. In accordance with 10 TAC §1.301(d)(1), the compliance history is designated as a Medium Portfolio Category 3 and deemed acceptable by the EARAC after review and discussion.

Public Comment: There have been no letters of support or opposition received by the Department.



1n

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
JANUARY 28, 2016

Presentation, Discussion, and Possible Action Regarding a Waiver of 10 TAC §10.101(b)(1)(A)(ii) Uniform Multifamily Rules related to a Development with Four or More Stories and a Determination Notice for Housing Tax Credits with another Issuer.

RECOMMENDED ACTION

WHEREAS, a 4% Housing Tax Credit application for Terrace at Walnut Creek was submitted to the Department on October 2, 2015;

WHEREAS, the Certification of Reservation from the Texas Bond Review Board (“BRB”) was issued on October 26, 2015, and will expire on March 24, 2016;

WHEREAS, the proposed issuer of the bonds is the Travis County Housing Finance Corporation;

WHEREAS, the applicant requested a waiver pursuant to §10.207(a) of the Uniform Multifamily Rules regarding §10.101(b)(1)(A)(ii) relating to any development with any buildings with four or more stories that does not include an elevator;

WHEREAS, the Department is not waiving any requirements under 10 TAC Chapter 1, Subchapter B; and

WHEREAS, in accordance with 10 TAC §1.301(d)(1), the compliance history is designated as an Extra Large Portfolio Category 3 and deemed acceptable by the Executive Award and Review Advisory Committee (“EARAC”) after review and discussion;

NOW, therefore, it is hereby

RESOLVED, in accordance with §10.207(a) the Board hereby grants the waiver relating to §10.101(b)(1)(A)(ii) regarding any development with any buildings with four or more stories that does not include an elevator and

FURTHER RESOLVED, that the issuance of a Determination Notice of \$1,943,001 in 4% Housing Tax Credits, subject to underwriting conditions that may be applicable as found in the Real Estate Analysis report posted to the Department’s website for Terrace at Walnut Creek is hereby approved as presented to this meeting.

BACKGROUND

General Information: Terrace at Walnut Creek, proposed to be located at Old Manor Road and US Hwy 290 in Austin, Travis County, involves the new construction of 324 units of which four will be rent and income

restricted at 40% AMFI and the remaining 320 will be rent and income restricted at 60% AMFI. The development will serve the general population and is zoned appropriately. The census tract (0022.02) has a median household income of \$32,247, is in the fourth quartile and has a poverty rate of 34%.

Waiver Request: The applicant has requested a waiver of one of the general ineligibility criteria, specifically, that any development with any buildings with four or more stories that does not include an elevator, which is found under §10.101(b)(1)(A)(ii) of the Uniform Multifamily Rules. The development is proposed to include 11 residential buildings, eight of which are considered to be basement splits based on information provided by the architect. Specifically, the classification of the bottom floor as a basement and not a story which would preclude the development from needing an elevator as required under §10.101(b)(1)(A)(ii). The development is located outside the City of Austin limits, within the extra-territorial jurisdiction, located completely within Travis County. As a result, the development and design of the buildings will be subject to only a limited Code Review by the political jurisdictions in which they reside.

The general building design for the Terraces at Walnut Creek will be substantially designed in accordance with the 2015 IBC, which includes definitions for a basement, story, grade plane and story above grade plane. However, because there is no governing authority that will enforce these definitions, the design team has proposed a minor modification that provides for a more livable unit design and will be acceptable to all the governing authorities having jurisdiction over the development. Basement, as defined by the 2015 IBC is “a story that is not a story above grade plane” and Story above Grade Plane is “any story having its finished floor entirely above grade plane, or in which the finished surface of the floor next above is more than six feet above grade plane; or, more than 12 feet above the finished ground level at any point.” The modification the design team have proposed is for the finished surface of the floor next above to be “more than 7 feet above grade plane.”

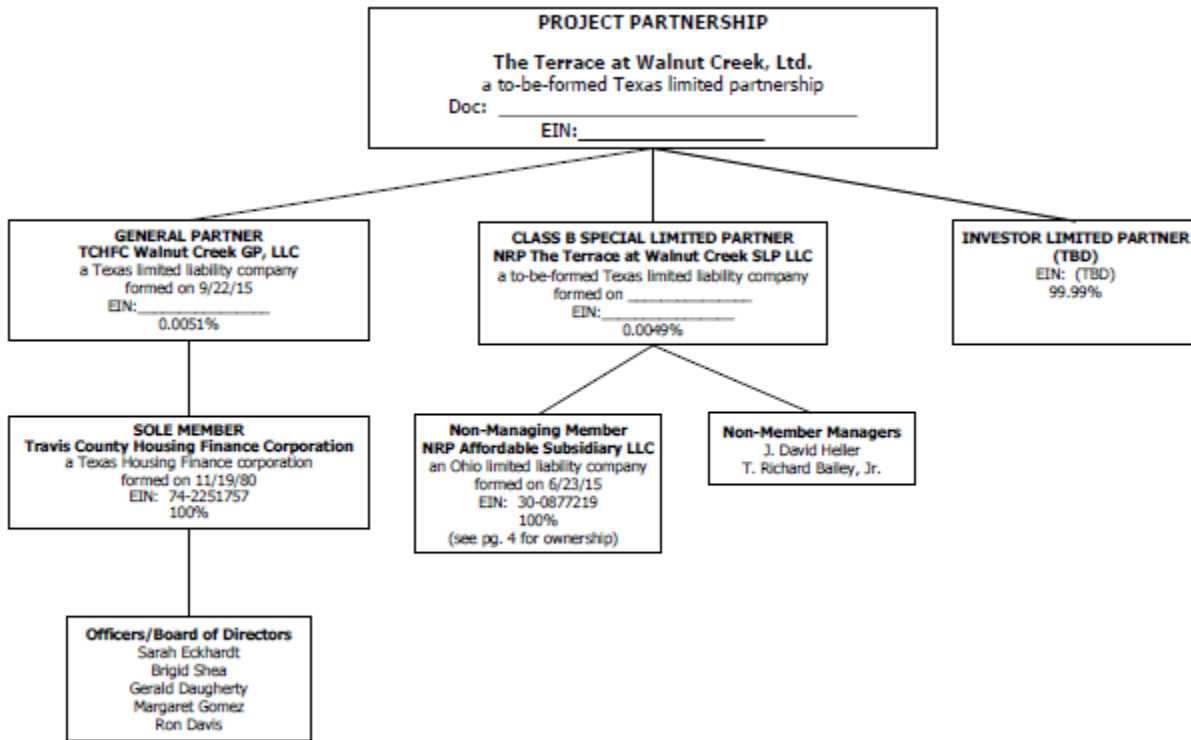
This minor revision, according to the design team, provides a more livable lower dwelling unit than the alternative, which would result in a lower ceiling height in the lower level “basement” units. As a more practical consideration, as it relates to the waiver request, the residents will never have to walk up more than three flights of stairs after parking their car, as reflected in the rendering below. As such, the development will function similar to any other garden-style apartment, with one exception, that for a few of the units, the resident will have to walk down to get to their unit. These lower floor units will not have entry access other than walking down the stairs that also serve the upper floors. No accessibility requirements described in 10 TAC Chapter 1, Subchapter B are being waived.

Staff believes the proposed development, inclusive of the waiver requested, meets the stated purposes of Texas Government Code §2306.001, whereby the Department is to provide for the housing needs of individuals and families of low, very low, and extremely low income and families of moderate income and §2306.6701 of encouraging the development of appropriate types of rental housing for households that have difficulty finding suitable rental housing in the private marketplace as well as providing for and encouraging the participation of nonprofit organizations in the acquisition, development, and operation of affordable housing developments. The Terrace at Walnut Creek ownership structure involves a nonprofit general partner and will serve residents at 40% and 60% of AMI which advances the purposes under §2306. Staff recommends granting the waiver of §10.101(b)(1)(A)(ii) of the Uniform Multifamily Rules.



Organizational Structure: The Borrower is The Terrace at Walnut Creek, Ltd. and includes the entities and principals as indicated in the organization chart below. The EARAC met on January 15, 2016, and considered the previous participation review documentation relating to the organizational structure as noted above. In accordance with 10 TAC §1.301(d)(1), the compliance history is designated as an Extra Large Portfolio Category 3 and deemed acceptable by the EARAC after review and discussion.

Public Comment: There have been no letters of support or opposition received by the Department.



10

BOARD ACTION REQUEST
HOME PROGRAM DIVISION
JANUARY 28, 2016

Presentation, Discussion, and Possible Action on adoption of amendments to 10 Texas Administrative Code (“TAC”) Chapter 23, Single Family HOME Program, Subchapter A, General Guidance, §23.2 Definitions; Subchapter C, Homeowner Rehabilitation Assistance, §23.32 Homeowner Rehabilitation Assistance (“HRA”) Administrative Requirements; Subchapter D, Homebuyer Assistance Program, §23.41 Homebuyer Assistance (“HBA”) Program Requirements and §23.42 HBA Administrative Requirements; Subchapter E, Contract for Deed Conversion Program, §23.51 Contract for Deed Conversion (“CFDC”) Program Requirements and §23.52 CFDC Administrative Requirement; Subchapter F, Tenant-Based Rental Assistance Program, §23.62 Tenant-Based Rental Assistance (“TBRA”) Administrative Requirements; and Subchapter G, Single Family Development Program, §23.72 Single Family Development (“SFD”) Administrative Requirements, and directing that they be published in the *Texas Register*.

RECOMMENDED ACTION

WHEREAS, at the Board meeting of November 12, 2015, the Board approved the publication of proposed amendments to 10 TAC §§23.2 – 23.72 in the *Texas Register* and

WHEREAS, the public comment period has ended and no comments were received;

NOW, therefore, it is hereby

RESOLVED, that the amendments to 10 TAC Chapter 23, Single Family HOME Program, Subchapter A, General Guidance; Subchapter C, Homeowner Rehabilitation Assistance; Subchapter D, Homebuyer Assistance Program; Subchapter E, Contract for Deed Conversion Program; Subchapter F, Tenant-Based Rental Assistance Program; and Subchapter G, Single Family Development Program are hereby ordered and that the Executive Director and his designees be and each of them are hereby authorized, empowered, and directed, for and on behalf of the Department, to publish the adoption in the *Texas Register* and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

BACKGROUND

The purpose of amending the State HOME Investment Partnerships Program (“HOME”) Rules under Subchapter A is to define Area Median Family Income (“AMFI”) and Identity of Interest. The amendments to Subchapter C, Subchapter D, Subchapter E, and Subchapter F, are to clarify and revise certain program requirements to better conform to recent changes and guidance related to state and federal laws and regulations. Revisions under each subchapter propose to strike language related to eligible sources of a HOME Administrator’s Match contribution which is currently more restrictive than the requirements within the federal HOME regulations at 24 CFR Part 92, as amended on July 24, 2013, and to add language related to updated flood insurance requirements. Additional revisions under Subchapter D and revisions under Subchapter G are to conform to the TILA-RESPA Integrated Disclosure (“TRID”) Rule. Additional

revisions under Subchapter E are to conform to changes made to Title 2, Chapter 5, Subchapter D of Texas Property Code effective September 1, 2015.

The Board approved the proposed amendments at the meeting of November 12, 2015, to be published in the *Texas Register* for public comment. The rulemaking was published in the November 27, 2015, issue of the *Texas Register* and was made available for public comment from November 28, 2015, through December 28, 2015. No comments were received and no changes are being made from the version released by the *Texas Register*.

Attachment 1: Preamble and adoption of amendment of SUBCHAPTER A, DEFINITIONS

The Texas Department of Housing and Community Affairs (the “Department”) adopts the amendments to 10 TAC Chapter 23, Single Family HOME Program, Subchapter A, §23.2, concerning Definitions, without changes to the proposed text as published in the November 27, 2015, issue of the *Texas Register* (40 TexReg 8424) and will not be republished.

REASONED JUSTIFICATION: The Department finds that the proposed amendment will increase efficiency and effectiveness of the Single Family HOME Program.

The Department accepted public comment between November 28, 2015, and December 28, 2015. No comments were received concerning the proposed amendments.

The Board approved the final order adopting the proposed amendments on January 28, 2016.

STATUTORY AUTHORITY: The repeal is adopted pursuant to the authority of Texas Government Code, §2306.053(b)(4) which authorizes the Department to adopt rules.

§23.2. Definitions

These words when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise. Additional definitions may be found in Texas Government Code, Chapter 2306 or Chapter 20 of this title (relating to Single Family Programs Umbrella Rule).

(1) Area Median Family Income-- the income limits published annually by the U.S. Department of Housing and Urban Development (HUD) for the Housing Choice Voucher Program that is used by the Department to determine the eligibility of applicants for the HOME Program, also referred to as AMFI.

(2) CFR--Code of Federal Regulations.

(3) Commitment of Funds--Occurs when the Activity or a Project is approved by the Department and set up in the Integrated Disbursement and Information System (IDIS) established by HUD.

(4) Development Site--The area, or if scattered site, areas on which the development is proposed to be located.

(5) Direct Project Costs--The total costs of hard construction costs, demolition costs, aerobic septic systems, refinancing costs (as applicable), acquisition and closing costs, rental and utility subsidy and deposits, and Match Funds.

(6) HOME Final Rule--The regulations with amendments promulgated at 24 CFR, Part 92 as published by HUD for the HOME Investment Partnerships Program at 42 U.S.C. §§12701 - 12839.

(7) Homeownership--Ownership in fee simple title in a 1 to 4 unit dwelling or in a condominium unit, or equivalent form of ownership approved by the Department. Homeownership is not right to possession under a contract for deed, installment contract, or land contract (pursuant to which the deed is not given until the final payment is made).

(8) Identity of Interest--An acquisition will be considered to be an Identity of Interest transaction when the purchaser has any financial interest whatsoever in the seller or lender or is subject to common control, or any family relationship by virtue of blood, marriage or adoption exists between the purchaser and the seller or lender.

(9) Match--Funds contributed to a Project that meet the requirements of 24 CFR §§92.218 - 92.220. Match contributed to a Project or Activity does not include mortgage revenue bonds, non HOME-assisted projects, and cannot include any other sources of Department funding unless otherwise approved in writing by the Department.

(10) Person--Any individual, partnership, corporation, association, unit of government, community action agency, or public or private organization of any character.

(11) Persons with Special Needs--Individuals or categories of individuals determined by the Department to have unmet housing needs as provided in the Consolidated Plan and the State's One Year Action Plan.

(12) Predevelopment Costs--Costs related to a specific eligible Project including:

(A) Predevelopment housing project costs that the Department determines to be customary and reasonable, including but not limited to consulting fees, costs of preliminary financial applications, legal fees, architectural fees, engineering fees, engagement of a development team, and site control;

(B) Pre-construction housing project costs that the Department determines to be customary and reasonable, including but not limited to, the costs of obtaining firm construction loan commitments, architectural plans and specifications, zoning approvals, engineering studies and legal fees; and

(C) Predevelopment costs do not include general operational or administrative costs.

(13) Principal--A Person, or Persons, that will exercise Control over a partnership, corporation, limited liability company, trust, or any other private entity. In the case of:

(A) Partnerships: Principals include all General Partners, special limited partners, and Principals with ownership interest;

(B) Corporations: Principals include any officer authorized by the board of directors to act on behalf of the

corporation, including the president, vice president, secretary, treasurer, and all other executive officers, and each stock holder having a 10 percent or more interest in the corporation; and

(C) Limited liability companies: Principals include all managing members, members having a 10 percent or more interest in the limited liability company or any officer authorized to act on behalf of the limited liability company.

(14) Project--A single housing unit with a unique physical address. A Project may also refer to an individual Project, Development, or site.

(15) Reservation System Participant (RSP)--Administrator who has executed a written agreement with the Department that allows for participation in the Reservation System.

(16) Service Area--The city(ies), county(ies) and/or place(s) identified in the Application and/or Agreement that the Administrator will serve.

(17) Texas Minimum Construction Standard (TMCS)--The program standard used to determine the minimum acceptable housing condition for the purposes of rehabilitation.

(18) Third Party--A Person who is not:

(A) an Applicant, Administrator, Borrower, General Partner, Developer, Development Owner, or General Contractor; or

(B) an Affiliate, Affiliated Party to the Applicant, Administrator, Borrower, General Partner, Developer, Development Owner, or General Contractor; or

(C) a Person receiving any portion of the administration, contractor fee, or developer fee.

Attachment 2: Preamble and adoption of amendment of SUBCHAPTER C, HOMEOWNER REHABILITATION ASSISTANCE

The Texas Department of Housing and Community Affairs (the “Department”) adopts the amendments to 10 TAC Chapter 23, Single Family HOME Program, Subchapter C, §23.32, concerning Homeowner Rehabilitation Assistance (“HRA”) Administrative Requirements, without changes to the proposed text as published in the November 27, 2015, issue of the *Texas Register* (40 TexReg 8425) and will not be republished.

REASONED JUSTIFICATION: The Department finds that the proposed amendment will increase efficiency and effectiveness of the Single Family HOME Program.

The Department accepted public comment between November 28, 2015, and December 28, 2015. No comments were received concerning the proposed amendments.

The Board approved the final order adopting the proposed amendments on January 28, 2016.

STATUTORY AUTHORITY: The repeal is adopted pursuant to the authority of Texas Government Code, §2306.053(b)(4) which authorizes the Department to adopt rules.

§23.32. Homeowner Rehabilitation Assistance (HRA) Administrative Requirements

(a) Commitment or Reservation of Funds. The Administrator must submit the true and complete information, certified as such, with a request for the Commitment or Reservation of Funds as described in paragraphs (1) - (17) of this subsection:

- (1) head of Household name and address of housing unit for which assistance is being requested;
- (2) a budget that includes the amount of Project funds specifying the acquisition costs, construction costs, Soft Costs and administrative costs requested, a maximum of 5 percent of hard construction costs for contingency items, proposed Match to be provided, evidence that Direct Project Cost and Soft Cost limitations are not exceeded, and evidence that any duplication of benefit is addressed;
- (3) verification of environmental clearance;
- (4) a copy of the Household's intake application on a form prescribed by the Department;
- (5) certification of the income eligibility of the Household signed by the Administrator and all Household members age 18 or over, and including the date of the income eligibility determination. In instances where the total Household income is within \$3,000 of the 80 percent AMFI, all documentation used to determine the income of the Household;
- (6) project cost estimates, construction contracts, and other construction documents necessary to ensure applicable property standard requirements will be met at completion;
- (7) when assistance is provided in the form of a loan, provide written consent from all Persons who have a valid lien or ownership interest in the Property for the rehabilitation or reconstruction Projects;

(8) in the instance of relocation and in accordance with §23.31(a)(3) of this chapter (relating to Homeowner Rehabilitation Assistance (HRA) Program Requirements), the Household must document Homeownership of the existing unit to be replaced and must establish Homeownership of the lot on which the replacement housing unit will be constructed. The Household must agree to the demolition of the existing housing unit. HOME Project funds cannot be used for the demolition of the existing unit and any funding used for the demolition is not eligible Match; however, solely for a Project under this paragraph, the Administrator Match obligation may be reduced by the cost of such demolition without any Contract amendment;

(9) identification of any Lead-Based Paint (LBP);

(10) for housing units located within the 100-year floodplain or otherwise required to carry flood insurance by federal or local regulation, a quote for the cost of flood insurance and certification from the Household that they understand the flood insurance requirements;

(11) consent to demolish from any existing mortgage lien holders and consent to subordinate to the Department's loan, if applicable;

(12) if applicable, documentation to address or resolve any potential conflict of interest, Identity of Interest, duplication of benefit, or floodplain mitigation;

(13) a title commitment or policy or a down date endorsement to an existing title policy, and the actual documents, or legible copies thereof, establishing the Household's ownership, such as a warranty deed or ninety-nine (99) year leasehold. For loan projects, the title commitment must be no older than 30 days old as of the date of project submission. Title commitments for loan projects that expire prior to the loan closing date must be updated and must not have any adverse changes. For assistance provided in the form of a grant agreement, a title report may be submitted in lieu of a title commitment or policy. In instances of an MHU, a Statement of Ownership and Location (SOL) must be submitted. Together, these documents must evidence the definition of Homeownership is met;

(14) tax certificate that evidences a current paid status, and in the case of delinquency, evidence of an approved payment plan with the taxing authority and evidence that the payment plan is current;

(15) in the instances of replacement with an MHU, information necessary to draft loan documents or grant agreements to issue SOL;

(16) life event documentation, as applicable, and all information necessary to prepare any applicable affidavits such as marital status and heirship; and

(17) any other documentation necessary to evidence that the Project meets the program requirements.

(b) Loan closing or grant agreement. In addition to the documents required under subsection (a) of this section, the Administrator must submit the appraisal or other valuation method approved by the Department which establishes the post rehabilitation or reconstruction value of improvements for Projects involving construction prior to the issuance of grant or loan documents by the Department.

(c) Disbursement of funds. The Administrator must comply with all of the requirements described in paragraphs (1) - (12) of this subsection, for a request for disbursement of funds to reimburse eligible costs

incurred. Submission of documentation related to the Administrator's compliance with requirements described in paragraphs (1) - (12) of this subsection, may be required with a request for disbursement:

(1) for construction costs associated with a loan, a down date endorsement to the title policy not older than the date of the last disbursement of funds or forty-five (45) days, whichever is later. For release of retainage the down date endorsement must be dated at least forty (40) days after the date of construction completion;

(2) for construction costs associated with a grant agreement, an interim lien waiver or final lien waiver. For release of retainage the release on final payment must be dated at least forty (40) days after the date of construction completion;

(3) if applicable, up to 50 percent of Project funds for a Project may be drawn before providing evidence of Match. Thereafter, each Administrator must provide evidence of Match, including the date of provision, in accordance with the percentage of Project funds disbursed;

(4) property inspections, including photographs of the front and side elevation of the housing unit and at least one picture of the kitchen, family room, one of the bedrooms and one of the bathrooms with date and property address reflected on each photo. The inspection must be signed and dated by the inspector and Administrator;

(5) certification that its fiscal control and fund accounting procedures are adequate to assure the proper disbursement of, and accounting for, funds provided, no Person that would benefit from the award of HOME funds has satisfied the Applicant's cash reserve obligation or made promises in connection therewith; that each request for disbursement of HOME funds is for the actual cost of providing a service and that the service does not violate any conflict of interest provisions;

(6) the executed grant agreement or original, executed, legally enforceable loan documents and statement of location, if applicable, for each assisted Household containing remedies adequate to enforce any applicable affordability requirements. Original documents must evidence that such agreements have been recorded in the real property records of the county in which the housing unit is located and the original documents must be returned, duly certified as to recordation by the appropriate county official;

(7) expenditures must be allowable and reasonable in accordance with federal, state, and local rules and regulations. The Department shall determine the reasonableness for expenditures submitted for reimbursement. The Department may request Administrator to make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein and to establish such additional requirements for payment of HOME funds to Administrator as may be necessary or advisable for compliance with all Program Rules;

(8) the request for funds for administrative costs must be proportionate to the amount of Direct Project Costs requested or already disbursed;

(9) include the withholding of 10 percent of hard construction costs for retainage. Retainage will be held until at least forty (40) days after completion of construction;

(10) for final disbursement requests, submission of documentation required for Project completion reports and evidence that the demolition or, if an MHU, salvage and removal of all dilapidated housing units on the

lot occurred for Newly Constructed or Rehabilitated housing unit, certification or other evidence acceptable to Department that the replacement house, whether site-built or MHU, was constructed or placed on and within the same lot for which ownership was established and on and within the same lot secured by the loan or grant agreement, if applicable, and evidence of floodplain mitigation;

(11) the final request for disbursement must be submitted to the Department with support documentation no later than sixty (60) days after the termination date of the Agreement in order to remain in compliance with Contract and eligible for future funding. The Department shall not be obligated to pay for costs incurred or performances rendered after the termination date of a Contract; and

(12) for costs associated with Title Policies charged as Project costs, the Title Policy must be submitted with the retainage request.

Attachment 3: Preamble and adoption of amendment of SUBCHAPTER D, HOMEBUYER ASSISTANCE PROGRAM

The Texas Department of Housing and Community Affairs (the “Department”) adopts the amendments to 10 TAC Chapter 23, Single Family HOME Program, Subchapter D, §23.41 Homebuyer Assistance Program Requirements and §23.42 Homebuyer Assistance Administrative Requirements, without changes to the proposed text as published in the November 27, 2015, issue of the *Texas Register* (40 TexReg 8427) and will not be republished.

REASONED JUSTIFICATION: The Department finds that the proposed amendment will increase efficiency and effectiveness of the Single Family HOME Program.

The Department accepted public comment between November 28, 2015, and December 28, 2015. No comments were received concerning the proposed amendments.

The Board approved the final order adopting the proposed amendments on January 28, 2016.

STATUTORY AUTHORITY: The repeal is adopted pursuant to the authority of Texas Government Code, §2306.053(b)(4) which authorizes the Department to adopt rules.

§23.41. Homebuyer Assistance (HBA) Program Requirements

(a) Eligible activities are limited to the acquisition or acquisition and Rehabilitation for accessibility modifications of single family housing units.

(b) The Household must complete a homebuyer counseling program/class.

(c) First lien purchase loans must comply with the requirements described in paragraphs (1) - (7) of this subsection:

(1) No adjustable rate mortgage loans or temporary interest rate buy-down loans are allowed;

(2) No first lien mortgage loans with a total loan to value equal to or greater than 100 percent are allowed;

(3) No subprime mortgage loans are allowed;

(4) For conforming mortgage loans, the debt to income ratio (back-end ratio) may not exceed 45 percent;

(5) Fees charged by third party mortgage lenders are limited to the greater of 2 percent of the mortgage loan amount or \$3,500, including but not limited to origination, application, and/or underwriting fees. Fees associated with the origination of Single Family Mortgage Revenue Bond and Mortgage Credit Certificate programs will not be included in the limit. Fees paid to parties other than the first lien lender will not be included in the limit. Fees collected by the first lien lender at closing to be paid to other parties by the first lien lender that are supported by an invoice will not be included in the limit;

(6) No Identity of Interest relationship between the lender and the Household is allowed; and

(7) If an Identity of Interest exists between the Household and the seller, the Department may require additional documentation that evidences that the sales price is equal to or less than the appraised value of the property as documented by a Third-Party appraisal ordered by the first lien lender. If an Identity of Interest exists between the builder and Administrator, the Administrator must provide documentation that evidences that the sales price does not provide for a profit of more than 15 percent of the total hard construction costs and does not exceed the current appraised value as documented by a Third-Party appraisal ordered by the first lien lender.

(d) Direct Project Costs, exclusive of Match funds, are limited to:

(1) acquisition and closing costs: the lesser of \$20,000 or the amount necessary as determined by an affordability analysis that evidences the total estimated housing payment (including principal, interest, property taxes, insurance, and any other homebuyer assistance) is no less than 20 percent of the Household's gross monthly income based on a thirty (30) year amortization schedule. If the estimated housing payment will be less than 20 percent, the Department shall reduce the amount of downpayment assistance to the homebuyer such that the total estimated housing payment is no less than 20 percent of the homebuyer's gross income; or

(2) closing costs and downpayment: the lesser of \$6,000 or the total estimated settlement charges shown on the good faith estimate that are paid by the buyer at closing which are not paid by the buyer's contribution. Households assisted under this paragraph who, at the time of application, have assets which may be liquidated without a federal income tax penalty and which exceed three months of estimated principal, interest, property tax, and property insurance payments for the unit to be purchased as shown in the truth-in-lending statement must contribute the excess funds to the total estimated settlement charges as shown on the good faith estimate; and

(3) rehabilitation for accessibility modifications: \$20,000.

(4) No funds shall be disbursed to the assisted Household at closing. The HOME assistance shall be reduced in the amount necessary to prevent the Household's direct receipt of funds if the closing disclosure shows funds to be provided to the buyer at closing.

(5) Total assistance to the Household must be in an amount of no less than \$1,000. Households who are not eligible for at least \$1,000 in total homebuyer assistance are ineligible for assistance under this subchapter.

(e) Project Soft Costs are limited to:

(1) acquisition and closing costs: no more than \$1,500 per housing unit; and

(2) Rehabilitation for accessibility modifications: \$5,000 per housing unit.

(f) Funds for Administrative costs are limited to no more than 4 percent of the Direct Project Costs, exclusive of Match funds.

(g) The assistance to an eligible Household shall be in the form of a loan in the amount of the Direct Project Costs, excluding Match funds. The loan will be at zero percent interest and include deferral of payment and annual pro rata forgiveness with a term based on the federal affordability requirements as defined in 24 CFR

§92.254.

- (h) Any forgiveness of the loan must follow §23.29 of this chapter.
- (i) To ensure affordability, the Department will impose the recapture provisions established in this chapter.
- (j) Housing that is Rehabilitated under this chapter must meet the Texas Minimum Construction Standards (TMCS) and all other applicable local codes, rehabilitation standards, ordinances, and zoning ordinances in accordance with the HOME Final Rule, and Chapter 21 of this title. Housing units that are provided assistance for acquisition only must meet all applicable state and local housing quality standards and code requirements. In the absence of such standards and requirements, the housing units must meet the Housing Quality Standards (HQS) in 24 CFR §982.401.

§23.42. Homebuyer Assistance (HBA) Administrative Requirements

(a) Reservation of Funds. The Administrator must submit true and complete information, certified as such, with a request for the Reservation of Funds, as described in paragraphs (1) - (7) of this subsection:

- (1) head of Household name;
- (2) a budget that includes the amount of Project funds specifying the acquisition costs, construction costs, Soft Costs and administrative costs requested. A maximum of 5 percent of hard construction costs for contingency items, proposed Match to be provided, evidence that Project and Soft Cost limitations are not exceeded, and evidence that any duplication of benefit is addressed;
- (3) a copy of the Household's intake application on a form prescribed by the Department;
- (4) certification of the income eligibility of the Household signed by the Administrator and all Household members age 18 or over, and including the date of the income eligibility determination. In instances where the total Household income is within \$3,000 of the 80 percent AMFI, all documentation used to determine the income of the Household;
- (5) if applicable, documentation to address or resolve any potential Conflict of Interest, Identity of Interest, or duplication of benefit;
- (6) if applicable, construction cost estimates, construction contracts, and other construction documents necessary to ensure applicable property standard requirements will be met at completion; and
- (7) any other documentation necessary to evidence that the Project meets the program requirements.

(b) Commitment of Funds. In addition to the documents required under subsection (a) of this section, the Administrator must submit the documents described in paragraphs (1) - (8) of this subsection, with a request for the Commitment of Funds within ninety (90) days of approval of the Reservation:

- (1) address of housing unit for which assistance is being requested;
- (2) verification of environmental clearance;

(3) identification of Lead-Based Paint (LBP);

(4) for housing units located within the 100-year floodplain or otherwise required to carry flood insurance by federal or local regulation, a quote for the cost of flood insurance and certification from the Household that they understand the flood insurance requirements;

(5) a title commitment to issue a title policy that evidences the property will transfer with no tax lien, child support lien, mechanics or materialman's lien or any other restrictions or encumbrances that impair the good and marketable nature of title to the ownership interest and that the definition of Homeownership will be met. Commitments that expire prior to execution of closing must be updated at closing and must not have any adverse changes in order to close;

(6) executed sales contract and documentation that the first lien mortgage meets the eligibility requirements;

(7) appraisal which includes post rehabilitation or reconstruction improvements for Projects involving construction; and

(8) a good faith estimate, loan estimate or letter from the lender confirming that the loan terms and closing costs will be consistent with the executed sales contract, the first lien mortgage loan requirements, and the requirements of this chapter.

(c) Disbursement of funds. The Administrator must comply with all of the requirements described in paragraphs (1) - (10) of this subsection, for a request for disbursement of funds to reimburse eligible costs incurred. Submission of documentation related to the Administrator's compliance with requirements described in paragraphs (1) - (10) of this subsection, may be required with a request for disbursement:

(1) For construction costs that are a part of a loan subject to the requirements of this subsection, a down date endorsement to the title policy not older than the date of the last disbursement of funds or forty-five (45) days, whichever is later. For release of retainage the down date endorsement must be dated at least forty (40) days after the date of construction completion;

(2) If applicable, up to 50 percent of Project funds for a Project may be drawn before providing evidence of Match. Thereafter, each Administrator must provide evidence of Match, including the date of provision, in accordance with the percentage of Project funds disbursed;

(3) The property inspection must be signed and dated by the inspector and the Administrator or Developer;

(4) Certification that its fiscal control and fund accounting procedures are adequate to assure the proper disbursement of, and accounting for, funds provided, no Person that would benefit from the award of HOME funds has satisfied the Applicant's cash reserve obligation or made promises in connection therewith; that each request for disbursement of HOME funds is for the actual cost of providing a service and that the service does not violate any conflict of interest provisions;

(5) Original, executed, legally enforceable loan documents for each assisted Household containing remedies adequate to enforce any applicable affordability requirements. Original documents must evidence that such agreements have been recorded in the real property records of the county in which the housing unit is located and the original documents must be returned, duly certified as to recordation by the appropriate

county official. This provision is not applicable for funds made available at the loan closing;

(6) Expenditures must be allowable and reasonable in accordance with federal, state, and local rules and regulations. The Department shall determine the reasonableness for expenditures submitted for reimbursement. The Department may request Administrator to make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein and to establish such additional requirements for payment of HOME funds to Administrator as may be necessary or advisable for compliance with all program requirements;

(7) The request for funds for Administrative costs must be proportionate to the amount of Direct Project Costs requested or already disbursed;

(8) Table funding requests must be submitted to the Department with complete documentation no later than ten (10) business days prior to the anticipated loan closing date. Such a request must include a draft settlement statement, title company payee identification information, the Administrator or Developer's authorization for disbursement of funds to the title company, request letter from title company to the Texas Comptroller with bank account wiring instructions, and invoices for Soft Costs being paid at closing;

(9) For Activities involving Rehabilitation, include the withholding of 10 percent of hard construction costs for retainage. Retainage will be held until at least forty (40) days after completion of construction and until submission of documentation required for Project completion reports; and

(10) The final request for disbursement must be submitted to the Department with support documentation no later than sixty (60) days after the termination date of the Contract in order to remain in compliance with Contract and eligible for future funding. The Department shall not be obligated to pay for costs incurred or performances rendered after the termination date of a Contract.

Attachment 4: Preamble and adoption of amendment of SUBCHAPTER E, CONTRACT FOR DEED CONVERSION PROGRAM

The Texas Department of Housing and Community Affairs (the “Department”) adopts the amendments to 10 TAC Chapter 23, Single Family HOME Program, Subchapter E, §23.51 Contract for Deed Conversion (CFDC) Program Requirements and §23.52 Contract for Deed Conversion (CFDC) Administrative Requirement, without changes to the proposed text as published in the November 27, 2015, issue of the *Texas Register* (40 TexReg 8430) and will not be republished.

REASONED JUSTIFICATION: The Department finds that the proposed amendment will increase efficiency and effectiveness of the Single Family HOME Program.

The Department accepted public comment between November 28, 2015, and December 28, 2015. No comments were received concerning the proposed amendments.

The Board approved the final order adopting the proposed amendments on January 28, 2016.

STATUTORY AUTHORITY: The repeal is adopted pursuant to the authority of Texas Government Code, §2306.053(b)(4) which authorizes the Department to adopt rules.

§23.51. Contract for Deed Conversion (CFDC) Program Requirements

(a) Eligible activities are limited to:

(1) acquisition or acquisition and Rehabilitation, Reconstruction, or New Construction of single family housing units occupied by the purchaser as shown on an executory contract for conveyance; or

(2) refinance with Rehabilitation, Reconstruction, or New Construction of single family housing units occupied by the purchaser as shown on an executory contract for conveyance;

(A) to be eligible for refinance assistance, construction costs must exceed the amount of debt that is to be refinanced.

(b) An MHU is not an eligible property type for Rehabilitation. MHUs must be installed according to the manufacturer's installation instructions and in accordance with Federal and State laws and regulations.

(c) The Household's income must not exceed 60 percent AMFI and the Household must complete a homebuyer counseling program/class.

(d) The property assisted must be located in a Colonia as defined in Texas Government Code, Chapter 2306. The Colonia must have a Colonia Classification Number, as assigned by the Office of the Texas Secretary of the State.

(e) The Department will require a first lien position.

(f) Direct Project Costs, exclusive of Match funds, are limited to:

(1) refinance, acquisition and closing costs: \$35,000. In the case of a contract for deed conversion housing unit that involves the refinance or acquisition of a loan on an existing MHU and/or the loan for the associated land, the Executive Director may grant an exception to exceed this amount, however, the Executive Director will not grant an exception to exceed \$40,000 of assistance;

(2) Reconstruction and New Construction of site-built housing: the lesser of \$78 per square foot or \$85,000, or for Households of five or more Persons the lesser of \$78 per square foot or \$90,000;

(3) replacement with an energy efficient MHU: \$75,000; and

(4) rehabilitation that is not Reconstruction: \$40,000.

(g) In addition to the Direct Project Costs allowable under subsection (d) of this section, a sum not to exceed \$5,000 may be used to pay for any of the following:

(1) necessary environmental mitigation as identified during the Environmental review process; or

(2) homeowner requests for accessibility features.

(h) Project Soft Costs are limited to:

(1) acquisition and closing costs: no more than \$1,500 per housing unit;

(2) Reconstruction or New Construction: no more than \$9,000 per housing unit;

(3) replacement with an MHU: no more than \$3,500 per housing unit; and

(4) rehabilitation that is not Reconstruction: \$5,000 per housing unit. This limit may be exceeded for lead-based remediation and only upon prior approval of the Division Director. The costs of testing and assessments for lead-based paint are not eligible Project Soft Costs for housing units that are reconstructed or if the existing housing unit was built after December 31, 1977.

(i) Funds for administrative costs are limited to no more than 4 percent of the Direct Project Costs, exclusive of Match funds.

(j) The assistance to an eligible Household shall be in the form of a loan in the amount of the Direct Project Costs excluding Match funds. The loan will be at zero percent interest and include deferral of payment and annual pro rata forgiveness with a term based on the federal affordability requirements as defined in 24 CFR §92.254.

(1) for refinancing activities, the minimum loan term and affordability period is 15 years, regardless of the amount of HOME assistance.

(k) To ensure affordability, the Department will impose resale and recapture provisions established in this chapter.

(l) For Reconstruction and New Construction, site-built housing units must meet or exceed the 2000

International Residential Code and all applicable local codes, standards, ordinances, and zoning requirements. In addition, Reconstruction and New Construction housing is required to meet §92.25 1(a)(2) as applicable. Housing that is Rehabilitated under this chapter must meet the Texas Minimum Construction Standards (TMCS) and all other applicable local codes, rehabilitation standards, ordinances, and zoning ordinances in accordance with the HOME Final Rule. Housing units that are provided assistance for acquisition only must meet all applicable state and local housing quality standards and code requirements. In the absence of such standards and requirements, the housing units must meet the Housing Quality Standards (HQS) in 24 CFR §982.401.

(m) Each unit must meet the design and quality requirements described in paragraphs (1) - (4) of this subsection:

(1) include the following amenities: Wired with RG-6 COAX or better and CAT3 phone cable or better to each bedroom and living room; Blinds or window coverings for all windows; Oven/Range; Exhaust/vent fans (vented to the outside) in bathrooms; Energy-Star or equivalently rated lighting in all rooms, which may include compact florescent bulbs. The living room and each bedroom must contain at least one ceiling lighting fixture and wiring must be capable of supporting ceiling fans;

(2) contain no less than two bedrooms. Each unit must contain complete physical facilities and fixtures for living, sleeping, eating, cooking, and sanitation;

(3) each bedroom must be no less than 100 square feet; have a length or width no less than 8 feet; be self contained with a door; have at least one window that provides exterior access; and have at least one closet that is not less than 2 feet deep and 3 feet wide and high enough to contain at least 5 feet of hanging space; and

(4) be no less than 800 total net square feet for a two bedroom home; no less than 1,000 total net square feet for a three bedroom and two bathroom home; and no less than 1,200 total net square feet for a four bedroom and two bathroom home.

(n) Housing proposed to be constructed under this Activity must meet the requirements of Chapters 20 and 21 of this title and must be certified by a licensed architect or engineer.

(1) The Department will reimburse only for the first time a set of architectural plans are used, unless any subsequent site specific fees are paid to a Third Party architect, or a licensed engineer; and

(2) A NOFA may include incentives or otherwise require architectural plans to incorporate "green building" elements.

§23.52. Contract for Deed Conversion (CFDC) Administrative Requirements

(a) Commitment or Reservation of Funds. The Administrator must submit true and correct information, certified as such, with a request for the Commitment or Reservation of Funds as described in paragraphs (1) - (15) of this subsection:

(1) head of Household name and address of housing unit for which assistance is being requested;

(2) a budget that includes the amount of Project funds specifying the acquisition costs, construction costs, Soft Costs and administrative costs requested, a maximum of 5 percent of hard construction costs for contingency items, proposed Match to be provided, evidence that Project and Soft Costs limitations are not exceeded, and evidence that any duplication of benefit is addressed;

(3) verification of environmental clearance;

(4) a copy of the Household's intake application on a form prescribed by the Department;

(5) certification of the income eligibility of the Household signed by the Administrator and all Household members age 18 or over, and including the date of the income eligibility determination. In instances the total Household income is within \$3,000 of the 80 percent AMFI, all documentation used to determine the income of the Household;

(6) project cost estimates, construction contracts, and other construction documents necessary to ensure applicable property standard requirements will be met at completion;

(7) identification of Lead-Based Paint (LBP);

(8) for housing units located within the 100-year floodplain or otherwise required to carry flood insurance by federal or local regulation, a quote for the cost of flood insurance and certification from the Household that they understand the flood insurance requirements;

(9) if applicable, documentation to address or resolve any potential Conflict of Interest, Identity of Interest, duplication of benefit, or floodplain mitigation;

(10) appraisal which includes post rehabilitation or reconstruction improvements for Projects involving construction;

(11) a title commitment to issue a title policy not older than thirty (30) days when submitted that evidences the property will transfer with no tax lien, child support lien, mechanic's or materialman's lien or any other restrictions or encumbrances that impair the good and marketable nature of title to the ownership interest and that the definition of Homeownership will be met. Commitments that expire prior to execution of closing must be updated at closing and must not have any adverse changes in order to close;

(12) in the instances of replacement with an MHU, information necessary to draft loan documents and issue Statement of Ownership and Location (SOL);

(13) life event documentation, as applicable, and all information necessary to prepare any applicable affidavits such as marital status and heirship;

(14) A copy of the recorded contract for deed and a current payoff statement; and

(15) any other documentation necessary to evidence that the Project meets the program requirements.

(b) Disbursement of funds. The Administrator must comply all of the requirements described in paragraphs

(1) - (11) of this subsection, for a request for disbursement of funds to reimburse eligible costs incurred.

Submission of documentation related to the Administrator's compliance with requirements described in paragraphs (1) - (11) of this subsection may be required with a request for disbursement:

(1) for construction costs, a down date endorsement to the title policy not older than the date of the last disbursement of funds or forty-five (45) days, whichever is later. For release of retainage the down date endorsement must be dated at least forty (40) days after the date of construction completion;

(2) if applicable, up to 50 percent of Project funds for a Project may be drawn before providing evidence of Match. Thereafter, each Administrator must provide evidence of Match, including the date of provision, in accordance with the percentage of Project funds disbursed;

(3) property inspections, including photographs of the front and side elevation of the housing unit and at least one picture of the kitchen, family room, one of the bedrooms and one of the bathrooms with date and property address reflected on each photo. The inspection must be signed and dated by the inspector and Administrator;

(4) certification that its fiscal control and fund accounting procedures are adequate to assure the proper disbursement of, and accounting for, funds provided, no Person that would benefit from the award of HOME funds has satisfied the Applicant's cash reserve obligation or made promises in connection therewith; that each request for disbursement of HOME funds is for the actual cost of providing a service and that the service does not violate any conflict of interest provisions;

(5) original, executed, legally enforceable loan documents, and statement of location, as applicable, for each assisted Household containing remedies adequate to enforce any applicable affordability requirements. Original documents must evidence that such agreements have been recorded in the real property records of the county in which the housing unit is located and the original documents must be returned, duly certified as to recordation by the appropriate county official. This provision is not applicable for funds made available at the loan closing;

(6) expenditures must be allowable and reasonable in accordance with federal, state, and local rules and regulations. The Department shall determine the reasonableness of each expenditure submitted for reimbursement. The Department may request Administrator or Developer to make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein and to establish such additional requirements for payment of HOME funds to Administrator as may be necessary or advisable for compliance with all program requirements;

(7) the request for funds for administrative costs must be proportionate to the amount of Direct Project Costs requested or already disbursed;

(8) table funding requests must be submitted to the Department with complete documentation no later than ten (10) business days prior to the anticipated loan closing date. Such a request must include a draft settlement statement, title company payee identification information, the Administrator or Developer's authorization for disbursement of funds to the title company, request letter from title company to the Texas Comptroller with bank account wiring instructions, and invoices for costs being paid at closing;

(9) include the withholding of 10 percent of hard construction costs for retainage. Retainage will be held until at least forty (40) days after completion of construction;

(10) for final disbursement requests, submission of documentation required for Project completion reports and evidence that the demolition or, if an MHU, salvage and removal of all dilapidated housing units on the lot, certification or other evidence acceptable to Department that the replacement house, whether site-built or MHU, was constructed or placed on and within the same lot secured by the loan, and evidence of floodplain mitigation; and

(11) the final request for disbursement must be submitted to the Department with support documentation no later than sixty (60) days after the termination date of the Contract in order to remain in compliance with Contract and eligible for future funding. The Department shall not be obligated to pay for costs incurred or performances rendered after the termination date of a Contract.

Attachment 5: Preamble and adoption of amendment of SUBCHAPTER F, TENANT-BASED RENTAL ASSISTANCE PROGRAM

The Texas Department of Housing and Community Affairs (the “Department”) adopts the amendments to 10 TAC Chapter 23, Single Family HOME Program, Subchapter F, §23.62, concerning Tenant-Based Rental Assistance Administrative Requirements, without changes to the proposed text as published in the November 27, 2015, issue of the *Texas Register* (40 TexReg 8432) and will not be republished.

REASONED JUSTIFICATION: The Department finds that the proposed amendment will increase efficiency and effectiveness of the Single Family HOME Program.

The Department accepted public comment between November 28, 2015, and December 28, 2015. No comments were received concerning the proposed amendments.

The Board approved the final order adopting the proposed amendments on January 28, 2016.

STATUTORY AUTHORITY: The repeal is adopted pursuant to the authority of Texas Government Code, §2306.053(b)(4) which authorizes the Department to adopt rules.

§23.62 Tenant-Based Rental Assistance (TBRA) Administrative Requirements

(a) Commitment or Reservation of Funds. The Administrator must submit the documents described in paragraphs (1) - (9) of this subsection, with a request for the Commitment or Reservation of Funds:

- (1) head of Household name and address of housing unit for which assistance is being requested;
- (2) a budget that includes the amount of Direct Project Costs, Project Soft Costs, administrative costs requested, Match to be provided, evidence that Direct Project Cost limitations are not exceeded, and evidence that any duplication of benefit is addressed;
- (3) verification of environmental clearance;
- (4) a copy of the Household's intake application on a form prescribed by the Department;
- (5) certification of the income eligibility of the Household signed by the Administrator, and all Household members age 18 or over, and including the date of the income eligibility determination. Administrator must submit documentation used to determine the income and rental subsidy of the Household;
- (6) identification of Lead-Based Paint (LBP);
- (7) if applicable, documentation to address or resolve any potential conflict of interest or duplication of benefit;
- (8) project address within ninety (90) days of preliminary set up approval, if applicable; and
- (9) any other documentation necessary to evidence that the Project meets the Program Rules.

(b) Disbursement of funds. The Administrator must comply with all of the requirements described in paragraphs (1) - (8) of this subsection for a request for disbursement of funds. Submission of documentation related to the Administrator compliance with requirements described in paragraphs (1) - (8) of this subsection may be required with a request for disbursement:

(1) If required or applicable, up to 50 percent of Direct Project Costs for a Project may be drawn before providing evidence of Match. Thereafter, each Administrator must provide evidence of Match, including the date of provision, in accordance with the percentage of Direct Project Costs disbursed;

(2) Certification that its fiscal control and fund accounting procedures are adequate to assure the proper disbursement of, and accounting for, funds provided, no Person that would benefit from the award of HOME funds has satisfied the Applicant's cash reserve obligation or made promises in connection therewith; that each request for disbursement of HOME funds is for the actual cost of providing a service and that the service does not violate any conflict of interest provisions;

(3) Expenditures must be allowable and reasonable in accordance with federal, state, and local rules and regulations. The Department shall determine the reasonableness of each expenditure submitted for reimbursement. The Department may request Administrator to make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein and to establish such additional requirements for payment of HOME funds to the Administrator or Developer as may be necessary or advisable for compliance with all Program Requirements;

(4) With the exception of up to 25 percent of the total funds available for administrative costs, the request for funds for administrative costs must be proportionate to the amount of Direct Project Costs requested or already disbursed;

(5) Requests may come in up to ten (10) days in advance of the first day of the following month;

(6) For final disbursement requests, submission of documentation required for Project completion reports;

(7) Household commitment contracts may be signed after the end date of an RSP only in cases where the Department has approved a project set-up with a project address to be determined at a later time; and

(8) The final request for disbursement must be submitted to the Department with support documentation no later than sixty (60) days after the termination date of the Contract in order to remain in compliance with Contract and eligible for future funding. The Department shall not be obligated to pay for costs incurred or performances rendered after the termination date of a Contract.

Attachment 6: Preamble and adoption of amendment of SUBCHAPTER G, SINGLE FAMILY DEVELOPMENT PROGRAM

The Texas Department of Housing and Community Affairs (the "Department") adopts the amendments to 10 TAC Chapter 23, Single Family HOME Program, Subchapter G, §23.72, concerning Single Family Development Administrative Requirements, without changes to the proposed text as published in the November 27, 2015, issue of the *Texas Register* (40 TexReg 8433) and will not be republished.

REASONED JUSTIFICATION: The Department finds that the proposed amendment will increase efficiency and effectiveness of the Single Family HOME Program.

The Department accepted public comment between November 28, 2015, and December 28, 2015. No comments were received concerning the proposed amendments.

The Board approved the final order adopting the proposed amendments on January 28, 2016.

STATUTORY AUTHORITY: The repeal is adopted pursuant to the authority of Texas Government Code, §2306.053(b)(4) which authorizes the Department to adopt rules.

§23.72 Single Family Development (SFD) Administrative Requirements

(a) Commitment or Reservation of Funds. The Administrator must submit true and correct information, certified as such, with a request for the Commitment or Reservation of Funds as described in paragraphs (1) - (11) of this subsection:

- (1) head of Household name and address of housing unit for which assistance is being requested;
- (2) a budget that includes the amount of Project funds specifying the acquisition cost, construction costs, contractor fees, and developer fees, as applicable. A maximum of 5 percent of hard construction costs for contingency items, proposed Match to be provided, evidence that Project Cost limitations are not exceeded, and evidence that any duplication of benefit is addressed;
- (3) verification of environmental clearance;
- (4) a copy of the Household's intake application on a form prescribed by the Department;
- (5) certification of the income eligibility of the Household signed by the Administrator and all Household members age 18 or over, and including the date of the income eligibility determination. In instances where the total Household income is within \$3,000 of the 80 percent AMFI, all documentation used to determine the income of the Household;
- (6) project cost estimates, construction contracts, and other construction documents necessary, in the Department's sole determination, to ensure applicable property standard requirements will be met at completion;
- (7) identification of Lead-Based Paint (LBP);

- (8) executed sales contract and documentation that the first lien mortgage meets the eligibility requirements;
- (9) if applicable, documentation to address or resolve any potential conflict of interest, Identity of Interest, duplication of benefit, or floodplain mitigation;
- (10) appraisal, which includes post rehabilitation or reconstruction improvements for Projects involving construction; and
- (11) any other documentation necessary to evidence that the Project meets the Program Rules.

(b) Loan closing. The Administrator or Developer must submit the documents described in paragraphs (1) - (2) of this subsection, with a request for the preparation of loan closing with the request for the Commitment or Reservation of Funds:

(1) a title commitment to issue a title policy not older than thirty (30) days when submitted for a Commitment of Funds that evidences the property will transfer with no tax lien, child support lien, mechanic's or materialman's lien or any other restrictions or encumbrances that impair the good and marketable nature of title to the ownership interest and that the definition of Homeownership will be met. Commitments that expire prior to execution of closing must be updated at closing and must not have any adverse changes in order to close; and

(2) within ninety (90) days after the loan closing date, the Administrator or Developer must submit to the Department the original recorded deed of trust and transfer of lien, if applicable. Failure to submit these documents within ninety (90) days after the loan closing date will result in the Department withholding payment for disbursement requests.

(c) Disbursement of funds. The Administrator must comply with the requirements described in paragraphs (1) - (10) of this subsection, for a request for disbursement of funds to reimburse eligible costs incurred. Submission of documentation related to the Administrator compliance with requirements described in paragraphs (1) - (10) of this subsection may be required with a request for disbursement:

(1) for construction costs, a down date endorsement to the title policy not older than the date of the last disbursement of funds or forty-five (45) days, whichever is later. For release of retainage the down date endorsement must be dated at least forty (40) days after the date of construction completion;

(2) if required or applicable, up to 50 percent of Direct Project Costs for a Project may be drawn before providing evidence of Match. Thereafter, each Administrator must provide evidence of Match, including the date of provision, in accordance with the percentage of Project funds disbursed;

(3) property inspections, including photographs of the front and side elevation of the housing unit and at least one picture of the kitchen, family room, one of the bedrooms and one of the bathrooms with date and property address reflected on each photo. The inspection must be signed and dated by the inspector and Administrator or Developer;

(4) certification that its fiscal control and fund accounting procedures are adequate to assure the proper disbursal of, and accounting for, funds provided, no Person that would benefit from the award of HOME funds has provided a source of Match or has satisfied the Applicant's cash reserve obligation or made

promises in connection therewith; that each request for disbursement of HOME funds is for the actual cost of providing a service and that the service does not violate any conflict of interest provisions;

(5) original, executed, legally enforceable loan documents containing remedies adequate to enforce any applicable affordability requirements. Original documents must evidence that such agreements have been recorded in the real property records of the county in which the housing unit is located and the original documents must be returned, duly certified as to recordation by the appropriate county official;

(6) expenditures must be allowable and reasonable in accordance with federal, state, and local rules and regulations. The Department shall determine the reasonableness for expenditures submitted for reimbursement. The Department may request Administrator or Developer to make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein and to establish such additional requirements for payment of HOME funds to Administrator or Developer as may be necessary or advisable for compliance with all Program Requirements;

(7) table funding requests must be submitted to the Department with complete documentation no later than ten (10) business days prior to the anticipated loan closing date. Such a request must include a draft settlement statement, title company payee identification information, the Administrator or Developer's authorization for disbursement of funds to the title company, request letter from title company to the Texas Comptroller with bank account wiring instructions, and invoices for costs being paid at closing;

(8) include the withholding of 10 percent of hard construction costs for retainage. Retainage will be held until at least forty (40) days after completion of construction;

(9) for final disbursement requests, submission of documentation required for Project completion reports; and

(10) the final request for disbursement must be submitted to the Department with support documentation no later than sixty (60) days after the termination date of the Contract in order to remain in compliance with Contract and eligible for future funding. The Department shall not be obligated to pay for costs incurred or performances rendered after the termination date of a Contract.

2a

TDHCA Outreach Activities, December 2015

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 |
|--|-------------|--------|------------------------------------|--------------|
| Community Resource Coordination Group State Workgroup Meeting | Austin | Dec 1 | Housing Resource Center | Participant |
| Community Reinvestment Work Group | Austin | Dec 2 | Housing Resource Center | Participant |
| Fair Housing Workgroup Meeting | Austin | Dec 3 | Fair Housing, Data Mgt & Reporting | Participant |
| 2016 Housing Tax Credit Workshop | Austin | Dec 7 | Multifamily Finance | Training |
| 2016 Housing Tax Credit Workshop | Dallas | Dec 8 | Multifamily Finance | Training |
| MetroTex Southwest Realtor Association MLS Meeting | Duncanville | Dec 8 | Homeownership | Presentation |
| 2016 Housing Tax Credit Workshop | Houston | Dec 9 | Multifamily Finance | Training |
| Housing and Services Partnership Academy Webinar I/Housing and Health Services Coordination Council | Austin | Dec 9 | Housing Resource Center | Moderator |
| 2017 QAP Planning Session | Austin | Dec 16 | Multifamily Finance | Roundtable |
| Continuum of Care Pre-Application Webinar/2016 Emergency Solutions Grants | Austin | Dec 18 | Community Affairs | Training |
| Housing and Services Partnership Academy Webinar II/Housing and Health Services Coordination Council | Austin | Dec 18 | Housing Resource Center | Presentation |

Internet Postings of Note, December 2015

A list of new or noteworthy documents posted to the Department's website

2016 Multifamily Uniform Application: December 1, 2015 — *for applicants seeking financing through the 9% and 4% Housing Tax Credit, the Multifamily Mortgage Revenue Bond, and HOME Multifamily Development programs:*

www.tdhca.state.tx.us/multifamily/apply-for-funds.htm

Multifamily Direct Loan 2016-1: Notice of Funding Availability — *for entities seeking to apply for funds made available through the Department's HOME and/or TCAP programs:*

www.tdhca.state.tx.us/multifamily/nofas-rules.htm; www.tdhca.state.tx.us/nofa.htm

2016 Housing Tax Credit Award Limits: Estimated Regional Allocation/Elderly Funding Limits — *reflecting the estimated Competitive Housing Tax Credit ceiling and maximum amount of credit the Department expects to have available for the 2016 competitive cycle by subregion:*

www.tdhca.state.tx.us/multifamily/apply-for-funds.htm

2016 Governor Approved Uniform Multifamily Rules, Qualified Allocation Plan — *administering the Department's multifamily programs, including the Housing Tax Credit Program, for calendar year 2016:*
www.tdhca.state.tx.us/multifamily/nofas-rules.htm

2016 9% Housing Tax Credit Pre-Application — *for applicants participating in the 2016 credit cycle, including FAQ and Planning Document:*
www.tdhca.state.tx.us/multifamily/apply-for-funds.htm

2016-2017 Texas Bootstrap Loan Program: Notice of Funding Availability — *for entities seeking to apply for funds made available through the Department's Office of Colonia Initiatives:*
www.tdhca.state.tx.us/oci/bootstrap.htm; www.tdhca.state.tx.us/htf/nofa.htm;
www.tdhca.state.tx.us/nofa.htm

Texas NSP Local Community Contact List — *providing updated details for entities administering the Department's Neighborhood Stabilization Program funds, listed by jurisdiction, nature of assistance, administrating entity, and contact person:*
www.tdhca.state.tx.us/nsp/index.htm

2016 Housing Tax Credit Cycle: Neighborhood Organization Registration Information — *available for neighborhood organizations interesting in providing input for Quantifiable Community Participation:*
www.tdhca.state.tx.us/multifamily/apply-for-funds.htm;
www.tdhca.state.tx.us/multifamily/communities.htm

Fiscal Year 2016 Amended Itemized Operating Budget — *providing updated data detailing the Department's funding and fund use by a variety of metrics:*
www.tdhca.state.tx.us/finan.htm

2016 Emergency Solutions Grants: Continuum of Care Lead Agency Pre-Application — *for entities seeking administrative funds to administer local competition on behalf of the Department's award of 2016 ESG Program funds:*
www.tdhca.state.tx.us/community-affairs/nofas.htm

2016 HTC Site Demographic Characteristics Report: November 12 Board Meeting — *detailing place name, population, MSA, rural/urban, region, tax credit units per capita, and other criteria:*
www.tdhca.state.tx.us/multifamily/apply-for-funds.htm

2016 Competitive HTC Pre-Application FAQs — *providing answers to the questions most often asked by potential applicants in the 2016 Housing Tax Credit Pre-Application round:*
www.tdhca.state.tx.us/multifamily/faqs.htm; www.tdhca.state.tx.us/multifamily/faqs-2015-pre-app.htm

Draft 2016 State of Texas Low Income Housing Plan and Annual Report — *reporting on the administration, funding levels, performance measures and the distribution of the Department's resources from the previous fiscal year, as well as providing an overview of the state's housing needs:*
www.tdhca.state.tx.us/housing-center/pubs-drafts.htm

2016-1 Multifamily Direct Loan NOFA FAQs — *providing answers to the questions most often asked by potential applicants seeking loan financing for affordable rental housing regarding a notification of funding availability:*
www.tdhca.state.tx.us/multifamily/home/index.htm; www.tdhca.state.tx.us/multifamily/faqs.htm;
www.tdhca.state.tx.us/multifamily/home/archive.htm

Weatherization Assistance Program: FAQs — *providing answers to the questions most often asked by entities administering the Department's WAP:*
www.tdhca.state.tx.us/community-affairs/wap/guidance.htm

2015 Community Services Block Grant Program: Service Providers — *listing agencies currently administering CSBG contracts by agency name, city, chief executive, service area, and funding amount:*
www.tdhca.state.tx.us/community-affairs/csbg/index.htm

Disaster Resources: USDA Multifamily Database — *detailing information regarding location, unit description, contact information, and other relevant details regarding rental housing financed through USDA Rural Development:*
www.tdhca.state.tx.us/disaster-resources/index.htm

Emergency Solutions Grants Program: Income Certification & Instructions — *for use by ESG subrecipients qualifying clients for assistance:*
www.tdhca.state.tx.us/community-affairs/esgp/guidance-solutions.htm

Multifamily Procedures Manual and Templates — *providing direction and instructions for applicants seeking funding from the Department's Tax Credit, Multifamily Bond, and Multifamily Direct Loan programs:*
www.tdhca.state.tx.us/multifamily/apply-for-funds.htm

2016 Multifamily Uniform Application: December 30, 2015 — *for use by developers seeking funding through the Housing Tax Credit, Multifamily Revenue Bond, and Direct Loan programs:*
www.tdhca.state.tx.us/multifamily/apply-for-funds.htm

2b

BOARD REPORT ITEM
COMPLIANCE DIVISION
JANUARY 28, 2016

Compliance Division Update

BACKGROUND

This is a periodic report about ongoing and emerging issues in the Compliance Division.

Subrecipient Monitoring: There have been several noteworthy monitoring visits since the last update.

Community Services Inc., a Community Action Agency (“CAA”), is located in Corsicana and administers the Community Services Block Grant (“CSBG”) program, the Low Income Home Energy Assistance Program (“LIHEAP”) and the Department of Energy Weatherization Program (“DOE-WAP”). A monitoring review of all programs was conducted in December 2015. The preliminary review resulted in nine findings and the requirement to submit a Quality Improvement Plan (“QIP”). The plan and a response to the report are due March 12, 2016.

A CAA known as the Urban League of Greater Dallas is currently administering the CSBG program. A monitoring review was conducted in November 2015. The review resulted in six findings and the requirement to submit a QIP. The plan and a response to the report are due February 6, 2016.

Ebenz is a nonprofit administrator of the HOME program. A desk review was conducted in November 2015, and two findings were noted involving \$182,672 in questioned and potentially disallowed costs. Ebenz submitted a corrective action response that was not sufficient to clear the issues. Staff met with the administrator on January 15, 2016, and requested documentation of the actions taken by Ebenz regarding the matters that had resulted in findings. There is a separate item on today’s agenda related to this issue.

Representatives of the Community Action Partnership conducted an assessment and technical assistance visit at Cameron and Willacy Counties Community Project, Inc. (“CWCCP”) in November of 2015. They issued a report that CWCCP was to use along with the training and technical assistance to develop and submit a QIP. The QIP was submitted to the Department on December 29, 2015. Staff must respond to the QIP by January 28, 2016. CWCCP is currently on a status where CSBG funds are periodically advanced and are then followed by a detailed cost reimbursement review of CWCCP’s expenditures. Staff conducted a training and technical assistance visit in January 2016 to assist them in preparing acceptable documentation to support advances or reimbursements.

Multifamily Monitoring: Staffing continues to be a significant issue for the Compliance Monitoring section of the division, which is responsible for performing onsite reviews at Department-funded developments to ensure that units are leased to low income households, rents are restricted, and developments are complying with other requirements of their Land Use Restriction Agreements including affirmative marketing and social services. There are currently two vacancies and seven of the existing staff members have been with the Department less than 18 months, the typical length of time before a compliance monitor is fully trained.

Staff has noted extensive noncompliance when performing onsite monitoring at Housing Tax Credit developments that have completed the 15 year compliance period and transferred ownership. This results in lengthy monitoring reports and a time consuming back and forth regarding the corrective action submission. In addition, these properties are often referred to the Department's Enforcement Committee. Many of these developments are being transferred to entities with no prior TDHCA experience, so nothing is noted during the previous participation review. Staff is exploring options to address this issue and is considering creating a training targeted to these properties, accelerating the onsite review to identify problems earlier, or possibly issuing a request for qualifications to create a list of acceptable management companies that new owners would be encouraged to use.

2c

BOARD REPORT ITEM
ASSET MANAGEMENT DIVISION
JANUARY 28, 2016

Executive Report of Multifamily Program Amendments, Extensions, and Ownership Transfers

REPORT ITEM

This report contains information on Fiscal Year 2016 – 1st Quarter (9/1/2015 to 11/30/2015).

- 15 LURA Amendments (All Administratively Approved)
- 23 Application Amendments (16 Administratively Approved; 7 Board Approved)
- 30 Extensions – 15 Cost Certification Extensions, 6 Ten Percent Test Extensions, 8 Placed in Service Extensions, and 1 Withdrawn Request
(All Administratively Approved)
- 31 Ownership Transfers (All Administratively Approved)

Fiscal Year 2016 – 2nd Quarter information will be reported at the April 2016 meeting.

Land Use Restriction Agreement (LURA) Amendments

2016 Quarter 1

ADMINISTRATIVELY APPROVED

| Dev. No. | Date of Approval | Development Name | City | Owner Name/Contact | Type of Amendment |
|-----------------------------|------------------|----------------------------------|----------------|--------------------|---|
| 536293 | 9/15/2015 | Autumn Springs Senior Apartments | Smithville | Mary Peterson | Changed language for elderly requirement to the Federal Fair Housing definition |
| 13090009799, 09280 | 9/22/2015 | Mariposa at Ella Blvd | Houston | Casey Bump | Request to correct legal description in LURA and LURA amendment 1 |
| 1002197, 14170 | 9/22/2015 | The Reserves at Brookside | Borger | Patrick Beatty | Request to revise accessibility language in the HOME LURA |
| 12254 | 10/1/2015 | The Palms at Leopard | Corpus Christi | Gilbert M. Piette | Request for non-material amendment to change mobility accessibility units, specifically to add unit 8103 to meet the 5% requirement |
| 1001135, 13090009777, 09001 | 10/5/2015 | Hillwood Apartments | Weimar | Pete Potterpin | Request to remove mobility accessible units 101 & 102 and exchange them for units 4 and 5 due to changes in construction |
| 1002202, 14158 | 10/6/2015 | Bishop Gardens | Justin | Michael Roderer | Request to revise accessibility language in HOME LURA per Legal |
| 13131 | 10/6/2015 | Montana Vista Palms | El Paso | Bobby Bowling IV | Request to amend HUB Language |

ADMINISTRATIVELY APPROVED

| Dev. No. | Date of Approval | Development Name | City | Owner Name/Contact | Type of Amendment |
|----------------|------------------|--|--------------|------------------------------------|---|
| 13128 | 10/19/2015 | Winchester Arms Apartments | Comanche | Michelle Gardner | Request to revise HUB Language |
| 060199 | 10/23/2015 | Legacy Senior Housing of Port Arthur | Port Arthur | Seledonio Quesada | Request to change Applicable Fraction for Buildings 4 and 5 |
| 1001799 | 10/30/2015 | Creek View Apartments III | Johnson City | Mark Mayfield | Request to add Reserve Requirement to LURA based on EARAC Condition |
| 1001828, 12413 | 10/30/2015 | Sienna Pointe | San Marcos | Ana Padilla | Request to replace accessible unit |
| 04483B, 04483 | 11/5/2015 | Providence at Prairie Oaks | Arlington | Jill Brooks-Garnett/LaShelle Huehn | Request to amend legal description in HTC LURA and Bond Regulatory Agreement to remove 0.0957-acre tract being purchased by TxDOT |
| 91108 | 11/12/2015 | Scattered Coop Infill Housing dba Heritage Heights | Austin | Bert Lumbreras | Request to add ROFR provision for one of the units |
| 11149, 06164 | 11/17/2015 | Silver Glen | Houston | Patrick Ostrom | Request to correct Building Identification Numbers in Appendix E |
| 94052 | 11/19/2015 | Sea Greens Apartment Homes | Port Lavaca | Matt Borah - Locke Lord | Request to extend the affordability period to 2030 due to a HUD refinance |

Housing Tax Credit Application Amendments

2016 Quarter 1

Board Approved

| Dev. No. | Date of Approval | Development Name | City | Owner Name/Contact | Type of Amendment |
|---------------------------|------------------|---|------------|----------------------|---|
| 14155 | 9/3/2015 | Cypress Place | Beaumont | Alyssa Carpenter | Increase of Site Acreage by more than 10% |
| 1001684, 12365, 92063 | 10/15/2015 | Stepping Stone & Taylor Square Apartments | Taylor | Kim Younquist | Reduction in NRA sq footage in development units |
| 14003, 7, 96035, 91052 | 10/15/2015 | Whitestone & Tamaric Apartments | Cedar Park | Kim Youngquist | Request for reduction in common area space |
| 14127 | 10/15/2015 | Haymon Krupp | El Paso | Sarah Anderson | Material Amendment Request for Architectural Design Revisions, Changes in Acreage, and Financing |
| 14130 | 10/15/2015 | Tays | El Paso | Jana Cormier | Site Design and Subsidy Changes |
| 15090009961, 09135 | 10/20/2015 | Villas on the Hill (fka Lincoln Terrace) | Fort Worth | Owner- Fort Worth HA | Request to decrease net rentable area by 6.5% |
| 14145 | 11/12/2015 | Glenwood Trails II | Deer Park | Les Kilday | Material alterations to site plan and decrease of total net rentable square footage of less than 3% |

Administratively Approved

| Dev. No. | Date of Approval | Development Name | City | Owner Name/Contact | Type of Amendment |
|----------|------------------|------------------|------|--------------------|-------------------|
|----------|------------------|------------------|------|--------------------|-------------------|

Administratively Approved

| Dev. No. | Date of Approval | Development Name | City | Owner Name/Contact | Type of Amendment |
|-------------------|------------------|-------------------------------------|-------------|------------------------------------|--|
| 1002197, 14170 | 9/1/2015 | The Reserves at Brookside | Borger | Alyssa Carpenter | Change in site plan. Position of building, clubhouse, parking changed. |
| 14051 | 9/3/2015 | Churchill at Champions Circle | Fort Worth | Bradley E. Forslund | Conveyance of 4.972-acre access tract back to original seller. |
| 1002204, 14292 | 9/3/2015 | Cypress Creek at Parker Creek North | Royse City | Rachel Nunley/Stuart Shaw | Add 0.78 acre to site (added tract is within floodplain); total acreage changed from 18.96 acres to 19.74 acres |
| 14291 | 9/3/2015 | Cypress Creek at Wayside | Houston | Stuart Shaw/Casey Bump | Adding 0.894 acres of land and 1.5 acre easement to site; Total acreage increasing from 17.538 to 18.406 acres |
| 04483B, 04483 | 9/25/2015 | Providence at Prairie Oaks | Arlington | LaShelle Huehn/Jill Brooks-Garnett | Amend legal description in HTC LURA and Bond Regulatory Agreement to remove 0.0957-acre tract being purchased by TxDOT |
| 1001828, 12413 | 10/2/2015 | Sienna Pointe | San Marcos | Ana Padilla | Requesting a swap in 3 and 4 bedroom units on the development plan based on 2013 ADA required changes |
| 1001676, 12379 | 10/2/2015 | Sunrise Terrace | La Feria | Sunny K. Phillip | Proposed change from 100% tile flooring to vinyl, carpet and as built with 8 foot ceilings - cost analysis |
| 14191 | 10/2/2015 | Wheatley Courts | San Antonio | Sara Andre | Application Amendment for Wheatley Courts (HTC:14191) |

Administratively Approved

| Dev. No. | Date of Approval | Development Name | City | Owner Name/Contact | Type of Amendment |
|--------------------|------------------|---|-------------|--------------------|--|
| 1000652, 060192 | 10/13/2015 | Skyline Terrace | Austin | Jennifer Hicks | Request for Acknowledgement of a reduction in the number of parking spaces |
| 13417 | 10/23/2015 | Masters Ranch Apartments | San Antonio | Michael Hogan | Reduction to # of LI units |
| 07605, 07605B | 10/29/2015 | North Shore Apartments | Houston | Sandy McBride | Swap of Unit Amenities |
| 1002197, 14170 | 11/6/2015 | The Reserves at Brookside | Borger | Alyssa Carpenter | Request to change exterior siding from 38% stone and 62% hardie board to 100% brick |
| 15404 | 11/16/2015 | Darson Marie Terrace | San Antonio | Laverne R Joseph | Request to change change developer |
| 15405 | 11/16/2015 | Sagetree Terrace | Houston | Kevin Gilchrist | Request to change developer |
| 13100 | 11/16/2015 | Villas of Penitas (fka Villages of Penitas) | Penitas | Steve Lollis | Non-material application amendment - change in development site acreage < 5% change in density |
| 94126 | 11/25/2015 | Arrowhead Park Apartments | Austin | Jeanna Barnes | Change in Application Amenities |

Housing Tax Credit Extensions

2016 Quarter 1

ADMINISTRATIVELY APPROVED

| Dev. No. | Date of Approval | Development Name | City | Type of Extension | Original Deadline | Approved Deadline |
|-------------------|------------------|----------------------------|-----------------|--------------------|-------------------|-------------------|
| 1001493, 11030 | 9/1/2015 | Pine Ridge Manor | Crockett | Cost Certification | 1/15/2014 | 7/20/2015 |
| 11086 | 9/1/2015 | La Belle Vie | Lumberton | Cost Certification | 1/15/2014 | 7/20/2015 |
| 11202 | 9/1/2015 | Hunters Chase Senior Apts | Rockdale | Cost Certification | 1/15/2015 | 8/4/2015 |
| 1001687, 12166 | 9/10/2015 | Villa Brazos | Freeport | Cost Certification | 2/2/2015 | 8/25/2015 |
| 13069 | 9/25/2015 | Victory Park Apartments | Tyler | Cost Certification | 1/15/2015 | 7/13/2015 |
| 1001750, 12269 | 9/25/2015 | Stonebridge of Kelsey Park | Lubbock | Cost Certification | 1/15/2015 | 9/3/2015 |
| 14025, 91184 | 9/25/2015 | Heritage Place | Jacksonville | 10% Test | 10/1/2015 | 11/1/2015 |
| 11260 | 9/25/2015 | Braeburn Village Apts | Houston | Cost Certification | 6/16/2014 | 8/21/2015 |
| 14001 | 9/30/2015 | Pine Terrace Apartments | Mount Pleasant | 10% Test | 7/1/2015 | 9/30/2015 |
| 14000 | 9/30/2015 | Trinity Oaks Apartments | Sulphur Springs | 10% Test | 7/1/2015 | 9/30/2015 |

ADMINISTRATIVELY APPROVED

| Dev. No. | Date of Approval | Development Name | City | Type of Extension | Original Deadline | Approved Deadline |
|--------------------------|------------------|------------------------------|--------------|---|-------------------|-------------------|
| 14024 | 10/1/2015 | Creekside Village Apartments | Jacksonville | 10% Test | 7/1/2015 | 10/1/2015 |
| 13402 | 10/2/2015 | Paddock at Norwood | Austin | Cost Certification | 4/15/2015 | 9/11/2015 |
| 95002, 13401 | 10/2/2015 | Villa Springs | Houston | Cost Certification | 4/14/2014 | 8/27/2015 |
| 1001678, 12410, 13407 | 10/13/2015 | Gateway Northwest | Georgetown | Cost Certification | 1/15/2016 | 4/15/2016 |
| 14297 | 10/29/2015 | Casitas Los Olmos | Raymondville | 10% Test - 2nd Extension | 10/31/2015 | 12/14/2015 |
| 06697, 14005, 98164 | 11/1/2015 | Timbercreek Village | Rusk | 10% Test | 7/1/2015 | 11/1/2015 |
| 13240 | 11/11/2015 | Summit Place | Dallas | Cost Certification - Withdrawn Request | 1/15/2016 | |
| 13252 | 11/12/2015 | Oak Creek Village dba Lucero | Austin | Placed in Service | 12/31/2015 | 2/29/2016 |
| 13044 | 11/12/2015 | Villas of Vanston Park | Mesquite | Placed in Service | 12/31/2015 | 3/31/2016 |
| 13042 | 11/12/2015 | The Cottages at South Acres | Houston | Placed in Service | 12/31/2015 | 4/30/2015 |
| 13109 | 11/12/2015 | Homestead Oaks | Austin | Placed in Service | 12/31/2015 | 3/31/2016 |

ADMINISTRATIVELY APPROVED

| Dev. No. | Date of Approval | Development Name | City | Type of Extension | Original Deadline | Approved Deadline |
|-------------------|------------------|------------------------------|----------|------------------------------|-------------------|-------------------|
| 13234 | 11/12/2015 | Wynnewood Family Housing | Dallas | Placed in Service | 12/31/2015 | 3/31/2016 |
| 13071 | 11/12/2015 | Windy Ridge | Austin | Placed in Service (Disaster) | 12/31/2015 | 3/31/2016 |
| 13144 | 11/12/2015 | Mariposa at Pecan Park | La Porte | Placed in Service | 12/31/2015 | 3/1/2016 |
| 11149, 06164 | 11/12/2015 | Silver Glen | Houston | Cost Certification | 3/15/2014 | 9/1/2015 |
| 10290 | 11/12/2015 | Magnolia Place Apartments | Houston | Cost Certification | 4/15/2013 | 9/2/2015 |
| 13145, 1002032 | 11/12/2015 | Mariposa at Elk Drive | Burleson | Placed in Service | 12/31/2015 | 3/31/2015 |
| 13187 | 11/16/2015 | Barron's Branch | Waco | Cost Certification | 1/15/2016 | 3/15/2016 |
| 13429 | 11/16/2015 | William Cannon Apartments | Austin | Cost Certification | 1/15/2016 | 6/15/2016 |
| 13252 | 11/30/2015 | Oak Creek Village dba Lucero | Austin | Cost Certification | 1/15/2016 | 5/31/2016 |

Housing Tax Credit Program Ownership Transfers

2016 Quarter 1

ADMINISTRATIVELY APPROVED

| Dev. No. | Date of Approval | Development Name | City | Person/Entity Departing | New Person/Entity | Type of Ownership Change |
|----------|------------------|------------------------------|------------|-------------------------|---|--|
| 05124 | 9/1/2015 | TownParc at Amarillo | Amarillo | Heart for Homes | Project and Vendor Management Advisors, LLC | Co-General Partner/HUB |
| 00020T | 9/1/2015 | Legacy Point Apartment Homes | Garland | Barnes Drive, LP | Chen Investments II SPE, LLC | Ownership Transfer |
| 00005 | 9/1/2015 | LBJ Garden Villas | Mesquite | Diva Enterprises, Inc. | AHC LBJ Garden Villas Associates, LLC and Westlake Housing Capital Fund V, L.P. | GP transfer and addition of Class B LP |
| 91022 | 9/1/2015 | Telstar Apartments | Dallas | Happy Habitats, LLC | 2800 West Davis, LLC | Sale |
| 97062 | 9/1/2015 | Henna Townhomes | Round Rock | Henna GP, LLC | Henna Townhomes Preservation, LLC | Ownership Transfer |
| 03036 | 9/21/2015 | Galilean Apartments | Edinburg | P. Rowan Smith | Vesta Equity / Lewis Brown | Sale |
| 00008 | 9/21/2015 | Amistad Apartments | Donna | P. Rowan Smith | Vesta Equity / Lewis Brown | Sale |
| 05092 | 9/21/2015 | Vida Que Canta Apartments | Mission | P. Rowan Smith | Vesta Equity / Lewis Brown | Sale |
| 02033 | 9/21/2015 | Pueblo de Paz Apartments | Mission | P. Rowan Smith | Vesta Equity / Lewis Brown | Sale |
| 01031 | 9/21/2015 | La Estancia Apartments | Weslaco | P. Rowan Smith | Vesta Equity | Sale |

ADMINISTRATIVELY APPROVED

| Dev. No. | Date of Approval | Development Name | City | Person/Entity Departing | New Person/Entity | Type of Ownership Change |
|---------------------|------------------|---|-------------|--|--|---------------------------------------|
| 02451 | 9/21/2015 | Gates of Capernum Apartments | San Antonio | NA | Vesta Equity Gates of Capernum LLC | Adding special limited partner |
| 03035 | 9/25/2015 | Rio De Vida Apartments | Mission | P. Rowan Smith | Vesta Equity / Lewis Brown | Sale |
| 1002204, 14292 | 9/25/2015 | Cypress Creek at Parker Creek North | Royse City | N/A | Gayle Sampley and Franklin Family Investments, Ltd. | Addition to GP and new SLP |
| 96074 | 9/25/2015 | Windstar Apartments | Harlingen | South Texas Windstar, Inc. | | Prior Sale - Acknowledgement |
| 96076 | 9/25/2015 | Canal Place Apartments | San Benito | Flores Elizondo, Inc | | Prior Sale - Acknowledgement |
| 94146 | 9/30/2015 | Dayton Retirement Center | Dayton | National Tax Credit Fund 37 LP | Charles R. Holcomb | Change in Limited Partner |
| 14291 | 10/2/2015 | Cypress Creek at Wayside | Houston | no entities or individuals are leaving | Gayle Sampley and Franklin Family Investments, Ltd. | Addition to GP and new SLP |
| 352021, 85218850 | 10/8/2015 | The Dakota f/k/a Villas at Arroyo Springs | Arlington | ROC TX Presidents Corner, LLC | S2/PBC Arroyo, LP | Ownership Transfer |
| 10227 | 10/13/2015 | Tarrington Court Apts | Houston | None | Berylium Services, L.L.C., BellBeacon, L.L.C., Vin Capital Resources, L.L.C. | Additional parties added to GP entity |
| 00033T | 10/14/2015 | Jordan Cove Apartment | League City | Centerline Housing Partnership III, L.P. | BC ILP, LLC | Change in Limited Partner |
| MF035 | 10/20/2015 | Tenison at White Rock * | Dallas | Greenbridge at Williams Run, LLC | IP Tenison LP | Sale |

ADMINISTRATIVELY APPROVED

| Dev. No. | Date of Approval | Development Name | City | Person/Entity Departing | New Person/Entity | Type of Ownership Change |
|-------------------|------------------|------------------------------|----------------|--------------------------------|--------------------------------|----------------------------------|
| 95089 | 11/3/2015 | Breckenridge Village | Ennis | Breckinridge Village, Ltd. | Breckenridge Housing, LLC | Sale |
| 12254 | 11/4/2015 | The Palms at Leopard | Corpus Christi | N/A | Mortgage Bankers Corporation | Affiliate |
| 1000881, 07223 | 11/12/2015 | Shady Oaks Apartments | Georgetown | DMA | N/A | Notification of Departure of SLP |
| 03440 | 11/16/2015 | Sterlingshire Apartments | Houston | Sterlingshire, Ltd. | 2015 Houston Sterlingshire, LP | Sale/Purchase |
| 04465 | 11/16/2015 | Rosemont at Baytown | Baytown | TX Garth GP, L.L.C. | TCHP Garth Housing, LLC | Change in Non-Profit GP |
| 04428 | 11/16/2015 | Primrose at Pasadena | Pasadena | TX Pasadena Housing GP, L.L.C. | TCHP Pasadena Housing, LLC | Change in Non-Profit GP |
| 13173 | 11/16/2015 | Canton Village Homes | Canton | Leslie Holleman | Evolie Housing Partners, LLC | Affiliate |
| 13247 | 11/30/2015 | The Reserves at South Plains | Lubbock | Ed Keating | Not Applicable | Removal of a principal affiliate |
| 00001T | 11/30/2015 | Grace Townhomes | Ennis | LRI III, Ltd. | Grace Townhomes Housing, LLC | Sale |
| 13246 | 11/30/2015 | The Reserves at Maplewood | Wichita Falls | Ed Keating | Not Applicable | Removal of a principal affiliate |

ACTION ITEMS

3a

BOARD REPORT ITEM
COMMUNITY AFFAIRS DIVISION
JANUARY 28, 2016

Report on the extension of the Program Year 2015 Low Income Home Energy Assistance Program ("LIHEAP") Awards for the Comprehensive Energy Assistance Program ("CEAP") and the Weatherization Assistance Program ("WAP")

BACKGROUND

At the Board Meeting of December 18, 2014, the Governing Board authorized Department staff to obligate the entire PY 2015 LIHEAP award into annual contracts. The contract period for both the CEAP and WAP programs was January 1, 2015, through December 31, 2015, with a final report due to the Department by February 15, 2016.

For a variety of reasons, some subrecipients do not fully expend their full contract award amount by the end of the contract period. Staff has historically "recaptured" that unutilized balance ("UB") and reobligated those funds utilizing the formula contained in the Texas Administrative Code. This method has also been used by multiple other states. However, the LIHEAP program staff at the U.S. Department of Health and Human Services ("HHS") recently has interpreted that this method of recapture and reallocation may potentially violate a provision of the LIHEAP statute and could trigger a possible disallowance of any recaptured funds in an amount that exceeds 10% of the total state LIHEAP award.

Upon learning of this possible new interpretation, staff collaborated with other state offices that have similarly administered the LIHEAP grant and our HHS LIHEAP liaison, as well as intensively with Executive and Legal Department staff to identify a solution. Therefore, for PY 2015 LIHEAP funds staff will be proceeding with contract extensions to May 31, 2016. Extending to that date should allow for full expenditure of the grant funds and provide for sufficient reporting and close out prior to the federal expiration date of September 30, 2016. Such extensions are permissible under TAC and under federal regulations and do not require Board approval.

For determining a permanent solution to this issue for future years of LIHEAP funds, staff will propose a draft policy for the Board in the next few months to then release for public comment and input.

3b

BOARD REPORT ITEM

BOND FINANCE DIVISION

JANUARY 28, 2016

Report on the Department's Swap Portfolio and recent activities with respect thereto.

BACKGROUND

The Department has entered into five interest rate swaps for the purpose of hedging interest rate risk associated with its single family mortgage revenue tax-exempt variable rate demand bonds. In accordance with the Department's Interest Rate Swap Policy, the Bond Finance Division has the day-to-day responsibility for managing the swaps.

The outstanding bonds associated with each of these interest rate swaps are reduced by scheduled redemptions and maturing amounts, as well as by amounts representing principal and prepayments received on the mortgage-backed securities that secure each bond issue. Under State law, the notional amount of swap outstanding cannot exceed the par amount of related bonds outstanding; to avoid being overswapped, staff closely monitors the amount of swap outstanding, the related outstanding bond amount, and any upcoming bond redemptions to ensure enough swap is called to comply with State law.

In addition to monitoring to prevent being overswapped, staff works closely with the Department's Financial Advisor, George K. Baum, to identify opportunities to terminate or reduce swaps by exercising par optional termination, or call rights, on those swaps. Staff analyzes the economic benefit of the proposed termination and evaluates any potential interest rate or other associated risk. When economically beneficial and prudent to do so, optional termination rights are exercised on portions of the underlying swaps.

This report is an update to the Board regarding the outstanding amount of each swap and any actions taken by staff related to the swaps.

Since the July 2015 update, the Department terminated the 2006 Series H Swap and related liquidity on October 30, 2015, in conjunction with the issuance of the 2015 Series A Refunding Bonds, reducing the number of swaps outstanding to four. Please see the attached swap update that shows the status of the Department's swaps as of December 1, 2015.

Texas Department of Housing and Community Affairs
 Swap Portfolio Update
 Presented January 28, 2016

| Matched Amortization Swaps | | | | | | | |
|----------------------------|-------------------|----------------|---------------|--------------------------|---|-----------------------------|--|
| Related Bonds | Swap Counterparty | Effective Date | Maturity Date | Original Notional Amount | Swap Outstanding Notional as of 12/1/2015 | Bonds Outstanding 12/1/2015 | |
| 2005A | JP Morgan | 8/1/2005 | 9/1/2036 | \$ 100,000,000 | \$ 34,015,000 | \$ 34,015,000 | |
| 2007A | JP Morgan | 6/5/2007 | 9/1/2038 | \$ 143,005,000 | \$ 43,500,000 | \$ 43,500,000 | |

| Amortizing Swaps with Optionality | | | | | | | |
|-----------------------------------|-------------------|----------------|---------------|--------------------------|---|-----------------------------|--|
| Related Bonds | Swap Counterparty | Effective Date | Maturity Date | Original Notional Amount | Swap Outstanding Notional as of 12/1/2015 | Bonds Outstanding 12/1/2015 | |
| 2004B ⁽¹⁾ | BNY Mellon | 3/1/2014 | 9/1/2034 | \$ 40,000,000 | \$ 33,530,000 | \$ 40,180,000 | |
| 2004D | Goldman Sachs | 1/1/2005 | 3/1/2035 | \$ 35,000,000 | \$ 26,635,000 | \$ 26,635,000 | |

| Swaps Terminated by TDHCA | | | | | | | |
|---------------------------|-------------------|----------------|---------------|--------------------------|---|-----------------------------|--|
| Related Bonds | Swap Counterparty | Effective Date | Maturity Date | Original Notional Amount | Swap Outstanding Notional as of 12/1/2015 | Bonds Outstanding 12/1/2015 | |
| 2006H ⁽²⁾ | BNY Mellon | 3/1/2014 | 9/1/2025 | \$ 36,000,000 | \$ - | \$ - | |

| | | | | | | | |
|--------------------|--|--|--|-----------------------|-----------------------|-----------------------|--|
| TOTAL SWAPS | | | | \$ 354,005,000 | \$ 137,680,000 | \$ 144,330,000 | |
|--------------------|--|--|--|-----------------------|-----------------------|-----------------------|--|

⁽¹⁾ UBS AG was the original counterparty and the original notional at issuance was \$53,000,000.

⁽²⁾ Terminated October 30, 2015 in conjunction with the issuance of 2015 Series A Refunding Bonds.

3c

ORAL

PRESENTATION

4a



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Board Members

J. Paul Ozer, *Chair*

Juan S. Muñoz, PhD, *Vice Chair*

Leslie Bingham-Escareño

T. Tolbert Chisum

Tom H. Gann

J.B. Goodwin

INTERNAL AUDIT

“REVIEW OF TDHCA’S PROGRAM INCOME”

AUDIT #15-007

January 14, 2016

Office of Internal Audit
P.O. Box 13941
Austin, Texas 78711-3941

INTERNAL AUDIT
“REVIEW OF TDHCA’S PROGRAM INCOME”
AUDIT #15-007

INTERNAL AUDIT DIRECTOR
Mark E. Scott, CPA, CIA, CISA, CFE, MBA

AUDIT TEAM
BETSY SCHWING, CPA, CFE, CGMA
BARBARA EVANS

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
INTERNAL AUDIT REPORT – AUDIT #15-007

SUBJECT: Review of Program Income

AUDIT RESULTS

- F.1 Responsibilities for monitoring and reconciling Neighborhood Stabilization Program (NSP) program income recorded in the United States Department of Housing and Urban Development's (HUD) Disaster Recovery Grant Reporting System (DRGR) have not been clearly designated or communicated.

RECOMMENDATIONS

- F.1 Responsibilities for monitoring and reconciling program income information recorded in DRGR should be clearly designated and communicated. NSP program management should ensure that program income information recorded in DRGR is monitored and reconciled to the other relevant TDHCA information systems on a regular and routine basis.

OTHER OBSERVATIONS/CONCERNS:

The TCAP differences between the TDHCA information systems of Financial Accounting System (PeopleSoft) and the Loan Servicing System (MITAS) were determined to be immaterial and probably due to timing differences. We have no findings related to TCAP.

RESPONSE:

*Management agreed with our recommendations.
Detailed responses are included in the body of the audit report.*

RESPONSIBLE AREA:

Program Director

SCOPE

Our scope included a review of Program Income of the Tax Credit Assistance program (TCAP) and NSP for Fiscal Years 2013, 2014, and 2015.

Our methodology included a risk assessment of the various TDHCA programs that generate program income; interviews with management and other staff of the relevant accounting and program divisions. We also reviewed and analyzed necessary documentation which included the relevant TDHCA information systems and DRGR.



Mark Scott, CPA, CIA, CISA, CFE, MBA
Director, Internal Audit

1/14/2016
Date Signed



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott
GOVERNOR

BOARD MEMBERS

J. Paul Oxer, *Chair*
Juan S. Muñoz, PhD, *Vice Chair*
Leslie Bingham-Escareño
T. Tolbert Chisum
Tom H. Gann
J.B. Goodwin

Writer's direct phone # 512.475.3813

Email: mark.scott@tdhca.state.tx.us

RE: Review of TDHCA'S Program Income, Internal Audit Report #15-007

TO: Chairman J. Paul Oxer and Board Members of the Texas Department of Housing and Community Affairs (TDHCA)

Dear Chairman Oxer and Board Members,

This report presents the results of the Office of Internal Audit's (OIA) "Review of Program Income." The audit was identified in the Fiscal Year 2015 Annual Audit Plan and carried forward to the Fiscal Year 2016 Annual Audit Plan.

AUDIT RESULTS:

We reviewed the TDHCA processes that account for program income. We noted opportunities for improvements in the areas of reconciling information systems and separation of duties as described in the report that follows.

SCOPE AND METHODOLOGY:

The audit scope covered activities and processes in relation to program income that were in place during the period of FY2013 through FY2015. OIA reviewed the processes in place for identification, recording and reporting program income.

The methodology for the audit included a risk assessment of the various TDHCA programs that generate program income; interviewing financial and program management and staff; reviewing and assessing processes and procedures related to program income; and reviewing and analyzing relevant data from financial and other information systems.

Based on the risk assessment for this audit project, OIA selected the Tax Credit Assistance Program (TCAP), and the Neighborhood Stabilization Program (NSP) for detailed review. The HOME program is currently under review by KPMG. The housing trust fund that is administered by TDHCA is included in the annual audit of the financial statements by the State Auditor's Office.

The report is separated into following sections;

- Overview
- Information Systems used to record Program Income related data
- Reconciliation of Program Income
- Separation of Duties
- Findings and Recommendations

OVERVIEW

The NSP Program is under the Single Family section of the Single Family, Community Affairs and Metrics Division of the TDHCA. The federal oversight agency for this program is the United States Department of Housing and Urban Development (HUD). NSP was authorized by the “Housing and Economic Recovery Act of 2008” (HERA), as a supplemental allocation to the Community Development Block Grant (CDBG) Program. Additional funds have been provided through the Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) as part of NSP3. The purpose of the Neighborhood Stabilization Program is to acquire and redevelop foreclosed properties that might otherwise become sources of abandonment and blight. NSP provides funds to purchase foreclosed, vacant or abandoned homes and residential properties, in order to rehabilitate, resell, or redevelop them, stabilize neighborhoods and stem the decline of property values in communities impacted by the housing crisis.

TDHCA received approximately two million dollars in NSP program income each fiscal year between FY2013 and FY2015. Program income is identified by HUD as “gross income received by the recipient or a subrecipient directly generated from the use of NSP/CDBG funds. Common sources of NSP program income are: payments of principal and interest on loans made with NSP funds; proceeds from the sale of properties acquired and/or improved with NSP funds; Recapture of NSP subsidies if an assisted home is sold before the end of the affordability period; interest earned on program income pending its disposition; repayments of liens placed on privately owned property that was demolished using NSP money; and gross income from the use or rental of real property constructed or improved with NSP funds, less the costs incidental to the generation of that income.” The HUD NSP Policy Alert for Program Income in NSP states: “The general rule in drawing NSP and CDBG funds is that funds must only be requested for immediate cash needs. Program Income works on a first-in, first-out basis. It must be used before drawing down additional grant funds, unless the program income is in an approved revolving fund. In that case it must be used for the specified purpose of the revolving fund before further drawdowns for that specified activity.”

The Tax Credit Assistance Program (TCAP) was established by the American Recovery and Reinvestment Act (ARRA) on February 17, 2009. TCAP was funded through the HOME Investment Partnerships Program (HOME) administered by HUD. The purpose of TCAP was to provide funds for capital investments in multi-family projects that received low-income housing tax credit awards between October 1, 2006 and September 30, 2009. The TCAP grant ended March 2012. The Department continues to receive repayments on the loans made with the TCAP funds.

Currently the Department receives approximately six million dollars in TCAP loan repayments each fiscal year. These loan repayments are not program income as defined by the TCAP guidelines. According to the TCAP guidelines [24 CFR Part 85.25 (b)], program income is the gross income generated by the use of TCAP funds during the grant period. The grant period began the date the TCAP grant award agreement was executed by HUD (July 23, 2009). The grant period ended on the date the final financial report was submitted to HUD upon close out of the TCAP award. The Department submitted the final financial report to HUD in March of 2012. Receipts of the payments on loans subsequent to the grant period are classified

by the program staff as repayment funds. However, the Financial Administration Division uses the term program income to refer to these loan repayments.

Proper identification and designation of program income is important for various reasons. For example, federal regulations may require that the grantee use program income prior to drawing down additional federal funds.

Timely reconciliations of program income in the various agency information systems are important for several reasons. DRGR is the system of record for reporting NSP activity to HUD. Accurate NSP information must be reported through Disaster Recovery Grant Reporting System (DRGR) to HUD to achieve compliance with federal reporting requirements. Proper accounting of cash management is required for state of Texas compliance. Additionally, program income is used as a primary source of funds for NSP. TCAP repayments are recycled to fund future activities. Unlike NSP, TCAP repayments are not reported to HUD through DRGR or any other HUD developed information system.

INFORMATION SYSTEMS

Several information systems are relevant to the recording and reporting of program income:

1. Loan Servicing System (MITAS) - Used internally by TDHCA to track individual loans and borrower activity.
2. Financial Accounting System (PeopleSoft) - Used internally by TDHCA to record accounting information and transactions, such as cash receipts and expenditures. PeopleSoft is the agency accounting system that interfaces with the state comptroller's Uniform Statewide Accounting System (USAS).
3. Disaster Recovery Grant Reporting System (DRGR) - developed by HUD's Office of Community Planning and Development for the CDBG Disaster Recovery program and other special appropriations such as NSP. This external system is used by NSP grantees, such as TDHCA to:
 - drawdown funds,
 - report program income,
 - submit the NSP Action Plan,
 - submit Quarterly Performance Reports (QPRs)

The following table indicates the information systems used to record NSP and TCAP program income:

| Program | Program Income recorded in Financial Information System (PeopleSoft) | Program Income recorded in Loan Servicing System (Mitas) | Program Income recorded in HUD System |
|---------|--|--|---------------------------------------|
| NSP | Yes | Yes | Yes - DRGR |
| TCAP | Yes | Yes | No |

PeopleSoft, MITAS and DRGR are described in further detail in the table included at page 7 of this report.

RECONCILIATION OF PROGRAM INCOME

The Office of Internal Audit (OIA) conducted in-depth reconciliation for TCAP and NSP. The purpose of the reconciliation of program income was to determine if identified deposits of program income were recorded in MITAS and in the case of NSP, reported in HUD’s DRGR system.

Program income information for TCAP and NSP recorded in the various information systems is included in the tables that follow, along with the auditor calculations of the differences in the amounts recorded in each of the information systems.

| FY | TCAP Program Income per PeopleSoft | TCAP Program Income per MITAS | Dollar Difference between PeopleSoft and MITAS (Auditor Calculation) |
|------|------------------------------------|-------------------------------|--|
| 2013 | \$6,593,760.46 | \$6,522,423.95 | \$71,336.51 |
| 2014 | \$5,404,012.68 | \$5,401,178.98 | \$2,833.70 |
| 2015 | \$5,963,504.84 | \$5,961,588.17 | \$1,916.67 |

The TCAP differences are determined to be immaterial and probably due to timing differences. We have no findings related to TCAP.

| FY | NSP Program Income per PeopleSoft | NSP Program Income per DRGR | NSP Program Income per MITAS | Dollar Difference between PeopleSoft and DRGR (Auditor Calculation) | Dollar Difference between PeopleSoft and MITAS (Auditor Calculation) | Dollar Difference between DRGR and MITAS (Auditor Calculation) |
|------|-----------------------------------|-----------------------------|------------------------------|---|--|--|
| 2013 | \$2,113,353.96 | \$2,178,866.89 | \$2,168,050.34 | (\$65,512.93) | (\$54,696.38) | \$10,816.55 |
| 2014 | \$2,609,683.12 | \$2,075,939.14 | \$2,550,360.44 | \$533,743.98 | \$59,322.68 | (\$474,421.30) |
| 2015 | \$1,942,839.48 | \$2,404,645.72 | \$1,848,998.99 | (\$461,806.24) | \$93,840.49 | \$555,646.73 |

Common reconciling items included PeopleSoft journal entries that all were not recorded and reported in the MITAS and DRGR systems. Reconciliations between PeopleSoft and MITAS are performed with explanations as to differences. There was a clean-up of prior years errors performed in FY 2015. The reconciliations and corrections need to be completed on a timely basis.

NSP program income information recorded in DRGR is not formally monitored by anyone at the Department. The program income information in DRGR is not reconciled to any information system at TDHCA to ensure the data is accurate. The Director of Single Family Operations and NSP Program Staff stated that there is currently no reconciliation of the program income information recorded in HUD’s DRGR system. The Accounting Operations Manager and senior grant accountant also stated that HUD’s DRGR system is not reconciled to the Department’s Loan Servicing System. Information recorded in HUD’s DRGR system should be regularly and routinely reconciled to the Department’s other relevant

information systems to ensure the information is accurate and complete and to minimize risks of fraud or reliance on inaccurate information.

SEPARATION OF DUTIES

Assigned responsibilities related to custody, recording and reconciling program income may not be sufficiently separated. Currently the grant accountant has custody of the checks (when preparing the deposits), records the receipts in the general ledger and records the NSP program income in HUD's DRGR system. The grant accountant performs the reconciliation between the Department's general ledger and the information recorded in the Department's loan processing system. The grant accountant stated she is also responsible for making correcting and adjusting entries when they are needed. This same individual has a role in the disbursement process when a subrecipient requests a draw from the Department and can also request draw down funds from HUD through the DRGR system.

Control activities related to authority, custody and accounting of operations should be sufficiently separated to reduce the risk of errors, fraud, waste and abuse. If resources are not available that will allow for sufficient separation of duties, other controls should be considered and possibly implemented to ensure assets are adequately safeguarded and properly recorded and reported.

The Accounting Operations Manager stated that controls are in place to mitigate the risk of insufficient separation of the grant accountant's duties. For example, the senior grant accountant reviews the deposits created by the grant accountant. The senior grant accountant reviews the reconciliations generated by the grant accountant. The grant accountant cannot disburse funds requested by the subrecipient without the approval of other TDHCA employees. Drawdown requests from HUD in DRGR must be approved by another TDHCA employee.

The Director of Financial Administration stated that the risk of errors and irregularities is mitigated by the review and release process by the Team-Lead. Therefore, the review and release process strengthens internal control.

The Accounting Operations Manager stated that the assigned roles are currently being reviewed. The Office of Internal Audit recommends that Department management continue the review of assigned roles and periodically evaluate the roles and permissions assigned to individuals responsible for the custody, recording and reconciling program income transactions to ensure that duties are sufficiently separated.

FINDINGS AND RECOMMENDATIONS

F1. Responsibilities for monitoring and reconciling NSP program income recorded in DRGR have not been clearly designated or communicated.

R1. Responsibilities for monitoring and reconciling program income information recorded in DRGR should be clearly designated and communicated. NSP program management should ensure that program income information recorded in DRGR is monitored and reconciled to the other relevant TDHCA information systems on a regular and routine basis.

MANAGEMENT COMMENTS – CORRECTIVE ACTION TABLE

| Management Comments – Status Pertaining to the Recommendations and Action to be Taken | Target Completion Date | Responsible Division/Program and Individual |
|---|------------------------------|---|
| Management concurs with the recommendation. The Single Family Operations and Services Division (“SFOS”), working with the Financial Administration Division, will implement policies and procedures to ensure NSP Program Income is monitored and reconciled between the TDHCA information systems of record, at a minimum, on a quarterly basis. | March 31, 2016 | SFOS – Homero Cabello |

Sincerely,

Mark Scott, CPA, CIA, CISA, CFE, MBA
Director of Internal Audit

mes/bke

cc:

Information Systems relevant to recording TCAP and NSP Program Income:

| Please note that this information was compiled as it relates to TCAP and NSP Program Income. It is not intended to be all inclusive. | Loan Servicing System (MITAS) | Financial Accounting System (PeopleSoft) | Disaster Recovery Grant Reporting System (DRGR) |
|--|--|--|--|
| Description of the system | Used internally by TDHCA to track individual loans and borrower activity. | Used internally by TDHCA to record accounting information and transaction, such as cash receipts and expenditures. | External System developed by HUD that is used by NSP grantees, such as TDHCA to: <ul style="list-style-type: none"> ▪ drawdown funds, ▪ report program income, ▪ submit the NSP Action Plan, ▪ submit Quarterly Performance Reports (QPRs) |
| How is the system used in relation to NSP or TCAP Program Income | Loan repayments are applied (posted) to the individual borrower accounts. The loan repayment is applied to principal, interest, escrow and fees as applicable. | Cash receipts (including loan repayments) are recorded as deposits by a grant accountant in the Accounting Operations Section of the Financial Administration Division. Cash receipts are credited to the related grant or program. | Program income information is recorded in the DRGR System by the grant accountant in the Accounting Operations Section of the Financial Administration Division. Performance reports are submitted to HUD quarterly by TDHCA's NSP Program Administrator. |
| Who enters the data | TDHCA Financial Services processor in Financial Administration Division applies (posts) the NSP and TCAP loan repayments to the individual accounts. Specific staff has the ability to make notes in the loan servicing system. | Cash receipts (including loan repayments) are recorded as deposits by a grant accountant in the Accounting Operations Section of the Financial Administration Division. | Program income information is recorded in the DRGR System by the grant accountant in the Accounting Operations Section of the Financial Administration Division. |

| Please note that this information was compiled as it relates to TCAP and NSP Program Income. It is not intended to be all inclusive. | Loan Servicing System (MITAS) | Financial Accounting System (PeopleSoft) | Disaster Recovery Grant Reporting System (DRGR) |
|--|--|---|---|
| Who uses the data | <p>Loan Servicing uses the data recorded in MITAS to perform loan servicing functions such as customer service (i.e. payment and balance inquiries, etc. to borrowers); provide payoff figures to borrowers and/or authorized third-parties; preparation/submission of annual notices to borrowers and IRS information filings; and prepare necessary reports for reconciliation purposes to the accounting area.</p> <p>Data recorded in MITAS is compiled into the high-level report that is reported to Executive Leadership.</p> | Financial Administration Division uses the data to prepare financial reports including the annual financial reports. | <p>HUD staff can review funded activities, prepare reports to Congress and other interested parties, and monitor program compliance.</p> <p>The QPRs are posted on the TDHCA public website and can be viewed by general public and other stakeholders.</p> |
| Who ensures the data in the system is accurate, complete and entered in a timely manner | <p>MITAS is reconciled to the Financial Accounting System by the Accounting Operations Grant Accountant.</p> <p>The reconciliation is reviewed by the Accounting Operations Senior Accountant and the Loan Servicing Manager.</p> <p>The results of the reconciliation are reviewed and approved by the Loan Servicing Manager and the Manager of Accounting Operations.</p> | There is a multi-level review structure in the Financial Administration Division. For example, the senior grant accountant reviews the deposit transactions prepared by the grant accountant. | Currently program income information in DRGR is not formally monitored or reconciled by TDHCA management or staff. |

4b

BOARD ACTION ITEM
INTERNAL AUDIT DIVISION
JANUARY 28, 2016

Presentation, Discussion, and Possible Action regarding Acceptance of State Auditor's Office audit reports on TDHCA's Financial Statements.

RECOMMENDED ACTION

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

NOW, therefore, it is hereby

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

BACKGROUND

Audit requirements:

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

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

SAO Report on the "The Audit of the Department of Housing and Community Affairs Fiscal Year 2015 Financial Statements" Report # 16-011 available at <http://www.sao.state.tx.us/reports/report.aspx?reportnumber=16-011>

- a) FY 2015 Basic Financial Statements (SAO Report # 16-307)
- b) FY 2015 Revenue Bond Program Audit (SAO Report # 16-308)
- c) FY 2015 Computation of Unencumbered Fund Balances (SAO Report # 16-309)
- d) FY 2015 Report on Internal Control Over Financial Reporting and on Compliance and Other Matters (SAO Report # 16-310)

e) FY 2015 Report on Compliance with the Public Funds Investment Act (SAO Report # 16-311)

The basic financial statements will be available in their entirety at: <http://www.tdhca.state.tx.us/pdf/15-BasicFinancials.pdf>



John Keel, CPA

A Report on

The Audit of the Department of Housing and Community Affairs' Fiscal Year 2015 Financial Statements

December 22, 2015

Members of the Legislative Audit Committee:

In our audit report dated December 18, 2015, we concluded that the Department of Housing and Community Affairs' (Department) basic financial statements and Revenue Bond Program Enterprise Fund financial statements for fiscal year 2015 were materially correct and presented in accordance with accounting principles generally accepted in the United States of America. We also concluded that the Department's computation of unencumbered fund balances of its Housing Finance Division complies with Texas Government Code, Sections 2306.204 and 2306.205. The Department published our audit report as part of its basic financial statements, which it intends to post on its Web site at www.tdhca.state.tx.us.

We also issued a report on internal control over financial reporting and on compliance and other matters as required by auditing standards. Our procedures did not identify any material weaknesses in internal control over financial reporting or any noncompliance with laws or regulations that materially affected the financial statements. In addition, the major internal controls that we tested for the purpose of forming our opinions on the financial statements were operating effectively.

Our procedures were not intended to provide an opinion on internal control over financial reporting or to provide an opinion on compliance with laws and regulations. Accordingly, we do not express an opinion on the effectiveness of the Department's internal control over financial reporting or on compliance with laws and regulations.

Additionally, we concluded that the Financial Data Schedule prepared by the Department was fairly stated in all material respects in relation to the fiscal year 2014 basic financial statements taken as a whole. We also issued a report on the Department's compliance with the Public Funds Investment Act. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Audit Standards*.

Auditors also performed agreed-upon procedures to assist the Department in determining whether the electronic submission of certain information to the U.S. Department of Housing and Urban Development, Real Estate Assessment Center agreed with related hard-copy documents. Our procedures determined that the Department's electronically submitted information to the U.S. Department of Housing and Urban Development, Real Estate Assessment Center agreed with the related hard-copy documents.

As required by auditing standards, we will also communicate to the Department's Board of Directors certain matters related to the conduct of a financial statement audit.

SAO Report No. 16-011

We appreciate the Department's cooperation during this audit. If you have any questions, please contact Cesar Saldivar, Audit Manager, or me at (512) 936-9500.

Sincerely,

Lisa R. Collier, CPA, CIDA
First Assistant State Auditor

cc: The Honorable Greg Abbott, Governor
Members of the Department's Board of Directors
Mr. J. Paul Oxer, Chair
Dr. Juan Sanchez Muñoz, Vice Chair
Mr. T. Tolbert Chisum
Ms. Leslie Bingham Escareño
Mr. Tom H. Gann
Mr. J.B. Goodwin
Mr. Timothy Irvine, Executive Director



This document is not copyrighted. Readers may make additional copies of this report as needed. In addition, most State Auditor's Office reports may be downloaded from our Web site: www.sao.state.tx.us.

In compliance with the Americans with Disabilities Act, this document may also be requested in alternative formats. To do so, contact our report request line at (512) 936-9500 (Voice), (512) 936-9400 (FAX), 1-800-RELAY-TX (TDD), or visit the Robert E. Johnson Building, 1501 North Congress Avenue, Suite 4.224, Austin, Texas 78701.

The State Auditor's Office is an equal opportunity employer and does not discriminate on the basis of race, color, religion, sex, national origin, age, or disability in employment or in the provision of services, programs, or activities.

To report waste, fraud, or abuse in state government call the SAO Hotline: 1-800-TX-AUDIT.

Independent Auditor's Report

Department of Housing and Community Affairs Board of Directors

Mr. J. Paul Oxer, P.E., Chair
Dr. Juan Sanchez Muñoz, Vice Chair
Mr. T. Tolbert Chisum
Ms. Leslie Bingham Escareño
Mr. Tom H. Gann
Mr. J. B. Goodwin

Report on the Financial Statements

We have audited the accompanying financial statements of the governmental activities, the business-type activities, the governmental fund, the proprietary fund, and the aggregate remaining fund information of the Department of Housing and Community Affairs (Department), as of and for the year ended August 31, 2015, and the related notes to the financial statements, which collectively comprise the Department's basic financial statements as listed in the table of contents.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes

evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

Opinions

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, the governmental fund, the proprietary fund, and the aggregate remaining fund information of the Department, as of August 31, 2015, and the respective changes in financial position and, where applicable, cash flows thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Emphasis of Matters

Department Financial Statements

As discussed in Note 1, the financial statements of the Department are intended to present the financial position, the changes in financial position and, where applicable, cash flows of only that portion of the governmental activities, business-type activities, the governmental fund, the proprietary fund, and the aggregate remaining fund information of the State that is attributable to the transactions of the Department. They do not purport to, and do not, present fairly the financial position of the State of Texas as of August 31, 2015, the changes in its financial position, or, where applicable, its cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America. Our opinion is not modified with respect to this matter.

Other Matters

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the Management's Discussion and Analysis, Schedule of Changes in Department's Net Pension Liability, Schedule of Employer Contributions, and Notes to the Required Supplemental Information, as listed in the table of contents, be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of

preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

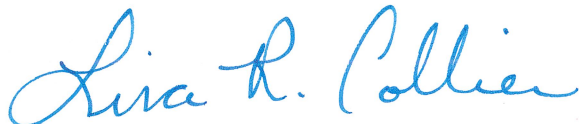
Other Information

Our audit was conducted for the purpose of forming an opinion on the financial statements that collectively comprise the Department's financial statements. The supplementary bond schedules are presented for purposes of additional analysis and are not a required part of the financial statements.

The supplementary bond schedules are the responsibility of management and were derived from and relate directly to the underlying accounting and other records used to prepare the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the supplementary bond schedules are fairly stated in all material respects in relation to the basic financial statements as a whole.

Other Reporting Required by *Government Auditing Standards*

In accordance with *Government Auditing Standards*, we have also issued our report dated December 18, 2015, on our consideration of the Department's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Department's internal control over financial reporting and compliance.



Lisa R. Collier, CPA, CIDA
First Assistant State Auditor

December 18, 2015

Independent Auditor's Report

Department of Housing and Community Affairs Board of Directors

Mr. J. Paul Oxer, P.E., Chair

Dr. Juan Sanchez Muñoz, Vice Chair

Mr. T. Tolbert Chisum

Ms. Leslie Bingham Escareño

Mr. Tom H. Gann

Mr. J. B. Goodwin

Report on the Financial Statements

We have audited the accompanying financial statements of the Revenue Bond Program Enterprise Fund (Program) of the Department of Housing and Community Affairs (Department), as of and for the year ended August 31, 2015, and the related notes to the financial statements, which collectively comprise the Program's basic financial statements as listed in the table of contents.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes

evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

Opinions

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the Program of the Department, as of August 31, 2015, and the respective changes in financial position and, where applicable, cash flows thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Emphasis of Matters

Fund Financial Statements

As discussed in Note 1, the financial statements present only the Program, an enterprise fund of the Department and of the State of Texas, and do not purport to, and do not, present fairly the financial position of the State of Texas or the Department as of August 31, 2015, the changes in its financial position, or, where applicable, its cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America. Our opinion is not modified with respect to this matter.

Other Matters

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the Management's Discussion and Analysis as listed in the table of contents be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Other Information

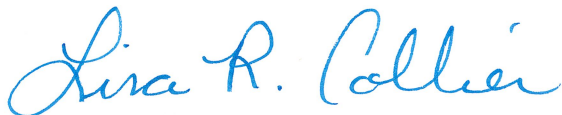
Our audit was conducted for the purpose of forming an opinion on the financial statements that collectively comprise the Program's financial statements. The supplementary bond schedules and supplemental schedules are presented for purposes of additional analysis and are not a required part of the financial statements.

The supplementary bond schedules are the responsibility of management and were derived from and relate directly to the underlying accounting and other records used to prepare the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the supplementary bond schedules are fairly stated in all material respects in relation to the basic financial statements as a whole.

The supplemental schedules have not been subjected to the auditing procedures applied in the audit of the basic financial statements, and accordingly, we do not express an opinion or provide any assurance on it.

Other Reporting Required by *Government Auditing Standards*

In accordance with *Government Auditing Standards*, we have also issued our report dated December 18, 2015, of the Department's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Department's internal control over financial reporting and compliance.



Lisa R. Collier, CPA, CIDA
First Assistant State Auditor

December 18, 2015

Independent Auditor's Report

Department of Housing and Community Affairs Board of Directors

Mr. J. Paul Oxer, P.E., Chair
Dr. Juan Sanchez Muñoz, Vice Chair
Mr. T. Tolbert Chisum
Ms. Leslie Bingham Escareño
Mr. Tom H. Gann
Mr. J. B. Goodwin

Report on the Financial Statements

We have audited the accompanying Computation of Unencumbered Fund Balances (Computation) of the Department of Housing and Community Affairs' (Department) Housing Finance Division, as of August 31, 2015, and the related notes to the Computation.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of the Computation in accordance with the financial reporting provisions of Texas Government Code, Sections 2306.204 and 2306.205. Management is also responsible for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of the Computation that is free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on the Computation based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the Computation is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the Computation. These procedures selected depend on the auditor's judgment, including the assessment of the risk of material misstatement of the Computation, whether due to fraud or error. In making those risk assessments, the auditor considered internal control relevant to the entity's preparation and fair presentation of the Computation in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the Computation.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the Computation referred to above, presents fairly, in all material respects, the unencumbered fund balances of the Department's Housing Finance Division, as of August 31, 2015, in accordance with the financial reporting provisions of Texas Government Code, Sections 2306.204 and 2306.205, as described in Note 1 of the Computation.

Basis of Accounting

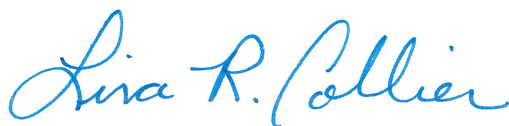
We draw attention to Note 1 of the Computation, which describes the basis of accounting. As described in Note 1 to the Computation, the Computation is prepared by the Department on the basis of the financial reporting provisions of Texas Government Code, Sections 2306.204 and 2306.205, which is a basis of accounting other than accounting principles generally accepted in the United States of America, to meet the requirements of Texas Government Code, Sections 2306.204 and 2306.205. Our opinion is not modified with respect to this matter.

Restriction on Use

Our report is intended solely for the information and use of the Department and is not intended to be and should not be used by anyone other than this specified party.

Report on Other Legal and Regulatory Requirements

In accordance with *Government Auditing Standards*, we have also issued our report dated December 18, 2015, on our consideration of the Department's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Department's internal control over financial reporting and compliance.



Lisa R. Collier, CPA, CIDA
First Assistant State Auditor

December 18, 2015

**Report on Internal Control Over Financial Reporting and on Compliance and Other
Matters Based on an Audit of Financial Statements Performed in Accordance with
Government Auditing Standards**

Independent Auditor's Report

Department of Housing and Community Affairs Board of Directors

Mr. Paul Oxer, P.E., Chair
Dr. Juan Sanchez Muñoz, Vice-Chair
Mr. T. Tolbert Chisum
Ms. Leslie Bingham Escareño
Mr. Tom H. Gann
Mr. J.B. Goodwin

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the governmental activities, the business-type activities, the governmental fund, the proprietary fund, and the aggregate remaining fund information of the Department of Housing and Community Affairs (Department) as of and for the year ended August 31, 2015, and the related notes to the financial statements, which collectively comprise the Department's basic financial statements and have issued our report thereon dated December 18, 2015.

Internal Control Over Financial Reporting

In planning and performing our audit of the financial statements, we considered the Department's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Department's internal control. Accordingly, we do not express an opinion on the effectiveness of the Department's internal control.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. *A material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. *A significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Department's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control over financial reporting or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control over financial reporting and compliance. Accordingly, this communication is not suitable for any other purpose.



Lisa R. Collier, CPA, CIDA
First Assistant State Auditor

December 18, 2015

Report on Compliance with the Public Funds Investment Act

Department of Housing and Community Affairs Board of Directors

Mr. J. Paul Oxer, P.E., Chair
Dr. Juan Sanchez Muñoz, Vice-Chair
Mr. T. Tolbert Chisum
Ms. Leslie Bingham Escareño
Mr. Tom H. Gann
Mr. J. B. Goodwin

Mr. Timothy Irvine, Executive Director, Department of Housing and Community Affairs
Mr. David Cervantes, Chief Financial Officer, Department of Housing and Community Affairs
Ms. Monica Galuski, Director of Bond Finance, Department of Housing and Community Affairs

We have performed tests designed to verify whether the Department of Housing and Community Affairs (Department) complied with the requirements of the Public Funds Investment Act for the year ended August 31, 2015. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Audit Standards*.

This report is intended solely for the information and use of the Department's Board of Directors, the Department's management, and the Legislature. However, this report is a matter of public record, and its distribution is not limited.

Lisa R. Collier, CPA, CIDA
First Assistant State Auditor

December 18, 2015

5a

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
JANUARY 28, 2016

Presentation, Discussion, and Possible Action regarding Frequently Asked Questions for the current Competitive Housing Tax Credits cycle.

RECOMMENDED ACTION

WHEREAS, potential Applicants and other interested parties have submitted questions to Department staff regarding the 2016 Competitive Housing Tax cycle, including requests for interpretation of the 2016 Qualified Allocation Plan and Multifamily Rules, and

WHEREAS, interpretation of the 2016 Qualified Allocation Plan and Multifamily Rules in several instances requires input from the Governing Board of the Department;

NOW, therefore, it is hereby

RESOLVED, the Frequently Asked Questions and responses are hereby approved as presented to this meeting.

BACKGROUND

Potential Applicants and other interested parties have submitted questions to the Multifamily Finance staff, seeking information regarding the Application process and how the 2016 Qualified Allocation Plan ("QAP") and Multifamily Rules will be applied during the current round. Responses to the questions generally assist Applicants in making decisions about applications and preparing responsive application materials. In order to assure that all applicants are receiving the same information, inquiries received and responses are published as Frequently Asked Questions on the Department's website.

Several of the questions require interpretation of the QAP and Rules, in order to determine how they will be applied to a given set of circumstances. In these cases, staff is requesting approval of the interpretation as published, in order to assure Applicants are able to rely on the response as they are moving forward with Applications.



2016 Competitive HTC Application Cycle Frequently Asked Questions (FAQs)

Pursuant to §11.1(b) of the Qualified Allocation Plan (QAP), Department staff may, from time to time, make available for use by Applicants information and informal guidance in the form of reports, frequently asked questions, and responses to specific questions. The Department encourages communication with staff in order to clarify any issues that may not be fully addressed in the QAP or be unclear when applied to specific facts. However, while these resources are offered to help Applicants prepare and submit accurate information, Applicants should also appreciate that this type of guidance is limited by its nature and that staff will apply the rules of the QAP to each specific situation as it is presented in the submitted Application. Moreover, after the time that an issue is initially presented and guidance is provided, additional information may be identified and/or the issue itself may continue to develop based upon additional research and guidance. Thus, until confirmed through final action of the Board, staff guidance must be considered merely as an aid and an Applicant continues to assume full responsibility for any actions Applicant takes regarding an Application. In addition, although the Department may compile data from outside sources in order to assist Applicants in the Application process, it remains the sole responsibility of the Applicant to perform independently the necessary due diligence to research, confirm, and verify any data, opinions, interpretations, or other information upon which an Applicant bases an Application or includes in any submittal in connection with an Application. These rules may need to be applied to facts and circumstances not contemplated at the time of their creation and adoption. When and if such situations arise the Board will use a reasonableness standard in evaluating and addressing Applications for Housing Tax Credits.

Following is a list of questions that the Department has received with respect to the 2016 Uniform Multifamily Rules and QAP and how various provisions of the rules will be applied to Applications submitted and reviewed by the Department during the 2016 competitive cycle. Each of the questions was received via email or phone over the past several weeks and at the application workshops held in early December. Each time an update is made the most recently updated date will be added to the box at the top right of this page. The FAQ is an opportunity to provide all Applicants and the public the same information that was relayed to the individuals who asked the questions. There are other questions which have been posed and addressed, but it was staff's assessment that they did not raise questions or issues with broad application.

Questions and answers are in the same order that their related sections appear in the rules. If questions and answers are added after the initial posting, the revision dates will appear at the top of this page and will be included next to each of the added questions. The Department may not send out a new listserv each time an update is made unless the update is extensive. Staff encourages interested individuals to check back periodically. At the January 28, 2016, board meeting, staff will present to the Board all questions and answers included in this FAQ for acceptance. However, staff will continue to supplement this FAQ; questions and answers with dates subsequent to any Board action will not have been reviewed by the board.

Pre-Application Submission:

Q: *Can we set up ServeU before we are ready to submit the pre-application?*

A: No. ServeU will require an application number, which will not be available prior to submission of the pre-application or submission of an Electronic Filing Agreement in lieu of filing a pre-application.

Q: *Can we submit multiple pre-applications with one upload?*

A: FTP upload does not apply to the pre-application. FTP upload will be required for full Application only.

Pre-applications will be submitted via JotForm. Per §11.8, Pre-Application Requirements, each pre-application will require its own JotForm submission. Multiple pre-applications may not be submitted in a single JotForm submission.

Q: *For the pre-application, will we be turning in an original of the Electronic Filing Form?*

A: No. The Electronic Filing Form will be a part of the JotForm submission.

Q: *Who do we send the pre-application fee to?*

A: All checks for fees should be made payable to TDHCA and must include the application number. Separate checks must be submitted for each pre-application. Address all submissions to Marni Holloway, Director, Multifamily Finance Division.

If delivering via U.S. Mail, send to:

TDHCA
P.O. Box 13941
Austin, Texas, 78711-3941;

If delivering via courier, send to:

TDHCA
221 East 11th Street
Austin, Texas, 78701

Pre-Application Requirements:

Q: *When something doesn't apply, can we just insert the tab and put "NA" without including all the documents behind it?*

A: Yes; however be sure that the item really does not apply since failing to provide required documents in their entirety behind any one tab could result in a determination that the pre-application or full application is materially incomplete and, therefore, could be grounds for termination of the pre application or full application.

Q: *Are there any waiver requests for the Pre-Application?*

A: There are no waiver requests specifically identified to be submitted at pre-application, but this is a good time to submit them if you believe you will need them.

Q: *What about PTAC waivers?*

A: PTAC waivers can be submitted at pre-application if all information needed to support the waiver can be provided at the time. The waiver will need to go to TDHCA Board for consideration, and, therefore, the earlier you do so the more time there will be to get the issue resolved.

Q: *Is a pre-application required for the Direct Loan Program?*

A: No. A certification for the Multifamily Direct Loan Program will be posted as part of the Application materials.

Q: *(Added January 21, 2016) We mistakenly checked the wrong box on Target population on the Pre-Application. How do we get the required correction noted?*

2016 Competitive Application Cycle FAQ

A: The Department will not consider any corrections to a Pre-Application after the Pre-Application Submission Deadline has passed. Note that Per §11.9(e)(3) of the QAP, you can make the change when you submit the Application; however, making such a change would forfeit the Pre-Application points.

Application Submission

Q: *Is there a separate account per Application?*

A: Yes. When each pre-application or Electronic Filing agreement is submitted, it will receive an Application number. A ServeU FTP account will be created for each of those numbers. None will share an account.

Q: *Will we submit the Electronic Filing Form with the Application?*

A: Only if you did not submit a pre-application will you need to submit the Electronic Filing Agreement but in such case the Electronic Filing Agreement will need to be submitted **prior** to getting a ServeU FTP account which of course must be completed prior to uploading a full Application. Staff believes that if you target February 25, 2016, for submitting the Electronic Filing Agreement you should have sufficient time to get the ServeU FTP account set up and tested. Set up and testing is the Applicant's responsibility. The Department will not be responsible for any delays, deficiencies, or missed deadlines as a result of an applicant not requesting a ServeU FTP account via the Electronic Filing Agreement in sufficient time to meet the full Application deadline.

Q: *How will the Department handle revisions if there are changes needed after a document is uploaded to the FTP site?*

A: Once an Application document is uploaded, the document cannot be altered. You will, however, be able to upload revised documents by logging in to the site. You will upload the revised document and label the new upload as revised. The FTP will date and time stamp each upload.

Q: *Who has access to FTP that can go in and make changes to posted documents?*

A: Any person that you give your account information to will have access to go in and make additions prior to the Application deadline. Each Applicant only has access to the files uploaded under that account. An Applicant with more than one Application will not be able to access multiple Applications by signing in to one account. No other Applicant will have access to the files uploaded to your account. Staff will not change FTP submittals.

TDHCA multifamily and REA staff will access the site to copy your documents from the FTP site to our internal drive. We will not revise any documents on the FTP site.

Q: *How do you want us to convert site control docs?*

A: Those will be among the few documents that you may have to scan. Make sure you don't scan maps however because they generally cannot be read; get the originals of maps electronically so that you can attach the full color and full sized document, ensuring that they will be readable.

Q: *Should the Previous Participation and credit limit documents be included in the FTP upload?*

A: The Previous Participation and credit limit documents should both be included in the FTP upload.

Q: *Should the Previous Participation and credit limit documents be uploaded in PDF or Excel version?*

A: Both the completed Excel and PDF versions of those forms will need to be uploaded as part of the full Application.

Application Requirements

§10.3. Definitions and Staff Determinations

Q: *Is the elderly limitation for the single county or whole region?*

A: This is subject to the final determination by the TDHCA Board; however, Staff believes the limitation applies to the entire region, not just the affected county(ies).

2016 Competitive Application Cycle FAQ

Q: What funds would fall under which label? HTC is Limitation or Preference? HTC plus HOME is Limitation or Preference?

A: The Applicant does not choose whether the development is Elderly Limitation or Elderly Preference. Classification as Elderly Limitation or Elderly Preference is a function of the funding that is or may be received by the development.

If the development will be financed with LIHTC 9% credits and conventional financing (meaning that no federal funding with an elderly classification is being obtained), and the development is targeting elderly, then the development is Elderly Limitation.

For federal funding, if the funding requires that a Development lease to Elderly Households with Children, the classification is Elderly Preference. Some examples of this are Project-Based Vouchers and Section 202. If the federal funding would allow leasing options for Elderly only, the classification is Elderly Limitation. An example of this may be the HOME Program (depending on the requirements from the Participating Jurisdiction that awards the funds).

TDHCA's Direct Loan Program (currently HOME and TCAP-RF) requires that Developments targeted toward the elderly be Elderly Limitation. The exception is if the Development has another federal funding source that requires an Elderly Preference, in which case an Elderly Preference would be allowed, but the units not covered by the other federal funding source could have no age restrictions.

The final determination would be up to the Governing Board, but Staff believes that if a funding source changes between submission of the Pre-Application and the full Application resulting in a change from Elderly Limitation to Elderly Preference, or vice versa, the deal is still an Elderly deal and changing between the two will not affect Pre-Application points.

You will need to consult the requirements of the other Federal funding that you are receiving and determine whether the Elderly Preference designation does, or could potentially, apply to you.

For more information, see Item 3b of the September 3, 2015 TDHCA Board Book at <http://www.tdhca.state.tx.us/board/docs/books/150903-book-150827.pdf>. The discussion of this issue begins on page 29 of the meeting transcript.

Q: Would the following development be considered a Rehabilitation or New Construction project: A total of 116 units, of which 104 are existing units that will be rehabbed and 12 units will be new construction.

A: This is subject to the final determination by the TDHCA Board. Assuming there were only 104 existing units, Staff believes the definition for Rehabilitation does not allow for any additional New Construction. Therefore, assuming there were only 104 existing units, the development will be considered New Construction since the 12 units would be added to the development.

Q: Is Supportive Housing considered a "type" of household vs. senior/elderly or General?

A: This is subject to the final determination by the TDHCA Board; however, Staff believes Supportive Housing is considered a target population. A development targeting Supportive Housing populations could also be designated as an Elderly Limitation or Elderly Preference in the application, but could not receive points for Elderly items. If not specifically designated as Elderly Limitation in the application, such a Development would be considered General and would not be able to discriminate against (i.e. turn away) a household with a child.

Q: Is there a formal process to get a staff determination?

A: Per §10.3(b) Request for Staff Determinations, "Where the definitions of Development, Development Site, New Construction, Rehabilitation, Reconstruction, Adaptive Reuse, and Target Population fail to account fully for the activities proposed in an Application, an Applicant may request and Department staff may provide a determination to an Applicant explaining how staff will review an Application in relation to these

specific terms and their usage within the applicable rules. Such request must be received by the Department prior to submission of the pre-application (if applicable to the program) or Application (if no pre-application was submitted).”

§10.101.Site and Development Requirements and Restrictions

Q: If we have 2 scattered sites- one senior, one family, could there be an intergenerational issue?

A: This is subject to the final determination by the TDHCA Board; however, Staff believes the answer is a qualified “yes”, and that could be a concern unless existing or new Federal funding specifically required one site to target senior while the other was family. If there is no Federal funding that allows this tenant mix, then the senior site would not be able to be mixed with a family site and the tax credit application would be a General Development (tenants would have to be accepted irrespective of familial status and an age restriction would generally be prohibited).

Q: Regarding Undesirable Neighborhood Characteristics, do the Elementary, Middle, and High School all have to have the Met Standard rating?

A: This is subject to the final determination by the TDHCA Board; however, Staff believes all three have to meet the rating. If one or more does not, you have to disclose.

Mandatory Community Assets

Note that with limited information, TDHCA is not able to state unequivocally that a given asset does or does not meet the requirements as outlined in the QAP. Some of the determinations will be made on a case by case basis as an Application is reviewed. Applicants must be sure to provide evidence of why they believe the asset should be determined to meet the requirements. Where possible, TDHCA has provided a determination. Be advised that as more information about the asset becomes available, the determinations below may be revised or changed.

Q: Does a convenience store that now has a menu for food inside (“fresh to order” pizzas, hot sandwiches, etc.) count as a restaurant? How about a cafeteria inside a hospital?

A: This is subject to the final determination by the TDHCA Board; however, Staff believes this kind of determination will be made on a case by case basis as the Application is reviewed. Applicants should provide sufficient information to assist staff in the determination.

Q: How many tables and chairs would be considered “adequate tables and seating” for (xx) Community Dining Room with full or warming kitchen furnished with adequate tables and seating?

A: This is subject to the final determination by the TDHCA Board; however, Staff believes “Adequate tables and seating” would be at minimum enough tables and seating so that every resident could be served during reasonable meal times.

Q: Does an indoor shooting range count as recreation?

A: This is subject to the final determination by the TDHCA Board; however, Staff believes this kind of determination will be made on a case by case basis as the Application is reviewed. Applicants should provide sufficient information to assist staff in the determination, including availability to the general public, membership requirements, age restrictions, and other information that will assist with the review.

Q: A gym has a retail section within the building that sells girls clothing, costumes, accessories, etc....Is this considered retail?

A: More information would be needed to make a determination in a case like this. The Applicant would need to provide evidence that the asset is open to serve the general public. For instance, are non-members of the gym able to easily access the shop? This is subject to the final determination by the TDHCA Board; however, Staff believes if the shop has access that is restricted to members it would not be considered retail on its own.

Q: Is a Chiropractor a general practice physician as required by mandatory Community Assets?

2016 Competitive Application Cycle FAQ

A: This is subject to the final determination by the TDHCA Board; however, Staff believes a chiropractor that does not provide general medical care is not considered a general practice physician for this definition.

Q: *Is an Orthodontist a dentist for this definition?*

A: This is subject to the final determination by the TDHCA Board; however, Staff believes an orthodontist who does not provide general dental would not be considered a dentist for this definition.

Q: *Would a movie theater be considered an indoor public recreation facility (or anything else)?*

A: This is subject to the final determination by the TDHCA Board; however, Staff believes a movie theater (not an adult-oriented theater) would be considered an indoor public recreation facility.

Q: *Does a pawn shop count as a retail merchandise store?*

A: This is subject to the final determination by the TDHCA Board; however, Staff believes a pawn shop which is open to the general public and contains general retail merchandise could qualify as a retail merchandise store for this definition.

Q: *Is the one- or two-mile radius a distance measured from the proposed site property edge to property line, parking lot, or the building of an amenity?*

A: The one-mile or two-mile distance is measured between the closest boundaries by a straight line on a map. The point from which the distance is measured will vary based on the considered boundaries of the amenity.

Q: *Is senior services defined anywhere? Would you need to measure from the development? There are organizations popping up that serve elderly populations with all kinds of services and referrals. Would these count?*

A: "Senior services" is not a defined term. Services specific to seniors should meet the requirements of the point item in which they are mentioned, i.e. "specific case management services offered by a qualified Owner or Developer or through external, contracted parties for seniors..." If you have any that you would like for us to review prior to pre-application, you can submit them to us.

Q: *If all of the community assets are in one place, like a Super Wal-Mart, can you count all of them?*

A: Assets are no longer required to be in separate buildings; so you can count each of the distinct assets contained in one location (e.g. full service grocery, pharmacy, general retail, banking center, etc.).

Q: *If all of the community assets are in one place, like a Super Wal-Mart, how does this affect the radius requirements?*

A: As long as the location meets the radius requirements, all the contained assets will meet the requirements as well.

Q: *My understanding is that medical office/facility is counted only one time regardless of there being multiple offices in the area. For example, if there are three doctor's offices within a 1.5 mile radius of a rural development site, I can only count the medical point once, not get three points (1 point each) - correct?*

A: Correct. Per §10.101(a)(2), "Only one community asset of each type listed will count towards the number of assets required."

Q: *(Added January 21, 2016) Regarding Mandatory Community Assets, in the past, we have been allowed to use services that have an admission fee. For example, public golf courses. For the item regarding indoor public recreation that now specifically mentions fitness club/gym, can we use a gym like Planet Fitness that requires a membership?*

A: This is subject to the final determination by the TDHCA Board; however, Staff believes that a gym that requires a membership can count for points as long as memberships are generally marketed to and available to the public in a non-discriminatory manner.

2016 Competitive Application Cycle FAQ

Q: (Added January 21, 2016) As a related question, can we use a membership club like Sam's Club for a supermarket or retail store?

A: This is subject to the final determination by the TDHCA Board; however, Staff believes that as long as any member of the public can access membership it would count as a supermarket or retail store.

§10.202. Ineligible Applicants and Applications

Q: Please explain termination in a partnership? What kind of termination?

A: The rules describe the termination as "voluntarily or involuntarily within the past ten (10) years or plans to or is negotiating to terminate their relationship with any other affordable housing development..."

Q: On termination of relationships, what about partners that withdrew for their own reasons? Should we report those?

A: This is subject to the final determination by the TDHCA Board; however, Staff believes it would be to an Applicant's advantage to disclose and document all changes and let the Department make a determination rather than not disclosing and having another party reveal a disputed withdrawal or termination in a partnership later.

Q: Does this apply only to Texas transactions or Nationwide?

A: The rule does not limit the disclosure to applications filed in Texas; therefore, it applies Nationwide.

Q: What about exit of limited partners?

A: The rule requires disclosure for a Principal or any entity or Person in the Development ownership structure that was or is involved as a Principal. A true Limited Partner with no other role would not typically be considered a Principal.

§10.203. Public Notifications

Q: Are the eligible neighborhood associations those that are registered with the state or those within the boundaries of the development?

A: Both. Per §11.9(d)(4), "An Application may qualify for up to nine (9) points for written statements from a Neighborhood Organization. In order for the statement to qualify for review, the Neighborhood Organization must have been in existence prior to the Pre-Application Final Delivery Date, and its boundaries must contain the Development Site. In addition, the Neighborhood Organization must be on record with the state or county in which the Development Site is located."

"On record with the state" can include TDHCA registration if desired, however such registration is not the only potential way to meet the requirement to be on record with the state or county.

Q: Neighborhood orgs must be established by Jan 8, 2016; by what date do they need to be on record?

A: Per §11.9(d)(4), "Neighborhood Organizations may request to be on record with the Department for the current Application Round by submitting documentation (such as evidence of board meetings, bylaws, etc.) not later than 30 days prior to the Full Application Delivery Date."

"Not later than 30 days prior to the Full Application Delivery Date" means by 5:00 p.m. Austin local time on January 29, 2016.

Q: Will you provide a list of registered Neighborhood Organizations?

A: We do not maintain an active or comprehensive list of all Neighborhood Organizations that are on record with the state or county. We will, however, post a QCP scoring log which will reflect all letters received and reviewed by TDHCA for points under §11.9(d)(4).

Q: Is there a deadline for public comment for the 2016 HTC round?

A: In order for comment to be included in the summary presented to the Board, the comments must be received by the Department by June 12, 2016, at 5:00 p.m. Austin local time.

§10.204. Required Documentation for Application Submission

Q: *Under Evidence of Experience, what if you don't know who the guarantors will be?*

A: You may enter "To Be Determined" or some other signifier; however doing so could establish the lack of certainty in the documentation to support a claim of the maximum points under financial feasibility. There could also be future impacts with regard to ownership and applicant "control" issues that may be required to be addressed.

Q: *Regarding site control: the Application form has no place for an option agreement for a ground lease. What should we check if that is what we will be submitting?*

A: The submitted option documents will be treated the same as a ground lease. The option documents must include all the information that would be included in ground lease documents.

§10.205. Required Third Party Reports.

Q: *For preservation, if we are not claiming any portion of the building acquisition in Eligible Basis, do we need an appraisal?*

A: This is subject to the final determination by the TDHCA Board; however, Staff believes if there is no identity of interest pursuant to §10.302(e)(1)(B) and eligible basis is not requested on the buildings, an appraisal is not likely required. If there is an identity of interest and eligible basis is not requested on the buildings and the acquisition cost reported on the development cost schedule is less than the original acquisition cost (non-depreciated amount), an appraisal would not provide any additional necessary information in determining the appropriateness of the transfer value for tax credit sizing. For an identity of interest transaction, an appraisal is required if the acquisition cost reported on the development cost schedule is greater than the original acquisition cost (non-depreciated amount) regardless of whether eligible basis is requested on the building acquisition.

Q: *Is it true that an appraisal is not needed if it is an identity of interest acquisition, no acquisition credits are being used and the acquisition price is equal to outstanding debt which is lower than the original (non-depreciated) value of the (building & land) asset on the latest audit?*

A: This is subject to the final determination by the TDHCA Board; however, Staff believes if there is an identity of interest pursuant to §10.302(e)(1)(B) and eligible basis is not requested on the buildings and the acquisition cost reported on the development cost schedule is less than the original acquisition cost (non-depreciated amount), an appraisal is likely not required (see further discussion above). The amount of debt (original or current) is not a factor in determining whether an appraisal is required.

Q: *If yes, would the balance sheet from the last audit be sufficient documentation to include in the application?*

A: This is subject to the final determination by the TDHCA Board; however, Staff believes a balance sheet from the last audit with applicable auditor notes is generally sufficient documentation to evidence the original acquisition cost. Preferably and if available, an executed original settlement statement and original G702 would be superior documentation.

Q: *How old can a market study be?*

A: The Market Analysis must not be dated more than six (6) months prior to the first day of the Application Acceptance Period. If the report is older than six (6) months, but not more than twelve (12) months prior to the first day of the Application Acceptance Period, the Qualified Market Analyst that prepared the report may provide a statement that reaffirms the findings of the original Market Analysis if they express that it is appropriate to do so. The statement may not be dated more than six (6) months prior to the first day of the Application Acceptance Period and must be accompanied by the original Market Analysis.

§10.901. Fee Schedule

Q: *Are fees required for the direct loan program?*

A: There is a fee of \$1,000 per application, plus any tax credit fees that apply. Pursuant to Texas Government Code, §2306.147(b), the Department is required to waive Application fees for private nonprofit organizations that offer expanded services such as child care, nutrition programs, job training assistance, health services, or human services.

§11.3. Housing De-Concentration Factors.

Q: *Do resolutions other than support need to be repeated twice?*

A: None of the resolutions require repetition.

Q: *It is clear that both county and municipal resolutions are required for Local Government Support if a project is located in a municipality's ETJ. Can you confirm that only one governing body is required for the Twice the State Average Per Capita, One Mile Three Year Rule, and Limitations on Developments in Certain Census Tracts resolutions?*

A: This is subject to the final determination by the TDHCA Board; however, Staff believes a resolution from the municipality or the county (whichever has jurisdiction or both) is required for each of the Housing De-Concentration Factors.

For an Application to qualify for maximum points under Local Government Support, both county and municipal resolutions are required if a project is located in a municipality's ETJ.

Q: *Does the resolution under §11.3(d) of the QAP, relating to Limitation in Certain Census Tracts resolution, need to come from both the city and the county if the development is located in the ETJ or can it be either one?*

A: This is subject to the final determination by the TDHCA Board; however, Staff believes a resolution from both bodies must be submitted.

Q: *City of Austin has limited purpose jurisdictions, annexed but considered limited: Is that considered within the City, so that no county resolution would be needed?*

A: The answer to this question is very much specific to the facts of this situation and is subject to the final determination by the TDHCA Board. The Applicant must ensure that the correct entity provides the resolution, and this can often best be corroborated with discussions and or documentation with both entities.

Q: *City of Houston has Census Designated Places within the City. Would that require a city resolution, so that no county resolution would be needed?*

A: The answer to this question is very much specific to the facts of this situation. In the case of a Census Designated Place, the appropriate entity is the entity that has jurisdiction over development in the CDP. It could be the city, the county, or both. The Applicant must ensure that the correct entity provides the resolution and this can often best be corroborated with discussions and or documentation with both entities.

Q: *Can multiple HTC awards be awarded to different entities in a specific geographical area? I am a real estate agent here in the DFW area and have a client who is getting multiple offers on close by land tracts from different entities that are applying for the THDCA Tax Credits.*

A: Yes it is possible for multiple HTC awards to different entities in a specific geographical area, but only to the extent that the applications do not violate any of the housing de-concentration factors indicated in §11.3 of the QAP (particularly the two and three mile rules as applicable).

Q: *(Added January 21, 2016) If there are two applications that are not in a county with a population that exceeds 1 million, so that the 11.3(a) Two Mile Same Year Rule does not apply, can those two applications be both General applications and be next to each other sharing a site boundary; and can both be awarded if they score competitively*

2016 Competitive Application Cycle FAQ

and the Market Study supports both deals? They are not additional phases of an Application, but would be two applications in the same round from two different unrelated developers that would be awarded at the same time at the HTC awards

A: This is subject to the final determination by the TDHCA Board; however, Staff believes that a plain language reading of §11.3(e), indicates that one of the two applications you describe would not be eligible for award. This subsection states: "...or Applications that are proposing a Development serving the same Target Population on a contiguous site to another Application awarded in the same program year, shall be considered ineligible unless the other Developments or phase(s) of the Development have been completed and have maintained occupancy of at least 90 percent for a minimum six (6) month period as reflected in the submitted rent roll."

§11.4. Tax Credit Request and Award Limits

Q: Do the elderly limits established by HB 3311 apply to both rural and urban?

A: Only urban regions are triggered for the 2016 QAP. This is subject to the final determination by the TDHCA Board; however, Staff believes that since the data for urban regions has been set by the existing designation of urban places it should follow that if a place identified by TDHCA as urban requests to be designated as rural the limitation may still apply to that place to the extent that the limitation calculation included that place as urban.

§11.6. Competitive HTC Allocation Process.

Q: How will elderly preference impact scoring items?

A: This is subject to the final determination by the TDHCA Board; however, Staff believes generally (and except where specifically stated otherwise in the Texas Administrative Code) an elderly preference development is still considered an elderly development. Any scoring item that has special requirements for Elderly Developments would be impacted by elderly requirements, including but not limited to common amenities, unit mix, tenant supportive services, and cost per square foot. The Development could be eligible for points under Tenant Populations with Special Housing Needs.

Q: If there are many elderly applications in a region and there are not enough other applications, how will that be handled?

A: This is subject to the final determination by the TDHCA Board; however, Staff believes the cap is for the region, so when the cap is reached, we will stop awarding elderly developments in that region. It is not anticipated that there will be insufficient eligible non elderly development applications; however, if that were to occur, the statute provides that additional elderly developments could be awarded.

Q: Since we cannot change our population from pre-application to Application, what if finance changes require a change that results in the need to change our selection from Limitation to Preference? What do we do?

A: This is subject to the final determination by the TDHCA Board; however, Staff believes such a change is highly discouraged. It presents a problem for entities that indicate support for the development based on its population, to have that population change after their support has been registered. If it is anticipated that the development will receive funding that cause it to be an Elderly Preference development, then it is strongly encouraged that all units in the development be restricted by the preference for elderly. If the anticipated funding that caused the development to be an Elderly Preference is not provided or otherwise no longer in the deal at the time the LURA is executed, but the deal is still seen as an Elderly deal it might be converted to an Elderly Limitation at that time. However, the reverse is significantly more complicated because the development will not have been designed with children in mind, and required disclosures about schools would potentially not have been made. TDHCA encourages Applicants to solidify their funding sources as early in the process as possible.

Q: We understand that the Agency will award allocations based on final scoring and underwriting regardless of the target population until Maximum Elderly Funding Limit is exceeded in those regions where this limit applies. If the next highest scoring elderly application requires more allocation than remains in this regional limit will the Agency skip that application and fund the next highest scoring elderly project that fits under this

2016 Competitive Application Cycle FAQ

cap or will they continue to fund applications based on scoring alone leaving a portion of the Maximum Elderly Funding Limit unspent?

A: The Maximum Elderly Funding Limit is a cap to avoid, not a requirement to meet. This is subject to the final determination by the TDHCA Board; however, Staff believes if funding the next highest scoring eligible development in a region also happens to be the next elderly development and that development exceeds the elderly cap, we would go to the next highest scoring eligible non elderly development. If no eligible non elderly developments remain in the region then we would go back to the elderly development. The rules do not contemplate skipping a larger elderly development for a smaller elderly development to remain within the cap just as the rules do not contemplate skipping a larger higher scoring development which would go over the sub regions allocation if funded in favor of a lower scoring smaller allocation to fit within the sub regional allocation amount.

Q: *How will the Agency rank “at risk” elderly properties combined with new construction or other applications in the regional set aside under the Maximum Elderly Funding Limit? Will the highest scored elderly property in a region receive the allocation within the Maximum Elderly Funding Limit regardless of whether it is “at risk” or new construction?*

A: This is subject to the final determination by the TDHCA Board; however, Staff believes at risk developments are considered separate from the regional set aside and as such will not be restricted via the Maximum Elderly Funding Limit. Elderly projects in the sub-regions will be ranked alongside all other deals according to score and awarded based on their rank within the sub-region unless the regional Maximum Elderly Funding Limit has been reached. New Construction versus rehabilitation has no bearing on the Maximum Elderly Funding Limit to the extent that both exist in the sub regional set aside.

Q: *Will the At-Risk Elderly project awards in regions 3, 6, 7, and 9 be included in the Maximum Elderly Funding Limits?*

A: No. Credits made available under the At-Risk set-aside are not included in the competitive tax credits subject to the cap on elderly developments.

Q: *Can you go over the collapse again? It sounds different from last year.*

A: The collapse will be handled in the same way as previous years. Refer to §11.6(2) Credits Returned and National Pool Allocated After January 1 for a full description.

§11.7. Tie Breaker Factors.

Q: *We are looking at a site that is in two different counties and therefore two different census tracts. How is this going to work for the tiebreaker that refers to tract poverty? Are you going to take the poverty rate for the tract that has the majority of the land and/or the majority of the residential buildings?*

A: This is subject to the final determination by the TDHCA Board; however, Staff believes we will compare the poverty rates of both of the developments’ census tracts and use the higher of the two for the tiebreaker.

Q: *How will scattered site work with regard to the last tiebreaker, distance from the closest LIHTC-assisted development? What if one of your scattered sites is closer than the tied application but the second scattered site is farther than the tied application?*

A: This is subject to the final determination by the TDHCA Board; however, Staff believes we will compare the distance from both sites and use the closer of the two.

Q: *The third tie breaker is the highest average rating for the elementary, middle, and high schools designated for attendance by the development site. Are you taking the average of all three schools? And if so, in communities where there are two schools (an elementary and a middle/high school) are you taking the average of the two schools or are you always using three numbers to average? In the case of a two-school town, would you use the same rating for the middle and high to average three numbers?*

A: This is subject to the final determination by the TDHCA Board; however, Staff believes we will take the average of all three schools. In communities where there are two schools combined for one rating we will use that rating to represent the score for a third school and take the average of the three scores.

§11.9. Competitive HTC Selection Criteria.

Q: *(Added January 21, 2016) I just want to confirm whether or not the Department will allow a decrease in the original amount of tax credit equity being requested at Pre-App, to a lesser amount requested at Full App, without triggering any loss of points.*

A: The actual equity amount is subject to change based on the final equity pricing. Section 11.9(e)(3) of the QAP lists the requirements for maintaining Pre-Application points. A decrease in the original amount of tax credits from Pre-Application to full Application is not listed as one the requirements. Other scoring criteria may be impacted by the amount of credits requested and therefore the amount of credits requested may have an indirect effect on score and thereby affect the score for pre app points.

Sponsor Characteristics

Q: *On Sponsor Characteristics, will instrumentalities that qualified last year qualify this year?*

A: They should assume nothing else about them has changed or has been identified differently. As long as the ownership structure includes a HUB certified by the Texas Comptroller of Public Accounts by the Full Application Delivery Date, or a Qualified Nonprofit Organization provided the Application is under the Nonprofit Set-Aside. A_PHA will qualify as a Qualified Nonprofit Organization under this item.

Opportunity Index

Q: *High opportunity in rural is based on proximity to services. Take a deal with 75% of the units in a historic renovation and 25% new construction on a non-contiguous parcel. The site with 75% of the units warrants 7 high opportunity points, the 25% site warrants 5. The majority of the project yields 7 opportunity points and the minority yields 5. How would the high opportunity points be allocated in this scenario?*

A: This is subject to the final determination by the TDHCA Board; however, Staff believes the definition of the Development Site is “the area, or if scattered site areas, on which the Development is proposed and to be encumbered by a LURA.” The rule refers to the Development Site being within the census tract so if a portion of the site is within an area scoring 7 but the whole Development Site is within an area scoring 5, then the development would score 5.

Q: *How do we prove up transportation for schools more than 2 miles away?*

A: Support documentation can include a letter from the applicable school district’s department of transportation (may be included in a support letter), a policy statement from the School District, a Parent/Student handbook or similar, or information from the website <http://www.infofinderi.com/tfi/> (note that not all school districts are listed).

Q: *There is no place on the Site Information Form part II under opportunity index for senior services. If urban is checked, is there a drop-down box to select from?*

A: There is the option to indicate that the Development Site is located within 1.5 linear miles of a senior center. This is the only “senior service” allowed by the rules.

Underserved Area

Q: *If a site is in the ETJ of a city, is the evaluation of Underserved Area under Section 11.9(c)(6)(C) based on that city, or is it based on the county?*

A: Per 11.9(c)(6)(C), a site may receive points if it is located in “A Place, or if outside of the boundaries of any Place, a county...” This is subject to the final determination by the TDHCA Board; however, Staff believes if the site is in the ETJ, then it is generally considered outside the limit of a Place, so that would presumably make the evaluation one focused on the county.

2016 Competitive Application Cycle FAQ

Q: *(Added January 21, 2016) Regarding the 11.9(c)(6)(E) 'Underserved Area' when does the clock start ticking? We have a deal in the census tract that was allocated in 7/2006. By the time this year's deals are awarded, it will be ten years past 7/2006? Do we qualify for the 1 point, or does the clock start ticking at application submission?*

A: This is subject to the final determination by the TDHCA Board; however, Staff believes the 10 years will start as of March 1, 2016, the Application submission deadline for the new Application.

Q: *(Added January 21, 2016) For the underserved areas scoring item, does it mean the original date of the project's allocation or the date of any subsequent allocations?*

A: This is subject to the final determination by the TDHCA Board; however, Staff believes you should consider the date of the most recent allocation.

Tenant Populations with Special Needs

Q: *Can you explain A, B, and C under Tenant Populations with Special Housing Needs?*

A: To qualify under A, you will need to visit the Department's 811 website at <http://www.tdhca.state.tx.us/section-811-pra/announcements.htm>. Posted there is an RFA from owners wishing to have existing developments approved for Section 811 program eligibility.

To qualify under B, the development must not be disqualified based on the listed criteria.

A Development can still qualify for points under item C if the development does not qualify for 811 but will set aside units for tenants with special housing needs.

Q: *If the application is Elderly Limitation, should you automatically check C for points?*

A: The Application could be eligible for points under A if it meets the criteria of the NOFA mentioned above. If the development is Elderly Limitation, the development is not eligible for 811 as the development cannot include other populations, so B would not be an option. Select item C if the development does not qualify for 811 but would still like to be considered for points for setting aside units for tenants with special housing needs that qualify under the Elderly Limitation criteria.

Local Government Support

Q: *Where do we attach support documents from elected officials?*

A: Behind Tab 47, Community Input Scoring.

Q: *Is a resolution sufficient or is an actual letter needed?*

A: Resolutions are required by 11.9(d)(1) in order to access the available points. A letter is acceptable only to document a Commitment of Development Funding by Local Political Subdivision under 11.9(d)(2), so long as all of the information required to evaluate the contribution is present in the submitted documentation.

Q: *Can you get a letter from the appraisal district, as by statute it is considered a local political subdivision?*

A: Section 2306.6710 only includes "the governing body of a municipality" and the commissioner's court of a county" as bodies from which a letter can be obtained.

Q: *Does a property tax exemption provided through an Appraisal District count for LPS?*

A: This is subject to the final determination by the TDHCA Board; however, Staff believes, a property tax exemption that is required by law is not evidence of support. A negotiated exception or pilot agreement where the appraisal district is acting on behalf of the governing body would be extremely rare, but in theory, could serve as documentation for LPS.

Q: *Our site is not within City limits but located in the ETJ of City. For the funding commitment, we would seek reduced utility connection fees from City who would be the provider of the utilities to the site. We also intend to seek incorporation of site into City but this will not occur prior to application. Does City's reduced fee satisfy requirements for this point category?*

A: If the City owns the utility, yes it does. Otherwise, no.

2016 Competitive Application Cycle FAQ

Q: (Added January 21, 2016) I have a question pertaining to this year's cycle. For "Local Government Support" (11.9(d)(1)), can the "expression of support" from the local governmental entity include a contingency about a minimum score being established? For example can the resolution say something like:
We, the city of _____, TX support the _____ development as long as the development scores a minimum score of _____ when the scoring notice is issued by TDHCA.

A: This is subject to the final determination by the TDHCA Board; however, Staff believes that a letter with funding conditioned upon a minimum score requirement does not satisfy the requirement of "expressly setting forth that a municipality supports" the application. .

Commitment of Funding by Local Political Subdivision

Q: What is the "de minimis amount" for local political subdivision?

A: There is no set amount for de minimis.

Q: Does the contribution have to match sources and uses?

A: Yes, the amounts must be consistent.

Q: If the contribution the LPS is providing is not factored into the underwriting, does an amount have to be specified or can it just state that there is a de minimis amount being provided?

A: An amount or value of the LPS must be specified.

Q: A letter from the City of Austin regarding Smart Housing provides list of waived fees but does not indicate the amounts of the waivers. Would this be acceptable?

A: The letter can include flexibility with respect to the type of funding being committed. However, an amount value of the LPS must still be specified.

Q: Can match be used for LPS contribution?

A: Yes.

Q: Can an Economic Development Corporation, where 100% of the Board of Directors is elected by the City Council, provide the commitment of Development Funding? An entity such as the EDC was allowed under the 2015 QAP provided 100% of the Board was elected by the City Council.

A: This is subject to the final determination by the TDHCA Board; however, Staff believes if the EDC is an instrumentality of the City and can claim jurisdiction over the site then its commitment for funding can be used to document the LPS funding.

Q: (Added January 21, 2016) The City of Houston is looking into whether or not they can provide a letter to tax credit applicants seeking 1-pt. for LPS development funding. If the City elects to provide such a letter can the letter be conditioned on the following?

1. an award of 2016 9% HTCs; and

2. that the stated contribution (i.e. reduction in fees, etc.) described in the letter is subject to the passage of a City ordinance granting approval of such contribution.

A: This is subject to the final determination by the TDHCA Board; however, Staff believes that while a letter with funding conditioned upon receipt of an award of credits would be acceptable, a letter including a condition that the contribution is conditioned upon passage of a city ordinance granting approval of the contribution would not be acceptable.

Q: (Added January 21, 2016) Does funding from a city count for points under §11.9(d)(2) Commitment of Development Funding by Local Political Subdivision for developments located in the ETJ of that city?

A: This is subject to the final determination by the TDHCA Board; however, Staff believes that if the city is the entity that has jurisdiction over development in the ETJ, then the city is the appropriate entity to provide LPS funding.

2016 Competitive Application Cycle FAQ

Q: (Added January 21, 2016) Is future annexation by a city a condition for funding from the city to count for LPS points for an ETJ deal? If so, what documentation would be required?

A: This is subject to the final determination by the TDHCA Board; however, Staff believes that if the city is the entity that has jurisdiction over development in the ETJ, future annexation is not a condition for the funding to count under §11.9(d)(2)

Declared Disaster Area

Q: On the Declared Disaster Area scoring item, the language states the following:

An Application may receive ten (10) points if at the time of Application submission or at any time within the two-year period preceding the date of submission, the Development Site is located in an area declared to be a disaster area under the Texas Government Code, §418.014.

Can you confirm whether the "time of Application submission" and "date of submission" refers to the submission of the Full Application or the Pre-Application? If Full Application, that would mean that if a County not included on the list released by TDHCA experiences a disaster and is included in a disaster declaration on, say, February 25, 2016, it could be eligible for the points.

A: This is subject to the final determination by the TDHCA Board; however, Staff believes it means full Application. And yes staff believes you would be able to claim the points at Application with the proper documentation. Note though that the score cannot change by more than 6 points between pre-application and Application and still qualify for pre-application participation points, so adding these ten points would make your pre-application points go away but net you 4 points.

Quantifiable Community Participation

Q: Have you considered establishing a dedicated email address to help neighborhood organizations submit their documents for QCP with fewer delivery issues?

A: We will check with our Information Systems Divisions to see if we can offer such a service. Fax is still an option for submission as well.

Input from Community Organizations

Q: Can we use a community support letter from last year?

A: No. The organization must be given the opportunity to indicate their support again this year.

Concerted Revitalization Plans

Q: Are revitalization plans from last year acceptable?

A: If past revitalization plans meet the current requirements, they will be accepted.

Cost of Development per Square Foot

Q: Under what Cost of Development per Square Foot category would the Department evaluate an elevator-served Elderly development that receives 6 Opportunity Index points (as opposed to qualifying for 5 or 7 points under Opportunity Index, which is one of the criteria for being considered a high cost development).

A: Per §11.9(e)(2)(A), the high cost development does not require both elderly and opportunity index criteria be met. The Development would be considered a high cost development under either §11.9(e)(2)(A)(i) or (iv). Note that the 2016 QAP was revised to replace the "5 or 7 points" with "a minimum of 5 points".

Pre-application Participation

Q: We can submit one site in the pre-application, then make changes to the site within limits. How does that work between pre-application and Application?

A: Per §11.9(e)(3)(F), the site submitted at Application cannot be an entirely new site from that submitted at pre-application if pre-application points are to be preserved. "The Development Site at Application is at least in part the Development Site at pre-application, and the census tract number listed at pre-application is the same at Application."

2016 Competitive Application Cycle FAQ

This is subject to the final determination by the TDHCA Board; however, Staff believes this flexibility was intended to be needed in rare instances and that changes to the site may have additional unintended consequences such as necessitating, among other things, re-notification, per §10.203. Public Notifications.

Q: *Can we drop a parcel and reduce units and keep pre-application points?*

A: This is subject to the final determination by the TDHCA Board; however, Staff believes these actions alone would not result in the loss of pre-application points assuming the changes are made prior to full application. Refer to §11.9(e)(3) Pre-application Participation for other requirements. Again note that changes to the pre application site could, have additional unintended consequences such as necessitating, among other things, re-notification, per §10.203. Public Notifications.

Leveraging of Private, State and Federal Resources

Q: *On leveraging, do funds have to come from CDBG, etc. to get the points, or is just meeting 8% or 9% okay?*

A: The leveraged funds must meet or exceed the percentages, and funds have to be private, state, or federal but they do not have to come from CDBG.

Q: *Can you go through the rounding for determining the percentage of the total development cost?*

A: You may not round up; i.e. 7.99% will not round up to 8. You must meet or exceed threshold for the point category.

5b

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
JANUARY 28, 2016

Presentation, Discussion, and Possible Action regarding an Award of HOME funds from the 2015-1 Multifamily Development Program Notice of Funding Availability

RECOMMENDED ACTION

WHEREAS, at the Board meeting of December 17, 2015, the Board rescinded the 9% HTC award for Stonebridge at Childress (15093), resulting in Reserves at Perryton (15102) receiving an award of 9% HTC;

WHEREAS, Reserves at Perryton has requested \$785,000 in HOME funds and has received complete reviews for compliance with program and underwriting requirements;

WHEREAS, Section 3e of the 2015-1 Multifamily Development Program NOFA states that "Any rescinded MFD funds will be available to award to Applications layered with Competitive (9%) HTCs that did not initially receive the requested award of MFD funds..."; and

WHEREAS, sufficient HOME funds are available as the result of returned and reduced awards from the 2015-1 HOME Multifamily Development Program Notice of Funding Availability;

NOW, therefore, it is hereby

RESOLVED, that a commitment of HOME funding from the 2015-1 HOME Multifamily Development Program Notice of Funding Availability for Reserves at Perryton is hereby approved in the form presented at this meeting, and as amended by the Board for any appeals or tax credit allocation decisions previously heard and determined and

FURTHER RESOLVED, that the Board's approval is conditioned upon satisfaction of all conditions of underwriting and completion of any other reviews required to ensure compliance with the applicable rules and requirements for HOME Multifamily Development Program funds.

BACKGROUND

On January 15, 2015, the Board approved the issuance of a Notice of Funding Availability ("NOFA") for up to \$28.2 million: (\$10.2 million in HOME Community Housing Development Organization ("CHDO") set aside, \$12 million in general HOME, and \$6 million in TCAP

repayment). On February 6, 2015, the 2015-1 HOME/TCAP Multifamily Development NOFA (2015-1 NOFA) was published announcing the availability of up to \$20 million for the development of affordable multifamily rental housing. That NOFA contemplated two set-asides: CHDO, consisting of \$4 million in HOME funds, and General, consisting of \$10 million in HOME funds and \$6 million from TCAP Repayment Funds. On July 30, 2015, staff presented the entire list of prospective awards and the anticipated recommended amounts at that time.

On September 3, 2015, staff reported to the Board that the completion of underwriting for all of the HOME and TCAP RF award recommendations had yielded a total of \$15,341,000 in HOME funds for twelve awardees and a total of \$1,750,000 in TCAP RF for three awardees. In November 2015, the applicant for Reserve at Engel Road (15303) notified the Department that they would be returning their HOME award for \$1,000,000 as a result of better equity pricing than originally anticipated. This return of HOME funds was not included in the amount of funds available in the 2016-1 NOFA. As such, there is currently \$1,000,000 in non-earmarked funds remaining from the 2015-1 NOFA and available to be awarded.

Staff is recommending the Board's approval of one additional application for a HOME award under this Board Action Request, totaling \$785,000 under the General Set Aside. The recommended application and award amount for this application, as well as previously awarded and recently received applications, is outlined in the attached award recommendations log. This application proposes new construction targeting a General population in the City of Perryton in Ochiltree County, and will result in 11 HOME-assisted units, which will be layered within the 44 tax credit units in the development. There will be an additional four market rate units for a total of 48 units. The underwriting report for this application has been posted on the Department's website and determined to meet the Real Estate Analysis rules and requirements. The application has received an acceptable previous participation review.

Should this recommended award be approved, the remaining \$215,000 from the 2015-1 NOFA will be included in the total available under the 2016-1 NOFA. This figure is derived from the difference between the returned award (\$1,000,000) from Reserve at Engel Road and the recommended award (\$785,000) for Reserves at Perryton.

The Application and Award Recommendations Log is attached.



2015-1 HOME/TCAP Multifamily Development (MFD) Program - Application Log - January 14, 2016
 Per 2015-1 HOME/TCAP MFD Notice of Funding Availability published in the Texas Register on 02/06/2015

The following data was compiled using information submitted by each applicant. While this data has been reviewed or verified by the Department, errors may still be present. Those reviewing the log are advised to use caution in reaching any definitive conclusions based on this information alone. Applicants are encouraged to review 10 TAC §§11.1(b) and 10.2(b) concerning Due Diligence and Applicant Responsibility. A more complete log will be posted subsequent to completion of all staff application reviews as well as at various times during the cycle. Applicants that identify an error in the log should contact Andrew Sinnott at andrew.sinnott@tdhca.state.tx.us as soon as possible. Identification of an error early does not guarantee that the error can be addressed administratively.

Applications sorted by date received and, for 9%-layered applications, whether or not they are competitive.

TCAP

| | | | | | | | | | | | | | | Total Set Aside Funding Level: \$6,000,000 | |
|--|---------------------------|---------------|-----------------|--------|------------------|---|---|--------------------|-------------|-----------------|----------|---------------|--|---|------------|
| | | | | | | | | | | | | | | Scoring as per Section 3 of 2015-1 MFD NOFA | Tiebreaker |
| TDHCA# | Property Name | Property City | Property County | Region | Housing Activity | Multifamily Development Program Request | As Underwritten at 3% Interest and 30 Year Amortization | Target Population | Total Units | HOME/TCAP Units | Layering | Date Received | Comments | | |
| 15403 | Harris Branch | Austin | Travis | 7 | NC | \$ 1,900,000 | | Elderly | 216 | 26 | 4% | 2/3/2015 | Application withdrawn | | |
| 15306 | Altura Heights | Houston | Harris | 6 | NC | \$ 1,000,000 | \$ 800,000 | General | 124 | 14 | 9% | 4/1/2015 | Awarded 7/30/15 | | |
| 15242 | Sundance Meadows | Brownsville | Cameron | 11 | NC | \$ 1,000,000 | 0 | General | 132 | 15 | 9% | 4/1/2015 | Recommended with 9% HTC only | | |
| 15126 | Brazoria Manor Apartments | Brazoria | Brazoria | 6 | R | \$ 500,000 | \$ 250,000 | General | 56 | 10 | 9% | 4/1/2015 | Awarded 7/30/15 | | |
| 15101 | Reserves at Summit West | Wichita Falls | Wichita | 2 | NC | \$ 785,000 | \$ 700,000 | General | 36 | 11 | 9% | 4/1/2015 | Awarded 7/30/15 | | |
| 15087 | Reserves at Copper Ranch | Lubbock | Lubbock | 1 | NC | \$ 785,000 | | General | 84 | 11 | 9% | 4/1/2015 | Not Competitive | | |
| 15125 | McKinney Manor Apartments | Sweeny | Brazoria | 6 | R | \$ 500,000 | | General | 48 | 0 | 9% | 4/1/2015 | Not Competitive | | |
| 15297 | Artesian Flats | Waco | McLennan | 8 | NC | \$ 1,000,000 | | General | 100 | 14 | 9% | 4/1/2015 | Not Competitive | | |
| 15328 | Mahon Villas Phase I | Lubbock | Lubbock | 1 | NC | \$ 1,000,000 | | General | 94 | 10 | 9% | 4/1/2015 | Not Competitive | | |
| 15410 | Aldridge 51 Apartments | Austin | Travis | 7 | NC | \$ 2,000,000 | | General | 240 | 30 | 4% | 4/6/2015 | Not Considered As a Result of 7/30/15 Board Action | | |
| 15600 | Sphinx at Fiji Lofts | Dallas | Dallas | 3 | NC | \$ 2,000,000 | | General | 170 | 23 | 4% | 6/8/2015 | Not Considered As a Result of 7/30/15 Board Action | | |
| Total TCAP Amount Requested/ Underwritten | | | | | | \$ 12,470,000 | \$ 1,750,000 | Total Units | 1300 | 164 | | | | | |

HOME

| | | | | | | | | | | | | | | Total Set Aside Funding Level: \$14,000,000 | |
|--|---|------------------|-----------------|--------|------------------|---|---|--------------------|-------------|-----------------|----------|---------------|---|--|--|
| TDHCA# | Property Name | Property City | Property County | Region | Housing Activity | Multifamily Development Program Request | As Underwritten at 3% Interest and 30 Year Amortization | Target Population | Total Units | HOME/TCAP Units | Layering | Date Received | Comments | | |
| CHDO - \$4,000,000 | | | | | | | | | | | | | | | |
| 15502 | Westridge Villas | Frisco | Collin | 3 | NC | \$ 4,000,000 | \$ 4,000,000 | General | 132 | 56 | HOME | 3/31/2015 | Awarded 7/30/15 | | |
| 15234 | Merritt Leisure | Midland | Midland | 12 | NC | \$ 2,000,000 | \$ 2,000,000 | Elderly | 194 | 28 | 9% | 4/1/2015 | Awarded 7/30/15 | | |
| 15273 | Merritt Hill Country | Dripping Springs | Hays | 7 | NC | \$ 2,000,000 | \$ 1,550,000 | Elderly | 80 | 29 | 9% | 4/1/2015 | Awarded 7/30/15 | | |
| 15020 | Evergreen at Rowlett Senior | Rowlett | Dallas | 3 | NC | \$ 1,000,000 | \$ 1,000,000 | Elderly | 138 | 7 | 9% | 4/1/2015 | Awarded 7/30/15 | | |
| 15065 | Rhine Forest Apartments | New Braunfels | Comal | 9 | NC | \$ 1,000,000 | | General | 134 | 14 | 9% | 4/1/2015 | Not Competitive | | |
| 15120 | Waters at Granbury | Granbury | Hood | 3 | NC | \$ 1,000,000 | | General | 80 | 15 | 9% | 4/1/2015 | Not Competitive | | |
| 15501 | Casitas Acacia | San Benito | Cameron | 11 | NC | \$ 1,500,000 | | General | 20 | 20 | HOME | 6/8/2015 | Not Considered As a Result of 7/30/15 Board Action | | |
| 15503 | Cornerstone Apartments | Brownsville ETJ | Cameron | 11 | NC | \$ 4,000,000 | | General | 108 | 39 | HOME | 6/22/2015 | Not Considered As a Result of 7/30/15 Board Action | | |
| Total CHDO Amount Requested/ Underwritten | | | | | | \$ 16,500,000 | \$ 8,550,000 | Total Units | 886 | 208 | | | | | |
| General - \$10,000,000 | | | | | | | | | | | | | | | |
| 15121 | The Glades of Gregory-Portland | Gregory | San Patricio | 10 | NC | \$ 1,000,000 | \$ 790,000 | General | 72 | 14 | 9% | 4/1/2015 | Awarded 7/30/15 | | |
| 15010 | Mariposa Apartment Homes at South Broadway | Joshua | Johnson | 3 | NC | \$ 1,000,000 | 0 | Elderly | 222 | 9 | 9% | 4/1/2015 | Recommended with 9% HTC only | | |
| 15252 | Henderson Village | Henderson | Rusk | 4 | NC | \$ 900,000 | \$ 785,000 | General | 80 | 8 | 9% | 4/1/2015 | Awarded 7/30/15 | | |
| 15086 | Reserves at Preston Trails | Wolfforth | Lubbock | 1 | NC | \$ 785,000 | \$ 700,000 | General | 112 | 11 | 9% | 4/1/2015 | Awarded 7/30/15 | | |
| 15063 | Palladium Van Alstyne Senior Living | Van Alstyne | Grayson | 3 | NC | \$ 1,000,000 | \$ 900,000 | Elderly | 132 | 14 | 9% | 4/1/2015 | Awarded 7/30/15 | | |
| 15303 | Reserve at Engel Road | New Braunfels | Comal | 9 | NC | \$ 1,000,000 | 0 | General | 96 | 14 | 9% | 4/1/2015 | Awarded 7/30/15, returned HOME award November 2015 | | |
| 15022 | The Oaks of Westview | Canton | Van Zandt | 4 | R | \$ 1,000,000 | \$ 1,000,000 | General | 88 | 18 | 9% | 4/1/2015 | Awarded 7/30/15 | | |
| 15035 | The Oaks of Fairview | Athens | Henderson | 4 | R | \$ 976,000 | \$ 976,000 | General | 98 | 28 | 9% | 4/1/2015 | Awarded 7/30/15 | | |
| 15036 | Fairview Cottages | Athens | Henderson | 4 | R | \$ 640,000 | \$ 640,000 | Elderly | 44 | 9 | 9% | 4/1/2015 | Awarded 7/30/15 | | |
| 15028 | Lometa Pointe | Lampasas | Lampasas | 8 | NC | \$ 785,500 | 0 | Elderly | 78 | 11 | 9% | 4/1/2015 | Recommended with 9% HTC only | | |
| 15102 | Reserves at Perryton | Perryton | Ochiltree | 1 | NC | \$ 785,000 | \$ 785,000 | General | 48 | 11 | 9% | 4/1/2015 | Recommended for award | | |
| 15093 | Stonebridge at Childress | Childress | Childress | 1 | NC | \$ 750,000 | 0 | General | 48 | 8 | 9% | 4/1/2015 | Recommended with 9% HTC only, 9% award subsequently rescinded | | |
| 15179 | Royal Gardens at Goldthwaite | Goldthwaite | Mills | 8 | NC | \$ 600,000 | | General | 49 | 5 | 9% | 4/1/2015 | Not Recommended by REA | | |
| 15012 | Mariposa Apartment Homes at Greenville Road | Royse City | Rockwall | 3 | NC | \$ 1,000,000 | | Elderly | 222 | 9 | 9% | 4/1/2015 | Not Competitive | | |
| 15023 | The Terraces at Canyon Lake | Canyon Lake | Comal | 9 | NC | \$ 785,000 | | Elderly | 62 | 11 | 9% | 4/1/2015 | Not Competitive | | |
| 15029 | The Courtyard Apartments | Sanger | Denton | 3 | NC | \$ 1,000,000 | | Elderly | 60 | 8 | 9% | 4/1/2015 | Not Competitive | | |

| TDHCA# | Property Name | Property City | Property County | Region | Housing Activity | Multifamily Development Program Request | As Underwritten at 3% Interest and 30 Year Amortization | Target Population | Total Units | HOME/TCAP Units | Layering | Date Received | Eligibility under Opportunity Index | Unrestricted Units | Amount of Local Funding | Total Score | Distance to nearest HTC development (miles) |
|---|-------------------------------|---------------|-----------------|--------|------------------|---|---|--------------------|-------------|-----------------|----------|---------------|-------------------------------------|--------------------|-------------------------|-------------|---|
| 15037 | The Cottages at Main | Bullard | Smith | 4 | R | \$ 480,000 | | Elderly | 24 | 7 | 9% | 4/1/2015 | | | | | Not Competitive |
| 15062 | Baron Hotel | Cisco | Eastland | 2 | R | \$ 726,904 | | General | 30 | 10 | 9% | 4/1/2015 | | | | | Not Competitive |
| 15075 | The Village at Main | Bullard | Smith | 4 | R | \$ 500,000 | | General | 24 | 7 | 9% | 4/1/2015 | | | | | Not Competitive |
| 15138 | Indian Lake Apartment Homes | Indian Lake | Cameron | 11 | NC | \$ 1,000,000 | | General | 80 | 18 | 9% | 4/1/2015 | | | | | Not Competitive |
| 15139 | Arbor Creek Apartment Homes | Los Fresnos | Cameron | 11 | NC | \$ 1,000,000 | | General | 120 | 30 | 9% | 4/1/2015 | | | | | Not Competitive |
| 15164 | Southport Estates | Levelland | Hockley | 1 | NC | \$ 900,000 | | General | 48 | 13 | 9% | 4/1/2015 | | | | | Not Competitive |
| 15172 | Oak Grove Village | Marble Falls | Burnet | 7 | NC | \$ 1,000,000 | | Elderly | 42 | 13 | 9% | 4/1/2015 | | | | | Not Competitive |
| 15174 | Palladium Glenn Heights | Glenn Heights | Ellis | 3 | NC | \$ 1,000,000 | | General | 180 | 14 | 9% | 4/1/2015 | | | | | Not Competitive |
| 15183 | Borgfeld Manor | Cibolo | Guadalupe | 9 | NC | \$ 1,000,000 | | General | 120 | 7 | 9% | 4/1/2015 | | | | | Not Competitive |
| 15198 | The Pointe at Canyon Lake | New Braunfels | Comal | 9 | NC | \$ 1,000,000 | | General | 100 | 14 | 9% | 4/1/2015 | | | | | Not Competitive |
| 15268 | Cayetano Villas of Kingsville | Kingsville | Kleberg | 10 | NC | \$ 1,000,000 | | General | 48 | 8 | 9% | 4/1/2015 | | | | | Not Competitive |
| 15278 | Palladium Anna | Anna | Collin | 3 | NC | \$ 1,000,000 | | General | 180 | 14 | 9% | 4/1/2015 | | | | | Not Competitive |
| 15309 | Reserve at Hagan | Whitehouse | Smith | 4 | NC | \$ 1,000,000 | | General | 72 | 14 | 9% | 4/1/2015 | | | | | Not Competitive |
| 15339 | Royal Gardens at Diboll | Diboll | Angelina | 5 | NC | \$ 600,000 | | General | 49 | 6 | 9% | 4/1/2015 | | | | | Not Competitive |
| 15338 | Mill Town Crossing | Silsbee | Hardin | 5 | NC | \$ 775,000 | | General | 80 | 11 | 9% | 4/1/2015 | | | | | Withdrawn |
| 15337 | Mission Village of Alpine | Alpine | Brewster | 13 | NC | \$ 700,000 | | General | 40 | 10 | 9% | 4/1/2015 | | | | | Withdrawn |
| Total General Amount Requested/ Underwritten | | | | | | \$ 27,688,404 | \$ 6,576,000 | Total Units | 2794 | 552 | | | | | | | |
| Total HOME Amount Requested/ Underwritten | | | | | | \$ 44,188,404 | \$ 15,126,000 | | | | | | | | | | |

1 = Housing Activity: New Construction=NC, Rehabilitation=R

2 = Layering of Other Department Active Applications: 9%=9% Competitive Tax Credits, 4%=4% Tax Credit Program

3 = Date Received: The date that the application, all required 3rd Party Reports, and Application Fees were received. All 2015 9%-layered applications are considered to be received on 4/1/15.

6a

BOARD ACTION REQUEST
HOME PROGRAM DIVISION
JANUARY 28, 2016

Presentation, Discussion, and Possible Action on Awards for the 2015 HOME Investment Partnerships Program (“HOME”) Single Family Programs Competitive Notices of Funding Availability (“NOFA”) for Single Family Non-Development Programs.

RECOMMENDED ACTION

WHEREAS, the Board authorized the release of the 2015 HOME Single Family Programs Competitive NOFA on September 3, 2015, and the Texas Department of Housing and Community Affairs (“TDHCA”) published the NOFA announcing funding of approximately \$10,006,619;

WHEREAS, the NOFA provided for a competitive application cycle making funding available utilizing the Regional Allocation Formula (“RAF”) as directed by statute;

WHEREAS, the NOFA established a subregional, regional, and statewide award process where the highest scoring applications for which funds were available to fund the total requested amount would be selected for award with tie breakers determined through a random selection process (referred to in the NOFA as a lottery);

WHEREAS, the deficiency process is complete, Applicants were notified of their rights to appeal staff decisions, and the award recommendation process is now complete;

WHEREAS, all applications recommended for an award have received complete reviews for compliance with program and previous participation requirements;

WHEREAS, the applications identified for award in this attachment have been ranked as the highest priority HOME applications as set forth in the NOFA and result in 42 funding recommendations as presented to this meeting; and

WHEREAS, funds in the amount of \$40,319 remain after these recommendations and will be made available under the 2015 HOME Single Family Programs Reservation System NOFA as described in that NOFA;

NOW, therefore, it is hereby

RESOLVED, that awards of HOME funding from the 2015 HOME Single Family Programs Competitive NOFA totaling \$9,966,300 are hereby approved in the form presented at this meeting, and as may be amended by the Board.

BACKGROUND

On September 3, 2015, the Board approved the issuance of a Single Family Programs Competitive NOFA for approximately \$10,006,619 in HOME funding and staff released the corresponding application with an application deadline of October 19, 2015. The NOFA states that Applications will be accepted under a Competitive Application Cycle utilizing the Regional Allocation Formula (“RAF”). Funds remaining in each subregional allocation after the subregional award recommendations have been determined will first collapse regionally, and finally statewide. The process for selection at the subregional level is the highest scoring Application(s) will be selected for award recommendation if there are sufficient funds to fulfill the request. If there is not sufficient funding, the application(s) will be considered in the regional collapse. In the event that a lower scoring applicant requests an amount that is available at the subregional level, they will be selected for award recommendation at the subregional level. In the event of a tie between two or more applications for which funding is available in the subregion, award recommendations will be determined using a random selection system, referred to in the NOFA as a lottery. This process will be repeated at the regional and statewide level.

The Department received sixty-eight (68) applications in response to the NOFA that were timely received. Application review priority was determined based on Applicant self-score and regional funding availability in accordance with the NOFA. Department staff conducted a review of the Applications selected for review to establish threshold items were met and to determine deficiencies. To ensure that all Applicants had an opportunity to know the disposition of their Application prior to award recommendations being finalized and presented to the Board for approval, staff notified Applicants of the status of their Applications and staff-determined scores as applicable. Applicants were all notified of their rights to appeal the final disposition of their application. The Department received six appeals to TDHCA’s Executive Director relating to staff determinations; however Department staff did not receive any appeals to the Governing Board following the Department’s response to the appeals. Department staff subsequently published an updated, final Application log that included the final Application score as verified by the Department, in addition to the tie-breaker number assigned during the lottery process.

The Department has concluded the award recommendation process as described above and is recommending the following forty-two (42) Applications receive HOME awards totaling \$9,966,300, organized by region. The first table below reflects only those applications recommended for an award, and the second table provides detailed information on the selection process. The final Application log is available on the Department’s website at <http://www.tdhca.state.tx.us/home-division/applications.htm>.

Note that Applicants appearing in **bold font** are ones for which the award recommendation was made as a result of a tie with another application where the assigned tie-breaker number determined the award.

Award Recommendation Log

Subregional Awards

| App # | HOME Applicant | Activity | Region | Subregion | Award | Final Score | Tie # |
|------------------|-----------------------------|------------|-----------|--------------|--------------------|-------------|-----------|
| 2015-0086 | City of Eastland | HRA | 2 | Rural | \$297,000 | 30 | 65 |
| 2015-0050 | Central Texas Opportunities | HBA | 2 | Rural | \$60,000 | 19 | 44 |
| 2015-0108 | City of Garrett | HRA | 3 | Rural | \$198,000 | 30 | 74 |
| 2015-0070 | City of Pilot Point | HRA | 3 | Urban | \$376,000 | 34 | 38 |
| 2015-0060 | Rockwall HDC | HRA | 3 | Urban | \$376,000 | 30 | 17 |
| 2015-0063 | Rockwall HDC | HBA | 3 | Urban | \$60,000 | 30 | 72 |
| 2015-0080 | City of Greenville | HRA | 3 | Urban | \$376,000 | 30 | 49 |
| 2015-0084 | City of McKinney | HBA | 3 | Urban | \$60,000 | 28 | 34 |
| 2015-0087 | City of Clarksville | HRA | 4 | Rural | \$386,000 | 35 | 36 |
| 2015-0109 | City of Troup | HRA | 4 | Rural | \$200,000 | 29 | 55 |
| 2015-0067 | City of Nash | HRA | 4 | Urban | \$286,500 | 29 | 62 |
| 2015-0101 | City of Center | HRA | 5 | Rural | \$400,000 | 34 | 31 |
| 2015-0076 | City of Hempstead | HRA | 6 | Rural | \$171,800 | 34 | 35 |
| 2015-0090 | Buckner Family Place | TBRA | 6 | Urban | \$110,000 | 27 | 46 |
| 2015-0094 | City of Smithville | HRA | 7 | Rural | \$98,000 | 28 | 58 |
| 2015-0071 | City of Somerville | HRA | 8 | Rural | \$297,000 | 30 | 52 |
| 2015-0068 | City of Belton | HRA | 8 | Urban | \$188,000 | 30 | 32 |
| 2015-0023 | Temple Housing Authority | HBA | 8 | Urban | \$46,000 | 29 | 1 |
| 2015-0093 | City of Charlotte | HRA | 9 | Rural | \$196,000 | 28 | 73 |
| 2015-0107 | Guadalupe County | HRA | 9 | Urban | \$188,000 | 30 | 5 |
| 2015-0027 | Refugio County | HRA | 10 | Rural | \$297,000 | 34 | 24 |
| 2015-0077 | City of Carrizo Springs | HRA | 11 | Rural | \$396,000 | 35 | 60 |
| 2015-0082 | City of Pharr | HBA | 11 | Urban | \$60,000 | 29 | 12 |
| 2015-0024 | CDC of Brownsville | HBA | 11 | Urban | \$60,000 | 28 | 20 |
| 2015-0028 | City of Bronte | HRA | 12 | Rural | \$396,000 | 30 | 30 |
| 2015-0069 | Midland CDC | HBA | 12 | Urban | \$60,000 | 29 | 13 |
| 2015-0088 | Buckner Family Place | TBRA | 12 | Urban | \$110,000 | 27 | 39 |
| 2015-0078 | Culberson County | HRA | 13 | Rural | \$400,000 | 34 | 51 |
| 2015-0017 | AYUDA | HRA | 13 | Rural | \$400,000 | 22 | 27 |
| 2015-0079 | Village of Vinton | HRA | 13 | Urban | \$188,000 | 28 | 41 |
| | | | | TOTAL | \$6,737,300 | | |

Award Recommendation Log

Regional Awards – First Collapse

| App # | HOME Applicant | Activity | Region | Subregion | Award | Final Score | Tie # |
|-----------|-----------------------------|----------|--------|--------------|--------------------|-------------|-------|
| 2015-0051 | Central Texas Opportunities | TBRA | 2 | Rural | \$110,000 | 22.5 | 22 |
| 2015-0073 | City of Josephine | HRA | 3 | Rural | \$198,000 | 29 | 61 |
| 2015-0075 | Burke Center | TBRA | 5 | Rural | \$110,000 | 29 | 6 |
| 2015-0072 | City of Eagle Lake | HRA | 6 | Rural | \$188,000 | 29 | 57 |
| 2015-0091 | City of Taylor | HRA | 7 | Rural | \$392,000 | 28 | 7 |
| 2015-0098 | City of La Feria | HRA | 11 | Urban | \$196,000 | 26 | 19 |
| | | | | TOTAL | \$1,194,000 | | |

Statewide Awards – Second Collapse

| App # | HOME Applicant | Activity | Region | Subregion | Award | Final Score | Tie # |
|------------------|---------------------------|------------|-----------|--------------|--------------------|-------------|-----------|
| 2015-0100 | City of Bloomburg | HRA | 4 | Rural | \$400,000 | 35 | 15 |
| 2015-0052 | City of Mount Vernon | HRA | 4 | Rural | \$382,000 | 34 | 18 |
| 2015-0064 | Willacy County | HRA | 11 | Rural | \$396,000 | 33 | 70 |
| 2015-0025 | CDC of Brownsville | HRA | 11 | Rural | \$378,000 | 30 | 63 |
| 2015-0062 | Jim Wells County | HRA | 10 | Rural | \$297,000 | 30 | 47 |
| 2015-0083 | City of McKinney | HRA | 3 | Urban | \$182,000 | 28 | 25 |
| | | | | TOTAL | \$2,035,000 | | |

| | |
|------------------------------------|---------------------|
| NOFA Amount | \$10,006,619 |
| Total Recommended for Award | \$9,966,300 |
| Total Remaining | \$40,319 |

Application and Award Detail Log

| Applicant | Application Number | HOME Award Requested | Awarded | Points Requested | Points Awarded | Tie Breaker | Activity Type | Award Level |
|-------------------------------|--------------------|-------------------------------------|-------------|------------------|--|-------------|---------------|-------------|
| Region 1 - \$567,742 | | | | | | | | |
| No applications | | \$0 | \$0 | | | | | |
| | | Balance Avail. for Statewide | | \$567,742 | | | | |
| Region 2 - \$501,318 | | | | | | | | |
| | Rural | \$401,318 | | | | | | |
| City of Eastland | 2015-0086 | \$297,000 | \$297,000 | 35 | 30 | 65 | HRA | Sub-T |
| City of Anson | 2015-0031 | \$396,000 | | 34 | 30 | 42 | HRA | |
| Central Texas Opportunities | 2015-0051 | \$110,000 | | 27.5 | 22.5 | 22 | TBRA | Reg |
| Central Texas Opportunities | 2015-0050 | \$60,000 | \$60,000 | 23 | 19 | 44 | HBA | Sub |
| | | \$863,000 | \$357,000 | | | | | |
| | | Rural Balance | | \$44,318 | | | | |
| | Urban | \$100,000 | | | | | | |
| No applications | | \$0 | \$0 | | | | | |
| | | Region Balance | | \$144,318 | | | | |
| | | Regional Award | | \$110,000 | (Central Texas Opportunities, 2015-0051) | | | |
| | | Balance Avail. for Statewide | | \$34,318 | | | | |
| Region 3 - \$1,652,927 | | | | | | | | |
| | Rural | \$269,163 | | | | | | |
| City of Garrett | 2015-0108 | \$198,000 | \$198,000 | 35 | 30 | 74 | HRA | Sub |
| City of Josephine | 2015-0073 | \$198,000 | | 30 | 29 | 61 | HRA | Reg |
| Wolfe City | 2015-0056 | \$198,000 | | 35 | 26 | 28 | HRA | |
| | | \$594,000 | \$198,000 | | | | | |
| | | Rural Balance | | \$71,163 | | | | |
| | Urban | \$1,383,764 | | | | | | |
| City of Pilot Point | 2015-0070 | \$376,000 | \$376,000 | 34 | 34 | 38 | HRA | Sub |
| Rockwall HDC | 2015-0060 | \$376,000 | \$376,000 | 30 | 30 | 17 | HRA | Sub |
| Rockwall HDC | 2015-0063 | \$60,000 | \$60,000 | 30 | 30 | 72 | HBA | Sub |
| City of Greenville | 2015-0080 | \$376,000 | \$376,000 | 30 | 30 | 49 | HRA | Sub |
| City of McKinney | 2015-0083 | \$182,000 | | 28 | 28 | 25 | HRA | SW-T |
| City of McKinney | 2015-0084 | \$60,000 | \$60,000 | 28 | 28 | 34 | HBA | Sub-T |
| | | \$1,430,000 | \$1,248,000 | | | | | |
| | | Urban Balance | | \$135,764 | | | | |

Application and Award Detail Log

| Applicant | Application Number | HOME Award Requested | Awarded | Points Requested | Points Awarded | Tie Breaker | Activity Type | Award Level |
|-----------------------------|--------------------|-------------------------------------|------------------|--------------------------------|----------------|-------------|---------------|-------------|
| | | Region Balance | \$206,927 | | | | | |
| | | Regional Award | <u>\$198,000</u> | (City of Josephine, 2015-0073) | | | | |
| | | Balance Avail. for Statewide | \$8,927 | | | | | |
| Region 4 - \$985,356 | | | | | | | | |
| | Rural | \$696,743 | | | | | | |
| City of Clarksville | 2015-0087 | \$386,000 | \$386,000 | 35 | 35 | 36 | HRA | Sub-T |
| City of Bloomburg | 2015-0100 | \$400,000 | | 35 | 35 | 15 | HRA | SW |
| Mount Vernon | 2015-0052 | \$382,000 | | 35 | 34 | 18 | HRA | SW |
| City of Troup | 2015-0109 | \$200,000 | \$200,000 | 30 | 29 | 55 | HRA | Sub-T |
| City of Jacksonville | 2015-0066 | \$200,000 | | 29 | 29 | 21 | HRA | |
| Smith County HfH | 2015-0081 | \$400,000 | | 29 | NR | 10 | HRA | |
| City of Palestine | 2015-0057 | \$200,000 | | 28 | NR | 56 | HRA | |
| | | \$2,168,000 | \$586,000 | | | | | |
| | | Rural Balance | \$110,743 | | | | | |
| | Urban | \$288,613 | | | | | | |
| City of Nash | 2015-0067 | \$286,500 | \$286,500 | 29 | 29 | 62 | HRA | Sub |
| | | \$286,500 | \$286,500 | | | | | |
| | | Urban Balance | \$2,113 | | | | | |
| | | Balance Avail. for Statewide | \$112,856 | | | | | |
| Region 5 - \$597,510 | | | | | | | | |
| | Rural | \$434,894 | | | | | | |
| City of Center | 2015-0101 | \$400,000 | \$400,000 | 35 | 34 | 31 | HRA | Sub |
| Burke Center | 2015-0075 | \$110,000 | | 34 | 29 | 6 | TBRA | Reg |
| City of Trinity | 2015-0074 | \$396,000 | | 29 | 29 | 33 | HRA | |
| Buckner Family Place | 2015-0089 | \$110,000 | | 27 | NR | 45 | TBRA | |
| | | \$1,016,000 | \$400,000 | | | | | |
| | | Rural Balance | \$34,894 | | | | | |
| | Urban | \$162,616 | | | | | | |
| No applications | | \$0 | \$0 | | | | | |
| | | Region Balance | \$197,510 | | | | | |
| | | Regional Award | <u>\$110,000</u> | (Burke Center, 2015-0075) | | | | |
| | | Balance Avail. for Statewide | \$87,510 | | | | | |

Application and Award Detail Log

| Applicant | Application Number | HOME Award Requested | Awarded | Points Requested | Points Awarded | Tie Breaker | Activity Type | Award Level |
|-----------------------------|--------------------|----------------------|-------------------------------------|------------------|----------------|-------------|---------------|-----------------------------|
| Region 6 - \$561,867 | | | | | | | | |
| | Rural | \$219,406 | | | | | | |
| City of Hempstead | 2015-0076 | \$171,800 | \$171,800 | 35 | 34 | 35 | HRA | Sub |
| City of Eagle Lake | 2015-0072 | \$188,000 | | 29 | 29 | 57 | HRA | Reg |
| City of Weimar | 2015-0097 | \$196,000 | | 29 | 28 | 9 | HRA | |
| | | \$555,800 | \$171,800 | | | | | |
| | | | Rural Balance | | | | | |
| | | | \$47,606 | | | | | |
| | Urban | \$342,461 | | | | | | |
| Buckner Family Place | 2015-0090 | \$110,000 | \$110,000 | 27 | 27 | 46 | TBRA | Sub |
| | | \$110,000 | \$110,000 | | | | | |
| | | | Urban Balance | | | | | |
| | | | \$232,461 | | | | | |
| | | | Region Balance | | | | | |
| | | | \$280,067 | | | | | |
| | | | Regional Award | \$188,000 | | | | (Eagle Lake, 2015-0072) |
| | | | Balance Avail. for Statewide | \$92,067 | | | | |
| Region 7 - \$922,628 | | | | | | | | |
| | Rural | \$141,879 | | | | | | |
| City of Smithville | 2015-0094 | \$98,000 | \$98,000 | 29 | 28 | 58 | HRA | Sub |
| City of Taylor | 2015-0091 | \$392,000 | | 29 | 28 | 7 | HRA | Reg |
| | | \$490,000 | \$98,000 | | | | | |
| | | | Rural Balance | | | | | |
| | | | \$43,879 | | | | | |
| | Urban | \$780,749 | | | | | | |
| No applications | | \$0 | \$0 | | | | | |
| | | | Region Balance | | | | | |
| | | | \$824,628 | | | | | |
| | | | Regional Award | \$392,000 | | | | (City of Taylor, 2015-0091) |
| | | | Balance Avail. for Statewide | \$432,628 | | | | |
| Region 8 - \$606,459 | | | | | | | | |
| | Rural | \$337,717 | | | | | | |
| City of Somerville | 2015-0071 | \$297,000 | \$297,000 | 30 | 30 | 52 | HRA | Sub-T |
| City of Navasota | 2015-0065 | \$282,000 | | 30 | 30 | 16 | HRA | |
| City of Bartlett | 2015-0095 | \$294,000 | | 29 | NR | 11 | HRA | |
| | | \$873,000 | \$297,000 | | | | | |
| | | | Rural Balance | | | | | |
| | | | \$40,717 | | | | | |

Application and Award Detail Log

| Applicant | Application Number | HOME Award Requested | Awarded | Points Requested | Points Awarded | Tie Breaker | Activity Type | Award Level |
|------------------------------|--------------------|-------------------------------------|------------------|------------------|----------------|-------------|---------------|-------------|
| Urban | | \$268,742 | | | | | | |
| City of Belton | 2015-0068 | \$188,000 | \$188,000 | 30 | 30 | 32 | HRA | Sub |
| Temple Housing Authority | 2015-0023 | \$46,000 | \$46,000 | 29 | 29 | 1 | HBA | Sub |
| | | \$234,000 | \$234,000 | | | | | |
| | | Urban Balance | \$34,742 | | | | | |
| | | Balance Avail. for Statewide | \$75,459 | | | | | |
| Region 9 - \$510,253 | | | | | | | | |
| Rural | | \$244,053 | | | | | | |
| City of Charlotte | 2015-0093 | \$196,000 | \$196,000 | 29 | 28 | 73 | HRA | Sub-T |
| City of Devine | 2015-0092 | \$196,000 | | 29 | 28 | 2 | HRA | |
| | | \$392,000 | \$196,000 | | | | | |
| | | Rural Balance | \$48,053 | | | | | |
| Urban | | \$266,200 | | | | | | |
| Guadalupe County | 2015-0107 | \$188,000 | \$188,000 | 30 | 30 | 5 | HRA | Sub |
| | | \$188,000 | \$188,000 | | | | | |
| | | Urban Balance | \$78,200 | | | | | |
| | | Balance Avail. for Statewide | \$126,253 | | | | | |
| Region 10 - \$549,271 | | | | | | | | |
| Rural | | \$329,440 | | | | | | |
| Refugio County | 2015-0027 | \$297,000 | \$297,000 | 34 | 34 | 24 | HRA | Sub |
| Jim Wells County | 2015-0062 | \$297,000 | | 35 | 30 | 47 | HRA | SW-T |
| Bee County | 2015-0055 | \$297,000 | | 35 | 29 | 71 | HRA | |
| Town of Refugio | 2015-0029 | \$297,000 | | 30 | 29 | 37 | HRA | |
| City of Three Rivers | 2015-0099 | \$294,000 | | 34 | 28 | 14 | HRA | |
| City of Port Lavaca | 2015-0053 | \$282,000 | | 29 | NR | 59 | HRA | |
| City of Yoakum | 2015-0054 | \$282,000 | | 29 | NR | 50 | HRA | |
| | | \$1,749,000 | \$297,000 | | | | | |
| | | Rural Balance | \$32,440 | | | | | |
| Urban | | \$219,831 | | | | | | |
| No applications | | \$0 | \$0 | | | | | |
| | | Balance Avail. for Statewide | \$252,271 | | | | | |

Application and Award Detail Log

| Applicant | Application Number | HOME Award Requested | Awarded | Points Requested | Points Awarded | Tie Breaker | Activity Type | Award Level |
|------------------------------|--------------------|----------------------|-------------------------------------|------------------|------------------|-------------|---------------|-------------------------------|
| Region 11 - \$730,064 | | | | | | | | |
| | Rural | \$452,400 | | | | | | |
| City of Carrizo Springs | 2015-0077 | \$396,000 | \$396,000 | 35 | 35 | 60 | HRA | Sub |
| Willacy County | 2015-0064 | \$396,000 | | 33 | 33 | 70 | HRA | SW |
| Brownsville CDC | 2015-0025 | \$378,000 | | 30 | 30 | 63 | HRA | SW-T |
| City of Roma | 2015-0015 | \$400,000 | | 35 | 30 | 40 | HRA | |
| City of Lyford | 2015-0096 | \$392,000 | | 29 | NR | 69 | HRA | |
| | | <u>\$1,962,000</u> | <u>\$396,000</u> | | | | | |
| | | | Rural Balance | | \$56,400 | | | |
| | Urban | \$277,664 | | | | | | |
| City of Pharr | 2015-0082 | \$60,000 | \$60,000 | 34 | 29 | 12 | HBA | Sub |
| Brownsville CDC | 2015-0024 | \$60,000 | \$60,000 | 30 | 28 | 20 | HBA | Sub |
| City of La Feria | 2015-0098 | \$196,000 | | 29 | 26 | 19 | HRA | Reg |
| | | <u>\$316,000</u> | <u>\$120,000</u> | | | | | |
| | | | Urban Balance | | \$157,664 | | | |
| | | | Region Balance | | \$214,064 | | | |
| | | | Regional Award | | <u>\$196,000</u> | | | (City of La Feria, 2015-0098) |
| | | | Balance Avail. for Statewide | | \$18,064 | | | |
| Region 12 - \$604,181 | | | | | | | | |
| | Rural | \$408,424 | | | | | | |
| City of Bronte | 2015-0028 | \$396,000 | \$396,000 | 33 | 30 | 30 | HRA | Sub-T |
| City of Eldorado | 2015-0030 | \$396,000 | | 30 | 30 | 26 | HRA | |
| Central Texas Opportunities | 2015-0048 | \$129,200 | | 27.5 | NR | 75 | TBRA | |
| Central Texas Opportunities | 2015-0049 | \$67,200 | | 23 | NR | 66 | HBA | |
| | | <u>\$988,400</u> | <u>\$396,000</u> | | | | | |
| | | | Rural Balance | | \$12,424 | | | |
| | Urban | \$195,757 | | | | | | |
| Midland CDC | 2015-0069 | \$60,000 | \$60,000 | 29 | 29 | 13 | HBA | Sub |
| Buckner Family Place | 2015-0088 | \$110,000 | \$110,000 | 27 | 27 | 39 | TBRA | Sub |
| | | <u>\$170,000</u> | <u>\$170,000</u> | | | | | |
| | | | Urban Balance | | \$25,757 | | | |
| | | | Balance Avail. for Statewide | | \$38,181 | | | |

Application and Award Detail Log

| Applicant | Application Number | HOME Award Requested | Awarded | Points Requested | Points Awarded | Tie Breaker | Activity Type | Award Level |
|------------------------------------|--------------------|-------------------------------------|--------------------|------------------|----------------|-------------|---------------|-------------|
| Region 13 - \$1,217,041 | | | | | | | | |
| | Rural | \$986,880 | | | | | | |
| Culberson County | 2015-0078 | \$400,000 | \$400,000 | 35 | 34 | 51 | HRA | Sub |
| AYUDA | 2015-0017 | \$400,000 | \$400,000 | 25 | 22 | 27 | HRA | Sub |
| Alliance of Border Collaboratives | 2015-0085 | \$376,000 | | 25 | 21 | 4 | HRA | |
| El Paso Collaborative | 2015-0059 | \$400,000 | | 19 | NR | 29 | HRA | |
| | | <u>\$1,576,000</u> | <u>\$800,000</u> | | | | | |
| | | Rural Balance | \$186,880 | | | | | |
| | Urban | \$230,161 | | | | | | |
| Village of Vinton | 2015-0079 | \$188,000 | \$188,000 | 30 | 28 | 41 | HRA | Sub |
| | | <u>\$188,000</u> | <u>\$188,000</u> | | | | | |
| | | Urban Balance | \$42,161 | | | | | |
| | | Balance Avail. for Statewide | \$229,041 | | | | | |
| Statewide Balance Available | \$2,075,319 | | | | | | | |
| City of Bloomburg | 2015-0100 | \$400,000 | \$400,000 | 35 | 35 | 15 | HRA | SW |
| City of Mount Vernon | 2015-0052 | \$382,000 | \$382,000 | 34 | 34 | 18 | HRA | SW |
| Willacy County | 2015-0064 | \$396,000 | \$396,000 | 33 | 33 | 70 | HRA | SW |
| Jim Wells County | 2015-0062 | \$297,000 | \$297,000 | 35 | 30 | 47 | HRA | SW-T |
| Brownsville CDC | 2015-0025 | \$378,000 | \$378,000 | 30 | 30 | 63 | HRA | SW-T |
| City of McKinney | 2015-0083 | \$182,000 | \$182,000 | 28 | 28 | 25 | HRA | SW-T |
| | | <u>\$2,035,000</u> | <u>\$2,035,000</u> | | | | | |
| | | Remaining Balance | \$40,319 | | | | | |

Total Requested \$16,149,700
NOFA Total Available \$10,006,619
Award Recommendation Total \$9,966,300
Balance Avail. to Transfer to Reservation System \$40,319

Sub=Subregional Award, Reg=Regional Award, SW=Statewide Award, -T=Tiebreaker Award

6b

BOARD ACTION REQUEST
HOME PROGRAM DIVISION
JANUARY 28, 2016

Presentation, Discussion, and Possible Action on an amendment to a HOME Investment Partnerships Program (“HOME”) Homeowner Rehabilitation Assistance (“HRA”) Household Commitment Contract (“HCC”) issued under Reservation Agreement 2011-0092 for the reconstruction of a single family home by Runnels County.

RECOMMENDED ACTION

WHEREAS, the Department executed a Reservation System Participant (“RSP”) Agreement with Runnels County (“County”) on October 31, 2012;

WHEREAS, a HCC with the County was executed on October 6, 2014, for reconstruction of a home located at 705 N. 11th Street, Ballinger, Activity Number 39849, and such reconstruction has commenced;

WHEREAS, the HCC end date was previously extended by three months to end on October 15, 2015, as permitted by the HOME Rules;

WHEREAS, the Board authorized an additional three-month extension on November 12, 2015, extending the HCC end date to January 5, 2016, to complete construction;

WHEREAS, the County experienced additional delays and is now requesting an additional one hundred twenty (120) days to complete construction activities, and the household continues to be unable to occupy their home; and

WHEREAS, the Board is authorized to grant such an extension;

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees be and each them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause an amendment to extend the end date of the HCC for activity number 39849 by four months from January 5, 2016, to May 4, 2016.

BACKGROUND

On October 31, 2012, the Department executed a 24-month RSP Agreement with the County for the reconstruction of single family residential units targeting low-income homeowners in Runnels County. The RSP Agreement allows the County to access funds made available in the HOME Reservation System for HRA activities benefitting households within their jurisdiction.

Under the RSP Agreement, the County successfully reserved funding for one household located in Ballinger, Texas. The original term of the HCC was from October 6, 2014, to July 5, 2015. The County submitted their first extension request to the Department on June 8, 2015, and indicated that the County experienced extenuating circumstances that prevented timely completion of construction, including inclement weather during January and February 2015, and then again from April to May 2015. Staff approved an extension to October 5, 2015, as authorized under the HOME Rules.

On several occasions in July, August, and September, the County's representative requested updates from the contractor performing the work on the status of the completion of the home in an attempt to ensure that it would be complete by the October 5, 2015, deadline. The contractor repeatedly assured the County through their representative that construction would be complete and provided progress updates. Despite these assurances, the contractor notified the County on October 2, 2015, that construction activities would not be completed on time, at which time the County notified the Department. The County then submitted a subsequent extension request to the Department on October 5, 2015. Staff denied the extension request in accordance with 10 Texas Administrative Code ("TAC") §23.27(f), which states that Department staff is only authorized to approve one three-month time extension to a HCC to allow for the construction completion. The County timely filed an appeal to the Governing Board and staff presented the extension request as submitted by the County to the Board for approval on November 12, 2015. The Board approved the amendment extending the HCC to January 5, 2016.

On January 5, 2016, the County notified the Department that construction activities would not be completed by January 5, 2016. Specifically, following the Board action on November 12, 2015, the County determined that it was in the best interest of the household to procure a new contractor to complete construction activities. The County subsequently conducted a procurement process for a new contractor with a bid opening date of December 18, 2015, and awarded the bid on December 22, 2015. A pre-construction conference was then scheduled with the homeowner and newly procured contractor to be held January 7, 2016.

Since the Department and the Board had previously approved a cumulative six-month extension for this activity, another extension could not be granted by staff and the County was advised that they were required to timely file an appeal addressed to TDHCA's Governing Board as allowed by 10 TAC §1.7(d). Staff received the appeal timely on January 11, 2016. Staff also notified the County on January 13, 2016, that costs incurred after January 5, 2016, cannot be reimbursed by HOME funds unless the Board issues its authorization to do so through approval of this extension request.

Based on the County's documentation of progress and the construction timeline as presented in this appeal package, staff believes that the home can be fully constructed if the request for additional time is approved. Because the cumulative total of this extension request exceeds 15 months, Board approval is necessary. Staff recommends approval of the amendment request to ensure that the household is able to return to their home.

RUNNELS COUNTY

**BARRY HILLIARD
COUNTY JUDGE
RUNNELS COUNTY COURTHOUSE
613 HUTCHINGS AVENUE, ROOM 103
BALLINGER, TEXAS 76821**

January 11, 2016

Chairman J. Paul Oxer, P.E.
Vice Chairman Dr. Juan Sanchez Muñoz
Ms. Leslie Bingham Escareño, Board Member
Mr. Tom H. Gann, Board Member
Mr. Tolbert Chisum, Board Member
Mr. J. B. Goodwin, Board Member
C/o Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78711

Re: Progress Report/Request for a 120 Day Extension- #1001740-RSP #2011-0092
Activity #39849 – Linda Reyes Escobar
Ballinger, Runnels County, Texas

Dear Governing Board:

The County is providing an updated report to the Board about the steps completed for the HOME recipient, Ms. Linda R. Escobar. Currently the County requests an additional time extension to complete the project. The second time extension requested to be until May 4, 2016

After the Board approved the extension on November 12, the County Commissioners and Judge visited with their attorney on options to complete the construction. Three options were provided to the County. 1) Accept an offer based on a letter from Ameriway Construction that the company could finish the project in March of 2016. 2) Request permission from TDHCA to allow Ameriway Construction to assign the contract to another company to finish construction. 3) Procure a new construction contractor to finish the project. The County determined that it was in the best interest of Ms. Escobar and the County to proceed with new bids. This decision is based on the previous action of Ameriway Construction and the liability of future issues of non-compliance by the former contractor.

The County conducted procurement process to complete the reconstruction of Ms. Escobar's home with bids being opened on December 18, 2015 in the County Courthouse at 11:00 a.m. One bid was delivered to the County Judge; however, two bidders indicated that their bids were mailed. Commissioners' Court convened on December 22, 2015 to review the bid(s). The mailed bids did not arrive. Commissioners' Court awarded the bid to Brewer Construction, San Angelo, Texas in the amount of \$47,766.00.

There was a preconstruction conference including the County Judge on January 7, 2016 at 11:00 a.m. to sign construction documents and to discuss details with the County and Ms. Escobar. Judge Hilliard is having the County Attorney review the contract. Contractor is providing the County with a letter of credit from his banking institution.

The County requests that the Board for Texas Department of Housing and Community Affairs grant an additional 120 day extension for Activity #39849, that includes remaining program funds from SF, to complete the following:

Issue Notice to Proceed upon executed construction contract
Conduct progress inspections to include punch- list and final
Submission of Affidavit of Construction Completion/Closeout

RUNNELS COUNTY

**BARRY HILLIARD
COUNTY JUDGE
RUNNELS COUNTY COURTHOUSE
613 HUTCHINGS AVENUE, ROOM 103
BALLINGER, TEXAS 76821**

The County continues its commitment to Ms. Escobar to see her in a completed home from whom she left 12 months ago. TDHCA's assistance is greatly needed to finish her home.

Sincerely,



Barry Hilliard
County Judge

RUNNELS COUNTY

**BARRY HILLIARD
COUNTY JUDGE
RUNNELS COUNTY COURTHOUSE
613 HUTCHINGS AVENUE, ROOM 103
BALLINGER, TEXAS 76821**

January 12, 2016

Ms. Jennifer Molinari
HOME Single Family Division Director
Texas Department of Housing and Community Affairs
221 E. 11th Street | Austin, TX 78701

Re: Progress Report/Request for a 120 Day Extension- #1001740-RSP #2011-0092
Activity #39849 – Linda Reyes Escobar
Ballinger, Runnels County, Texas

Dear Ms. Molinari:

In response to the Department's email request for construction timeline and confirmation of construction completion, please find the following document from the construction contractor, Robby Brewer, Brewer Built Homes.

Based on the Mr. Brewer's email and construction schedule, the County believes there is sufficient calendar days to complete Ms. Escobar's home.

Sincerely,



Barry Hilliard
County Judge

Attachments



Kay Howard <kay@howco.net>

Runnels County_Ms. Escobar appeal 2_TDHCA Board

Robby Brewer <brewer.built@yahoo.com>

Tue, Jan 12, 2016 at 11:15 AM

Reply-To: Robby Brewer <brewer.built@yahoo.com>

To: Kay Howard <kay@howco.net>, Barry Hilliard <rcjudge@wtxs.net>

Good morning,

Please find the attached construction schedule for the project in Ballinger for Ms. Escobar. If you have any questions, please let me know. Also, can you send me Ms. Escobar's contact information so that I can schedule a client selection meeting?

Thanks,

Robby Brewer

brewer.built@yahoo.com

325-450-4279

From: Kay Howard <kay@howco.net>**To:** Robby Brewer <brewer.built@yahoo.com>; Barry Hilliard <rcjudge@wtxs.net>; Chrissy Gosdin <christina.gosdin@co.runnels.tx.us>**Cc:** Trink Saulters <katherine@howco.net>; Lisette Howard <Lisetteh@howco.net>; Jan Torres <jan@howco.net>; Chris Krepps <chris@howco.net>**Sent:** Monday, January 11, 2016 12:26 PM**Subject:** Fwd: Runnels County_Ms. Escobar appeal 2_TDHCA Board

Robby,

Please provide the Judge a timeline for completing construction of the Ms. Escobar's home.

You may use the bid schedule items and then indicate the completion date with a letter attached that states you will be finished on or before by May 4.

If more time is necessary, please indicate that on your timeline and letter. HOWCO will revise the letter to TDHCA with your revised timeline.

Thanks

Kay

----- Forwarded message -----

From: Jennifer Molinari <jennifer.molinari@tdhca.state.tx.us>**Date:** Mon, Jan 11, 2016 at 12:04 PM**Subject:** RE: Runnels County_Ms. Escobar appeal 2_TDHCA Board

Construction Schedule for Escobar Residence – Ballinger

Week 1 (Jan 18 – Jan 24)

Rough in (electrical and plumbing) and framing corrections of previous contractor

Roofing

Week 2 (Jan 25 – Jan 31)

Insulation (walls)

Sheetrock

Week 3 (Feb 1 – Feb 7)

Tape and float walls

Week 4 (Feb 8 – Feb 14)

Trim out (carpentry, cabinets, interior doors, shelves, baseboard)

Week 5 (Feb 15 – Feb 21)

Interior painting

Week 6 (Feb 22 – Feb 28)

HVAC finish (grills, thermostat, condenser)

Finish Electrical (install lights, plugs, breaker box)

Install locks, knobs, hardware and countertops

Finish dirt work (grading, driveway)

Week 7 (Feb 29 – Mar 6)

Flooring

Install Appliances

Finish Plumbing (fixtures and faucets)

Brick

Insulation (Attic)

Week 8 (Mar 7 – Mar 13)

Client walkthrough

Punch list corrections/touchups

6c

BOARD ACTION REQUEST
HOME PROGRAM DIVISION
JANUARY 28, 2016

Presentation, Discussion, and Possible Action related to activities assisted under HOME Investment Partnerships Program (“HOME”) Reservation System Participant (“RSP”) Agreement No. 2011-0062 with EBENZ Inc. (“EBENZ”) for four single family homes located in Texas City and League City, Galveston County.

RECOMMENDED ACTION

WHEREAS, the Department executed a RSP Agreement with EBENZ on October 4, 2012, and under that agreement EBENZ made reservation and received a commitment for assistance to four low-income households of which three are substantially complete but are pending the resolution of identified construction deficiencies;

WHEREAS, the remaining home located at 3010 8th Avenue North, Texas City, has been demolished, the homeowner has been displaced, construction has commenced but is not complete, and the Household Commitment Contract (“HCC”) for that activity was extended through October 21, 2015;

WHEREAS, on the extended expiration date of October 21, 2015, EBENZ submitted a request for a second extension of time to complete the unfinished home;

WHEREAS, EBENZ was advised that staff had no authority to grant the requested second extension, staff notified EBENZ in writing of their right to make a timely appeal of this matter to the Board, and EBENZ failed to make such an appeal;

WHEREAS, the Department has issued construction deficiency notices on three of the four homes and has also identified questioned costs due to failure to document compliant procurement procedures, recordkeeping violations, and failure to address other federal requirements under these contracts;

WHEREAS, it is in the best interest of the affected low-income households for construction to be completed in full compliance with all construction requirements, and to allow the displaced household to move into the home which is being built to replace their home, which was demolished; and

WHEREAS, because of the numerous issues involved staff needs flexibility, including the possibility of accessing appropriate funding sources, to be able to develop and implement an expedient resolution;

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to pursue a course of action that is lawful and expedient to address completing the construction of the home under construction and addressing construction deficiencies on the other two homes;

FURTHER RESOLVED, that staff is authorized to utilize any lawfully available funding sources to accomplish these objectives; and

FURTHER RESOLVED, that staff is directed to report to the Board on the resolution of these matters.

BACKGROUND

EBENZ received RSP Agreement #2011-0062 in October 2012 for the provision of three contract activities: 1) Homeowner Rehabilitation Assistance (“HRA”) under the Department’s General set-aside contract number 1001695, 2) Persons with Disabilities (“PWD”) set-aside contract number 1001696, and 3) Disaster Relief (“DR”) set-aside contract number 1001697. EBENZ identified two households to assist under contract 1001695 and two households to assist under 1001696. Construction is complete (although with deficiencies still pending resolution) for both homes under contract 1001696, and one of the homes under 1001695; however one home under 1001695 was not completed by the end of the HCC term.

For the uncompleted home, EBENZ requested an extension on October 21, 2015. However, the request was denied because under 10 Texas Administrative Code (“TAC”) §23.26(f), Department staff is only authorized to approve a one-time extension and Department staff had previously approved that one extension for this activity in July 2015, extending the HCC to October 21, 2015. EBENZ was notified in writing of their right to appeal to the TDHCA Governing Board; however no appeal was timely made. At the Board meeting of December 17, 2015, the Executive Director of EBENZ, Mr. Ebenezer Anene, provided public comment to the Board requesting that the situation be presented to the Board in January.

TDHCA’s contract monitoring team conducted a desk review of contract numbers 1001695 and 1001696 on November 23, 2015, and on December 1, 2015, TDHCA’s physical inspection monitoring team conducted a physical inspection of three activities under the RSP Agreement. Findings were identified by both teams. The contract monitoring team questioned costs and met with EBENZ in January 2016. If they are not able to substantiate these items, staff will disallow costs. The physical inspection team identified several construction-related findings; however, corrective action is not due until March 7, 2016. The physical inspection team confirmed that the home located at 3010 8th Avenue North, Texas City, under contract 1001695 was substantially incomplete. Specifically, construction was stalled at framing and “mechanical rough” stage, with the frame, cornice, decking with felt paper, and plumbing top-out complete.

Given the substantial amount of questioned costs, procurement violations, and construction deficiencies, the Department is exploring all options that would result in correction of all

construction deficiencies, while ensuring compliance with state and federal rules and regulations. Options identified by staff may include, but are not limited to:

1. Proceeding with a contractual relationship with EBENZ to complete construction provided that EBENZ resolves outstanding monitoring findings, including repayment of any disallowed costs.
2. Proceeding with a contractual relationship with EBENZ under a new agreement and with intensive construction oversight.
3. Identifying an alternate subrecipient or state contractor to complete construction and correct all construction deficiencies, utilizing procurement or direct administration.

The funding source for these or other options ideally will be HOME but may, if necessary, come in whole or in part from the Department's Housing Trust Fund if authorized under a separate agenda item at this Board Meeting.

Given the displacement of a household due to stalled construction on their home and the outstanding monitoring issues, staff is requesting Board authorization to proceed with a compliant course of action as soon as an action plan has been determined by the Executive Director. Staff will report to the Board on the resolution of this situation.

7

BOARD ACTION REQUEST
SINGLE FAMILY OPERATIONS & SERVICES
JANUARY 28, 2016

Presentation, Discussion, and Possible Action regarding a proposed amendment to the 2016-2017 Housing Trust Fund Plan and authorization of staff to submit the Housing Trust Fund Plan Amendment to all appropriate offices.

RECOMMENDED ACTION

WHEREAS, the Texas Department of Housing and Community Affairs (the "Department") is required by Rider 9(c) the General Appropriations Act ("GAA") to produce a plan outlining its use of the General Revenue appropriated for the Housing Trust Fund for the 2016-2017 biennium;

WHEREAS, the plan was originally approved on July 16, 2015;

WHEREAS, Rider 8 of the GAA requires that an estimated \$2,200,000 per year in interest earnings and loan repayments must be included in funds appropriated each year under the HTF;

WHEREAS, the Department seeks the authority to utilize a limited amount of additional HTF loan repayments, up to \$250,000 per biennium, to be able to address unforeseen obstacles that may arise on existing Department contracts, activities or assets during the course of Single Family program administration; and

WHEREAS, the Department seeks to modify the program description for the HTF Plan's "Contract for Deed Conversion Assistance Grants" activity in response to the passage of House Bill 311 by the 84th Legislature, which simplified the title conversion process for executory contracts;

NOW, therefore, it is hereby

RESOLVED, that the proposed amendment to the 2016-2017 Housing Trust Fund Biennial Plan is approved with amendments and staff is authorized and directed to submit the amended HTF Plan to appropriate legislative offices and take any other necessary actions to effectuate the foregoing and

FURTHER RESOLVED, that the Executive Director and his designees be authorized and directed, for and on behalf of the Department, to draft and release Notices of Funding Availability based on programming as outlined in the amended HTF Plan.

BACKGROUND

There are two items that the Department proposes to amend to the existing 2016-2017 HTF Biennial Plan. The first change pertains to establishing authority for staff to use up to \$250,000 of excess HTF loan repayments that it receives each biennium for single family activities that cannot be carried out with any other funds. The second item pertains to generalizing the description of the HTF program activity "Contract for Deed Conversion Assistance Grants."

First, the HTF Biennial Plan states that:

"The Department annually receives loan repayments and accrued interest that contribute to the HTF. Rider 8 of the GAA strategy A.1.3, clarifies that an estimated \$2,200,000 per year in interest earnings and loan repayments are included in funds appropriated each year under the HTF."

| | FY2016 | FY2017 | Total Biennium |
|---|---------------|---------------|-----------------------|
| Total Annual General Revenue Appropriation | \$5,860,000 | \$5,932,500 | \$11,792,500 |

The Department estimates that HTF loan repayments will exceed \$2.2 million per fiscal year for the 2016-2017 biennium due to the effectiveness of recently refocused collection strategies of the Single Family Operations & Services Division.

Currently, the Department lacks flexible funding that can be used when unforeseen obstacles arise during the course of administering activities. The Department proposes to amend the HTF Biennial Plan so that it may utilize no more than \$250,000 per biennium of the HTF loan repayments *that exceed the requirements under Rider 8 of the GAA* for "development workouts" that cannot be addressed with federal funds. Specifically, the funds would be used to provide for practical solutions to obstacles that arise on existing Department contracts, activities, or assets. For example, if a household has been displaced for a rehabilitation of their home, and the Department faces subsequent eligibility concerns with the contractor performing that rehabilitation, these funds could be a potential source to provide for the completion of the rehabilitation so that the household is able to return to a rehabilitated completed home.

The Department anticipates that the need to use HTF excess loan repayments for Single Family Program workouts will be infrequent and used as a last resort, only when federal funds cannot be used. The funds will be for internal use and households will not be able to apply for these funds. This amendment establishes the ability for HTF to support this aspect of Single Family Program administration. This also allows the Department to better manage risk and fulfill its mission.

Second, the Department proposes to amend the HTF Biennial Plan's "General Program Description" for the program activity called "Contract for Deed Conversion Assistance Grants" by generalizing the description. This will give the Department and program administrators needed flexibility in assisting colonia residents after the passage of House Bill 311 by the 84th Legislature. HB 311 greatly simplified the title conversion process through which a borrower converts their Contract for Deed (or "executory contract") into a warranty deed, which declares ownership. The

bill now requires sellers of Contracts for Deed to automatically relinquish ownership to borrowers by transferring title to them through the act of recording the contract.

The Department will continue to assist program administrators that address housing conditions of low-income colonia residents through activities such as identifying households with unrecorded Contracts for Deed and addressing clouded titles. By generalizing the "Contract for Deed Conversion Assistance Grants" program description, the Department will be able to more flexibly address the existing needs of colonia residents while complying with the recent positive law changes addressing Contracts for Deed.

The "Use of Funds" and "Amounts" for the 2016-2017 Biennial Funds for Housing Trust Fund Plan as originally approved by the Board on July 16, 2015, will remain as follows, with a minor wording change in the Contract for Deed activity line:

2016-2017 Biennial Funds for Housing Trust Fund

| Use of Funds | Amount |
|---|---------------------|
| Total General Revenue Biennial Appropriation | \$11,792,500 |
| Less 10% for Texas Veterans Commission for a Veterans Housing Assistance Program | (\$1,179,250) |
| Less 10% Administration for TDHCA | (\$1,061,325) |
| Net Balance Available for TDHCA Programming | \$9,551,925 |
| Less \$3M/year for Texas Bootstrap Program* | (\$6,000,000) |
| Less \$1,525,962.50/year for Amy Young Barrier Removal Program | (\$3,051,925) |
| Less \$250,000/year for Contract for Deed Assistance Program Conversion Assistance Grants | (\$500,000) |
| Total Remaining to be Programmed | \$0 |

**Per Section 2306.7581 (a-1) of the Texas Government Code, at least \$3,000,000 each state fiscal year is required.*

Texas Department of Housing and Community Affairs

First Amendment to the 2016-2017 Housing Trust Fund Biennial Plan



Texas Department of Housing and Community Affairs

Timothy K. Irvine, Executive Director

PO Box 13941

Austin, TX 78711-3941

Phone: (512) 475-3976

Fax: (512) 475-3746

www.tdhca.state.tx.us

First Amendment to the 2016-2017 Housing Trust Fund Plan that was Originally

Approved by the Board of

The Texas Department of Housing and Community Affairs

On July 16, 2015

First Amendment Adopted January 28, 2016

Introduction and Purpose

During the Regular Session of the 84th Legislature, the Department was appropriated General Revenue for the Housing Trust Fund (“HTF”) in the amount of \$11,792,500 for the 2016-2017 Biennium. Rider 9(c) of the General Appropriations Act (“GAA”) requires the Department to provide an annual report to the Legislative Budget Board, the House Appropriation Committee, and the Senate Finance Committee no later than October 1st detailing the Department’s plan to expend funds from the Housing Trust Fund. To promote the expeditious use of these funds, this document shall serve as the “annual plan” for the 2016-2017 HTF appropriation.

Appropriation Details

The Department annually receives loan repayments and accrued interest that contribute to the HTF. Rider 8 of the GAA strategy A.1.3, clarifies that an estimated \$2,200,000 per year in interest earnings and loan repayments are included in funds appropriated each year under the HTF.

| | FY2016 | FY2017 | Total Biennium |
|---|---------------|---------------|-----------------------|
| Total Annual General Revenue Appropriation | \$5,860,000 | \$5,932,500 | \$11,792,500 |

Rider 9(d) of the GAA requires that:

“Out of funds appropriated above in Strategy A.1.3, Housing Trust Fund, all funds above those retained for administrative purposes in fiscal year 2016 and fiscal year 2017 and above amounts required in Sections (a) of this rider, shall be deposited in the Housing Trust Fund in the Texas Treasury Safekeeping Trust Company established under Government Code, Chapter 2306, no later than October 1 of each fiscal year.”

Rider 15 of the GAA requires that:

“Out of funds appropriated above, in Strategy A.1.3, Housing Trust Fund, the Texas Department of Housing and Community Affairs shall establish an Interagency Contract to provide 10 percent, not to exceed \$4,300,110 for the 2016-17 biennium (\$4,200,110 for grants and \$100,000 for administration), to the appropriate fund or account with the Texas Veterans' Commission for the purpose of administering a Veterans Housing Assistance Program that will assist Texas veterans and their families in obtaining, maintaining or improving housing.”

The Department shall withhold approximately \$1,061,325 (10%) for the biennium for Department administrative costs.

The total biennial funding and usage are outlined in the following chart.

2016-2017 Biennial Funds for Housing Trust Fund

| Use of Funds | Amount |
|---|---------------------|
| Total General Revenue Biennial Appropriation | \$11,792,500 |
| Less 10% for Texas Veterans Commission for a Veterans Housing Assistance Program | (\$1,179,250) |
| Less 10% Administration for TDHCA | (\$1,061,325) |
| Net Balance Available for TDHCA Programming | \$9,551,925 |
| Less \$3M/year for Texas Bootstrap Program* | (\$6,000,000) |
| Less \$1,525,962.50/year for Amy Young Barrier Removal Program | (\$3,051,925) |
| Less \$250,000/year for Contract for Deed Assistance Program Conversion Assistance Grants | (\$500,000) |
| Total Remaining to be Programmed | \$0 |

**Per Section 2306.7581 (a-1) of the Texas Government Code, at least \$3,000,000 each state fiscal year is required.*

Biennial Funding and Allocation Considerations

Statutory requirements, listed below, direct how the funds can be programmed for use. Due to the significant success of the current HTF activities and certain new requirements, the proposed HTF plan does not include any new activities.

Texas Bootstrap Loan Program

Section 2306.7581, Texas Government Code, establishes a transfer requirement, stating the Department is required to transfer at least \$3 million to the owner-builder revolving fund (more commonly known as the “Texas Bootstrap Loan Program”) from either HOME funds, HTF monies, or from money appropriated by the legislature each fiscal year. Because of the demand by nonparticipating jurisdictions, additional federal limitations, and extensive reporting requirements associated with the HOME Program, the Department has determined that HOME funds are not the best resource to accomplish the goals of the Texas Bootstrap Loan Program. The most practical appropriated source available for the Department to meet the statutory transfer requirement is the Housing Trust Fund.

Eligible Entities to Receive Funds

Pursuant to Section 2306.202, Texas Government Code, the Department is required to target funds for specific types of eligible entities. Section 2306.202 states:

“In each biennium the first \$2.6 million available through the HTF for loans, grants, or other comparable forms of assistance shall be set aside and made available exclusively for local units of government, public housing authorities, and nonprofit organizations. Any additional funds may also be made available to for-profit organizations so long as

at least 45 percent of available funds in excess of the first \$2.6 million shall be made available to nonprofit organizations for the purpose of acquiring, rehabilitating, and developing decent, safe, and sanitary housing.

The remaining portion shall be distributed to nonprofit organizations, for-profit organizations, and other eligible entities.” Tex. Gov’t Code §2306.202(a)

Regional Allocation Formula (“RAF”) and Geographic Dispersion

As specified in Section 2306.111(d-1), Texas Government Code, funds are not required to be allocated according to the RAF if:

“(2) the funds or credits are allocated by the department primarily to serve Persons with Disabilities.

The Amy Young Barrier Removal Program serves only Persons with Disabilities. However, as noted on page 6 of this Plan, to promote geographic dispersion of the competitive Amy Young Barrier Removal Program funds, the funds will be released in three phases in order to maximize opportunity for regions with historically low involvement to participate.

HTF Plan Administration

In approving the HTF Plan, the Board authorizes staff to proceed with issuing Notices of Funding Availability (“NOFA”) and make any needed amendments to expedite utilization of funds. Funds may be committed and expended via contracts and/or reservation. HTF programs may utilize various income determination methods as further noted in the General Program Description provided in the HTF Plan or as outlined in the NOFAs.

Using no more than \$250,000 per biennium of the HTF loan repayments and interest earnings that exceed the requirements under Rider 8 of the GAA (see Rider 8 of the GAA under "Appropriation Details" on page 2), the HTF may be used to respond to unanticipated challenges that may arise in the course of implementing approved Single Family program activities. The HTF will develop workouts and fund construction and other solutions to unexpected, unique obstacles arising on existing Department contracts, activities or assets that cannot be addressed with other funds, including federal funds.

In approving the HTF Plan, the Board authorizes the use of any funds from loan repayments, interest earnings, deobligations, and any other additional HTF funds as allowed by statute in excess of those funds required under Rider 8, to be programmed into current Department activities or activities approved in the HTF Plan.

General program descriptions follow.

Texas Bootstrap Loan Program

Amount Recommended: \$6 million from the 2016-2017 Appropriation.

General Program Description: The Texas Bootstrap Loan Program makes funds available to Colonia Self-Help Centers or state-certified Nonprofit Owner-Builder Housing Providers (“NOHPs”) to purchase or refinance real property on which to build or improve residential housing through self-help construction with very low-income households (“Owner-Builders”). Section 2306.7581(a-1) of the Texas Government Code requires the Department to make at least \$3,000,000 available each fiscal year for mortgage loans to households with the greater of 60% of Area Median Family Income (“AMFI”) or the statewide income limits. Approximately \$6,000,000 will be made available until August 31, 2017, or until all funding has been reserved.

Maximum Loan Amount: To expedite the expenditure of funds, entities must apply for access to a reservation system that makes funds available on a first-come, first-served basis. Loans from the Housing Trust Fund shall not exceed \$45,000 per household. The total amount of amortized loans from the Department plus any other sources may not exceed \$90,000 per household.

Eligibility Requirement: Owner-Builders must have a household income not exceeding 60% of the AMFI or the statewide income limits, whichever is greater; must have resided in Texas for the preceding six months; and must have successfully completed an owner-builder education class. Owner-Builders must agree to provide at least 65 percent of the labor necessary to build or rehabilitate the proposed housing by working through a Colonia Self-Help Center or a state-certified Nonprofit Owner-Builder Housing Provider. For Fiscal Years 2016-2017, the Department will define household income limits in accordance with the U.S. Department of Housing and Urban Development (“HUD”) HOME Investment Partnership Program income tables.

Administration Fees: An administrative fee equal to 6% of the loan amount is paid to Administrators upon completion of each house.

Regional Allocation: Two-thirds of the funds (approximately \$4,000,000) will be set aside for Owner-Builders with property in census tracts with median incomes not exceeding 75% of the state median income per the most recent statistics available. The remaining one-third (approximately \$2,000,000) will be released statewide. The Regional Allocation Formula is not applicable to this funding due to the set-aside requirements of Section 2306.753(d) of the Texas Government Code. Furthermore, the remaining one-third of the fund balance does not exceed the \$3,000,000 ceiling cited in Section 2306.111(d-1)(3) of the Texas Government Code.

Other Considerations: If balances exist from previous Bootstrap funding cycles, those funds will be made available to Bootstrap activities. Funds accumulated in the Owner-Builder Revolving Loan funds may also be made available in the HTF Plan. This use of funds achieves the statutory requirements for funding the Texas Bootstrap Loan Program and for targeting nonprofits. This activity also achieves significant leveraging of other public and private funding sources, promotes the Department’s mission and provides for repayment to the Housing Trust Fund.

Amy Young Barrier Removal Program

Amount Recommended: \$3,051,925 from the 2016-2017 Appropriation.

General Program Description: This program provides one-time grants of up to \$20,000 to Persons with Disabilities with household income not exceeding 80% of the AMFI or the statewide income limits, whichever is greater. This program funds home modifications that increase accessibility for homeowners, tenants, and members of their household who have a disability, in addition to correcting hazardous and unsafe housing conditions, as approved by the Department. Approximately \$3,051,925 will be made available until August 31, 2017, or until all funding has been reserved.

Maximum Assistance Amount: To expedite the expenditure of funds, Administrators must apply for access to a reservation system that makes funds available on a first-come, first-served basis adjusted for the geographic considerations below. The maximum number of reservations per Administrator will be further detailed in the NOFA. One-time grants will not exceed \$20,000 per household.

Eligibility Requirements: Administrators may include Units of General Local Government, Councils of Governments, Nonprofit Organizations, Local Mental Health Authorities, and Public Housing Authorities. Administrators must demonstrate competence in accessibility standards and applicable building codes further detailed in the NOFA. Program beneficiaries must have a household income not exceeding 80% of the AMFI or the statewide income limits, whichever is greater. The Department may choose to lower program income limits in a manner further detailed in the NOFA. For Fiscal Years 2016-2017, the Program will define household income limits in accordance with the U.S. HUD HOME Investment Partnership Program income limits. Further details will be provided in the NOFA.

Administration Fees: An administrative fee equal to 10% of the hard and soft costs is paid to Administrators upon completion of each project.

Geographic Dispersion: The RAF does not apply to funds primarily serving Persons with Disabilities; however, the Department promotes geographic dispersion in the NOFA to ensure that all rural and urban subregions have an opportunity to access funds each year of the biennium. Each year of the biennium, each region will receive at least \$100,000 (enough for five fully funded activities) and the remaining funding will be distributed in accordance with the process below:

- For the first 60 days of the initial release of funds, each state region will receive funding amounts for their rural and urban subregions. For 60 days, these funds may be reserved only for households located in these rural and urban subregions.
- For the next 60 days following the initial 60 days following the release date, any funds remaining in the rural and urban subregions will be combined into one balance for that state region. For 60 days, these funds may be reserved only for households located in that state subregion.
- After the initial 120 days following the release date, any funds remaining across all state regions will collapse into one state-wide pool. For as long as funds are available, these funds may be reserved for any households anywhere in the state on a first-come, first-served basis.

Other Considerations: These funds will serve Persons with Disabilities.

Contract for Deed Conversion Assistance Program-Grants

Amount Recommended: \$500,000 from the 2016-2017 Appropriation.

General Program Description: ~~This program supports The Contract for Deed Conversion (“CFDC”) Assistance Grants support~~ eligible nonprofits and units of local government (“Administrators”) in assisting eligible colonia households who have converted or wish to convert their contracts for deeds into warranty deeds, ~~pay off remaining contract for deed balances, and address.~~ Eligible activities include identifying households with unrecorded contracts for deed and addressing other colonia housing issues such as clouded titles, releases from liens, property transfers, and housing unable to meet Texas Minimum Construction Standards. Approximately \$500,000 will be made available until August 31, 2017, or until all funding has been reserved.

Maximum Assistance Amounts: To expedite the expenditure of funds, Administrators must apply for access to a reservation system that makes funds available on a first-come, first-served basis. The maximum assistance amount per household will be further detailed in the NOFA. ~~If an Administrator assists a household with converting their contract for deed without leveraging any additional TDHCA HOME funds, the Administrator will receive a \$3,500 assistance grant upon closing. For households not leveraging any additional TDHCA HOME funds, additional grant funds are available to pay off contract for deed lot balances (up to \$20,000) and rehabilitate homes (up to an additional \$20,000) to meet Texas Minimum Construction Standards. If an Administrator assists a household with converting their contract for deed and with making additional housing improvements with TDHCA HOME funds, the Administrator will receive a \$6,500 Assistance Grant upon closing and commencement of construction.~~

Eligibility Requirement: Participating nonprofits and units of local government must demonstrate a history of working in colonia real estate and colonia housing construction in Texas. Participating households must reside in a colonia within 150 miles of the Texas-Mexico border, have converted or wish to convert a contract for deed into a warranty deed, and have a household income not exceeding 60% of the AMFI or the statewide income limits, whichever is greater. For Fiscal Years 2016-2017, the Department will define household income limits in accordance with the HUD HOME Investment Partnership Program income tables. Further details will be provided in the NOFA.

Administration Fees: Further details will be provided in the NOFA. ~~Administrators receive an Assistance Grant of either \$3,500 or \$6,500 depending on the leveraging of additional TDHCA HOME funds. An additional administrative fee equal to 10% of the construction grant amount, if applicable to the activity, is paid to Administrators upon completion of each house.~~

Other Considerations: These funds will serve colonia residents living within 150 miles of the Texas-Mexico border.

8

BOARD ACTION REQUEST
ASSET MANAGEMENT DIVISION
JANUARY 28, 2016

Presentation, Discussion, and Possible Action regarding refinancing for Oasis Cove (HTC # 11164, HOME #1001491) with TCAP Repayment Funds.

RECOMMENDED ACTION

WHEREAS, in 2011 Oasis Cove Point received a 9% Housing Tax Credit allocation of \$750,951 along with a \$900,000 HOME loan structured at a 2% interest rate with a 30-year term and amortization period to construct 64 new multifamily units in the City of Canadian;

WHEREAS, the Development Owner has indicated to the Department that it has not been able to meet the stabilization requirements of the first lien lender, Bank of America, in order to convert the construction loan and close the \$1.4M permanent loan;

WHEREAS, the syndicator will not release the remaining equity installment totaling \$3,537,198 until the construction loan is converted to permanent financing;

WHEREAS, the Development Owner has requested approval from the Department to defer payments on the TDHCA Direct HOME loan for a period of 48 months in order to improve the Development's pro forma and make it more appealing for purposes of securing another first lien lender;

WHEREAS, the Asset Management Division has proposed an alternative workout solution which includes use of the Department's TCAP Repayment Funds previously set aside by the Board for workout transactions to provide an additional permanent loan to the Development Owner in the amount of \$600,000 at a 3% interest rate, with a 28-year term and amortization period along with restructuring the remaining unpaid balance of the original HOME funds at the same rates and terms in parity with the new financing; and

WHEREAS, the request will help to ensure the ongoing viability of the transaction;

NOW, therefore, it is hereby

RESOLVED, that the request is approved and the Executive Director and his designees are each authorized, empowered, and directed to take all necessary action to effectuate the foregoing alternative Asset Management Division recommendation.

BACKGROUND

Oasis Cove (the "Development") received a \$900,000 Direct HOME loan award as well as \$750,951 in 9% Housing Tax Credits in 2011 to construct 64 units in the City of Canadian. The final cost certification for the Development was received and reviewed, and IRS Forms 8609 were issued to the owner (Texas

Housing Foundation, Mark Mayfield) on June 6, 2015. During the Department's review of the cost certification the owner's final sources and uses reflected a \$1.4M first lien permanent loan from Bank of America and the Development Owner advised that the construction loan was anticipated to convert to permanent financing in July 2015. However, on September 29, 2015, the Development Owner approached the Department with a request to defer payments on the Department's direct HOME loan payments for 48 months, citing difficulty in meeting conversion requirements for Bank of America and their withdrawing from the deal. The Development Owner's request states that a 48-month deferral of the HOME loan would improve the Development's operating pro forma in order to attract another first lien lender for this transaction. The Department contacted the first lien lender and confirmed that they have not completely withdrawn from the deal but that they are not comfortable with closing on the permanent loan at this time. In addition to not being able to close on the first lien loan, the Development Owner is also not able to receive its final equity installment totaling \$3,537,198, as it is a condition in the partnership agreement that conversion to permanent financing must occur before the syndicator will release the final equity installment.

The Development Owner has explained that they have not been able to meet Bank of America's requirement to have a 90% physical and economic occupancy for three consecutive months in order to begin processing the loan. The Development is located in the Texas Panhandle which, according to the Development Owner, has been economically affected by the low oil prices. The Development Owner has advised that they are increasing their marketing efforts and have begun to significantly reduce rents in order to improve the occupancy rate. Although this might be effective in reaching a stabilized occupancy rate, it will not help the Development stabilize financially in order to support the \$1.4M in first lien debt. The property currently is running at approximately an 18% combined economic and actual vacancy due to the softened market conditions.

After further discussions with the Development Owner, it was determined that a more viable workout solution would be for the Development Owner to replace the \$1.4M first lien with an additional \$600,000 loan from the Department and to defer the \$976,000 Developer Fee. The deferred developer would allow the affordability mix to remain roughly the same, save the additional HOME/TCAP restriction on the units that are already tax credit restricted. The additional \$600,000 will be used by the Development Owner to pay-off the construction loan in order to meet their syndicator's conditions for releasing the remaining equity installments totaling \$3,537,198. Additionally, this will place the Department in the first lien position with both the existing HOME loan and the additional TCAP RF. The Department's analysis suggests that the property will be able to operate at a 1.45 DCR even with the current level of economic and actual vacancy.

From: Tom Gouris
Sent: Tuesday, September 29, 2015 6:32 PM
To: Lee Ann Chance; Andrew Sinnott
Cc: Marni Holloway; Raquel Morales
Subject: FW: Oasis
Attachments: Oasis Sizing - HOME Soft.xlsx; Oasis Sizing - Original Underwriting.xlsx; Oasis Sizing - Current Support.xlsx; S&U Oasis 9-4-15.xlsx

I think this is more of an asset management issue assuming they have closed out their HOME award but cannot tell from the comment they provided so I am forwarding it to both groups and will cc you both on my initial response. Let's get together to follow up more fully tomorrow (most appropriate party please set this up)...

Thanks!

Tom

From: Allison Milliorn [<mailto:AMilliorn@txhf.org>]
Sent: Tuesday, September 29, 2015 9:03 AM
To: tom.gouris@tdhca.state.tx.us; tim.irvine@tdhca.state.tx.us
Cc: Mark Mayfield
Subject: FW: Oasis

Mr. Gouris,

We have encountered a great deal of difficulty in getting one of our properties, Oasis Cove in Canadian (loan # 1001491001), converted to permanent debt. This property has been hit hard by the falling oil and gas prices. People are moving out of town and businesses are closing their doors. We have tried diligently for nearly a year to get this property converted, but have yet to be able to meet the occupancy and economic requirements set by our lender. We are currently on our last extension, which is set to expire on October 15th. We are asking that TDHCA help us by deferring our HOME loan for a period of 48 months. We believe this will allow the property to convert to permanent financing and ensure the viability of this complex.

Attached are 3 different sizing scenarios for Oasis Cove:

1. Current Financials compared to Original Underwriting – this show our sizing to be around .71, nowhere near the 1.20 DCR needed.
2. Current Financials and what it can size to – this show we should be able to support a loan for \$599K at a 1.20 DCR
3. Current Financials with the HOME Loan Soft – this shows the project is able to support perm debt in the amount of \$1.145M

We are asking for TDHCA relief on the HOME loan. The current financials cannot convert and only has a debt coverage of .71, but if you make the HOME soft, we can support \$1.145M in perm debt which will be enough to cover our funding gap from the S&U.

Mark Mayfield and I would like to meet with you to discuss this at your convenience. Do you have any availability this week or the next?

Thank you,

Allison Milliorn, CPA

Vice President of Finance & Administration

Texas Housing Foundation

1110 Broadway

Marble Falls, TX 78654

Ph.- 830-693-4521

Fax- 830-798-1036

AMilliorn@txhf.org

ExchangeDefender Message Security: [Check Authenticity](#)

STABILIZED PRO FORMA
Oasis Cove, Not Listed, 9% HTC/HOME #11164

| STABILIZED FIRST YEAR PRO FORMA | | | | | | | | | | | | | |
|---|------------------|--|--|-----------|--------|-----------|-----------|-----------|-----------|--------|-------|----------|------------|
| COMPARABLES | | | | APPLICANT | | | | TDHCA | | | | VARIANCE | |
| Database | Annualized | | | % EGI | Per SF | Per Unit | Amount | Amount | Per Unit | Per SF | % EGI | % | \$ |
| POTENTIAL GROSS RENT | \$497,496 | | | | \$0.66 | \$634 | \$486,796 | \$522,325 | \$680 | \$0.70 | | -6.8% | (\$35,529) |
| late fees, laundry, nsf fees reletting, | \$18,812 | | | | | \$24.49 | \$25,231 | | | | | | |
| | | | | | | \$0.00 | \$0 | | | | | | |
| | | | | | | \$0.00 | \$0 | | | | | | |
| Total Secondary Income | | | | | | \$24.49 | | \$15,360 | \$20.00 | | | 64.3% | \$9,871 |
| POTENTIAL GROSS INCOME | \$516,308 | | | | | | \$512,027 | \$537,685 | | | | -4.8% | (\$25,658) |
| Vacancy & Collection Loss | (\$92,727) | | | | | 10.0% PGI | (113,233) | (97,859) | 18.2% PGI | | | 15.7% | (15,374) |
| Rental Concessions | | | | | | | - | - | | | | 0.0% | - |
| EFFECTIVE GROSS INCOME | \$423,581 | | | | | | \$398,794 | \$439,826 | | | | -9.3% | (\$41,032) |

| | | | | | | | | | | | | | | |
|--|----------|------------|-------------------|---------|---------------|---------------|----------------|-------------------|-------------------|----------------|---------------|---------------|---------------|--------------------|
| General & Administrative | \$26,401 | \$413/Unit | 50,639 | \$791 | 13.12% | \$0.85 | \$818 | \$52,330 | 50,639 | \$791 | \$0.82 | 11.51% | 3.3% | 1,691 |
| Management | \$35,325 | 8.2% EGI | 21,166 | \$331 | 5.45% | \$0.35 | \$340 | \$21,739 | \$21,991 | \$344 | \$0.36 | 5.00% | -1.1% | (252) |
| Payroll & Payroll Tax | \$51,197 | \$800/Unit | 46,452 | \$726 | 20.29% | \$1.31 | \$1,264 | \$80,904 | \$51,197 | \$800 | \$0.83 | 11.64% | 58.0% | 29,707 |
| Repairs & Maintenance | \$43,593 | \$681/Unit | 98,995 | \$1,547 | 31.73% | \$2.04 | \$1,977 | \$126,521 | 98,995 | \$1,547 | \$1.60 | 22.51% | 27.8% | 27,526 |
| Electric/Gas | \$14,910 | \$233/Unit | 7,664 | \$120 | 6.10% | \$0.39 | \$380 | \$24,320 | \$14,910 | \$233 | \$0.24 | 3.39% | 63.1% | 9,410 |
| Water, Sewer, & Trash Tenant Pays: WS | \$29,467 | \$460/Unit | 13,899 | \$217 | 0.00% | \$0.00 | \$0 | \$0 | \$10,457 | \$163 | \$0.17 | 2.38% | -100.0% | (10,457) |
| Property Insurance | \$22,937 | \$0.37 /sf | 9,082 | \$142 | 3.80% | \$0.24 | \$237 | \$15,136 | \$19,743 | \$308 | \$0.32 | 4.49% | -23.3% | (4,607) |
| Property Tax | \$25,600 | \$400/Unit | | \$0 | 0.00% | \$0.00 | \$0 | \$0 | \$0 | \$0 | \$0.00 | 0.00% | 0.0% | - |
| Reserve for Replacements | \$35,786 | \$559/Unit | - | \$0 | 4.01% | \$0.26 | \$250 | \$16,000 | \$16,000 | \$250 | \$0.26 | 3.64% | 0.0% | - |
| Cable TV | | | - | \$0 | 0.00% | \$0.00 | \$0 | \$0 | \$0 | \$0 | \$0.00 | 0.00% | 0.0% | - |
| Supportive Services | | | 21,210 | \$331 | 5.59% | \$0.36 | \$349 | \$22,309 | \$22,309 | \$349 | \$0.36 | 5.07% | 0.0% | - |
| TDHCA Compliance fees | | | 5,376 | \$84 | 0.00% | \$0.00 | \$0 | \$0 | \$2,682 | \$42 | \$0.04 | 0.61% | -100.0% | (2,682) |
| TDHCA Bond Admin Fees | | | - | \$0 | 0.00% | \$0.00 | \$0 | \$0 | \$0 | \$0 | \$0.00 | 0.00% | 0.0% | - |
| Security | | | - | \$0 | 0.00% | \$0.00 | \$0 | \$0 | \$0 | \$0 | \$0.00 | 0.00% | 0.0% | - |
| Compliance Fees | | | 12,800 | \$200 | 0.00% | \$0.00 | \$0 | \$0 | 12,800 | \$200 | \$0.21 | 2.91% | -100.0% | (12,800) |
| fire monitoring | | | 3,505 | \$55 | 0.00% | \$0.00 | \$0 | \$0 | 3,505 | \$55 | \$0.06 | 0.80% | -100.0% | (3,505) |
| TOTAL EXPENSES | | | \$ 290,789 | | 90.09% | \$5.81 | \$5,613 | \$ 359,259 | \$ 325,229 | \$5,082 | \$5.26 | 73.94% | 10.5% | \$ 34,030 |
| NET OPERATING INCOME ("NOI") | | | \$ 132,792 | | 9.91% | \$0.64 | \$618 | \$39,535 | \$114,597 | \$1,791 | \$1.85 | 26.06% | -65.5% | \$ (75,062) |

69%

| | | | | |
|-----------------------|--|--------------|--|--------------|
| CONTROLLABLE EXPENSES | | \$4,439/Unit | | \$3,534/Unit |
|-----------------------|--|--------------|--|--------------|

CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS
Oasis Cove, Not Listed, 9% HTC/HOME #11164

| DEBT / GRANT SOURCES | | | | | | | | | | | | | | | |
|---|-----|----------------|------|-----------------|-----------------------------------|-------|------|--------------------------------------|--------------------|---------------------------|-------|-------|-----------------|-------------|--------------|
| APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE | | | | | | | | AS UNDERWRITTEN DEBT/GRANT STRUCTURE | | | | | | | |
| DEBT (Must Pay) | MIP | Cumulative DCR | | Pmt | Rate | Amort | Term | Principal | Principal | Term | Amort | Rate | Pmt | Cumulative | |
| | | UW | App | | | | | | | | | | | DCR | LTC |
| TDHCA | | 1.51 | 0.52 | \$75,889 | 3.00% | 30 | 30 | \$1,500,000 | \$1,500,000 | 28 | 28 | 3.00% | \$79,248 | 1.45 | 18.1% |
| Bank of America | | 1.51 | 0.52 | | 0.00% | 0 | 0 | \$0 | \$0 | 0 | 0 | 0.00% | | 1.45 | 0.0% |
| 0 | | 1.51 | 0.52 | | 0.00% | 0 | 0 | \$0 | \$0 | 0 | 0 | 0.00% | | 1.45 | 0.0% |
| 0 | | 1.51 | 0.52 | | 0.00% | 0 | 0 | \$0 | \$0 | 0 | 0 | 0.00% | | 1.45 | 0.0% |
| 0 | | 1.51 | 0.52 | | 0.00% | 0 | 0 | \$0 | \$0 | 0 | 0 | 0.00% | | 1.45 | 0.0% |
| TDHCA | | 1.51 | 0.52 | | 0.00% | 0 | 0 | \$0 | \$0 | 0 | 0 | 0.00% | | 1.45 | 0.0% |
| TDHCA | | 1.51 | 0.52 | | 0.00% | 0 | 0 | \$0 | \$0 | 0 | 0 | 0.00% | | 1.45 | 0.0% |
| TDHCA | | 1.51 | 0.52 | | 0.00% | 0 | 0 | \$0 | \$0 | 0 | 0 | 0.00% | | 1.45 | 0.0% |
| 0 | | 1.51 | 0.52 | | 0.00% | 0 | 0 | \$0 | \$0 | 0 | 0 | 0.00% | | 1.45 | 0.0% |
| 0 | | 1.51 | 0.52 | | 0.00% | 0 | 0 | \$0 | \$0 | 0 | 0 | 0.00% | | 1.45 | 0.0% |
| CASH FLOW DEBT / GRANTS | | | | | | | | | | | | | | | |
| 0 | | 1.51 | 0.52 | | 0.00% | 0 | 0 | \$0 | \$0 | 0 | 0 | 0.00% | | 1.45 | 0.0% |
| 0 | | 1.51 | 0.52 | | 0.00% | 0 | 0 | \$0 | \$0 | 0 | 0 | 0.00% | | 1.45 | 0.0% |
| 0 | | 1.51 | 0.52 | | 0.00% | 0 | 0 | \$0 | \$0 | 0 | 0 | 0.00% | | 1.45 | 0.0% |
| 0 | | 1.51 | 0.52 | | 0.00% | 0 | 0 | \$0 | \$0 | 0 | 0 | 0.00% | | 1.45 | 0.0% |
| 0 | | 1.51 | 0.52 | | 0.00% | 0 | 0 | \$0 | \$0 | 0 | 0 | 0.00% | | 1.45 | 0.0% |
| 0 | | 1.51 | 0.52 | | 0.00% | 0 | 0 | \$0 | \$0 | 0 | 0 | 0.00% | | 1.45 | 0.0% |
| 0 | | 1.51 | 0.52 | | 0.00% | 0 | 0 | \$0 | \$0 | 0 | 0 | 0.00% | | 1.45 | 0.0% |
| 0 | | 1.51 | 0.52 | | 0.00% | 0 | 0 | \$0 | \$0 | 0 | 0 | 0.00% | | 1.45 | 0.0% |
| 0 | | 1.51 | 0.52 | | 0.00% | 0 | 0 | \$0 | \$0 | 0 | 0 | 0.00% | | 1.45 | 0.0% |
| 0 | | 1.51 | 0.52 | | 0.00% | 0 | 0 | \$0 | \$0 | 0 | 0 | 0.00% | | 1.45 | 0.0% |
| | | | | \$75,889 | TOTAL DEBT / GRANT SOURCES | | | \$1,500,000 | \$1,500,000 | TOTAL DEBT SERVICE | | | \$79,248 | 1.45 | 18.1% |

| | | | | | | | | |
|----------------------|----------|------------|-----------------------------|--|--|-----------|----------|----------------------|
| NET CASH FLOW | \$38,708 | (\$36,354) | NET OPERATING INCOME | | | \$114,597 | \$35,349 | NET CASH FLOW |
|----------------------|----------|------------|-----------------------------|--|--|-----------|----------|----------------------|

| EQUITY SOURCES | | | | | | | | | | | |
|---------------------------------------|---------------------------------|--------|-----------------|--------------|-------------|----------------------------------|----------------|---------------|--------|-------------------------|---------------------------------------|
| APPLICANT'S PROPOSED EQUITY STRUCTURE | | | | | | AS UNDERWRITTEN EQUITY STRUCTURE | | | | | |
| EQUITY / DEFERRED FEES | DESCRIPTION | % Cost | Annual Credit | Credit Price | Amount | Amount | Credit Price | Annual Credit | % Cost | Annual Credits per Unit | |
| | | | | | | | | | | | |
| 0 | | 0.0% | | #DIV/0! | \$0 | | | | 0.0% | | |
| 0 | | 0.0% | | #DIV/0! | \$0 | | | | 0.0% | | |
| 0 | Deferred Developer Fees | 11.8% | (100% Deferred) | | \$976,000 | \$976,000 | (99% Deferred) | | 11.8% | | Total Developer Fee: \$976,000 |
| 0 | | 0.0% | | #DIV/0! | \$0 | | | | 0.0% | | |
| 0 | Additional (Excess) Funds Req'd | 1.1% | | | \$92,787 | (\$7,476) | | | -0.1% | | |
| TOTAL EQUITY SOURCES | | | 81.9% | | \$6,788,391 | \$6,788,391 | | | 81.9% | | 15-Year Cash Flow: \$948,894 |

| | | | | | |
|-----------------------------|--------------------|--------------------|--|--|-------------------|
| TOTAL CAPITALIZATION | \$8,288,391 | \$8,288,391 | 15-Yr Cash Flow after Deferred Fee: | | (\$19,630) |
|-----------------------------|--------------------|--------------------|--|--|-------------------|

| DEVELOPMENT COST / ITEMIZED BASIS | | | | | | | | | | | | |
|-----------------------------------|-------------|------------------|-----------------|-----------------|--------------------------|--------------------|--------------------|------------------|--------------------|---------------|-------------|-----------------|
| APPLICANT COST / BASIS ITEMS | | | | | TDHCA COST / BASIS ITEMS | | | | | COST VARIANCE | | |
| Eligible Basis | Acquisition | New Const. Rehab | Total Costs | | Total Costs | | Eligible Basis | | Acquisition | % | \$ | |
| | | | | | | | New Const. Rehab | | | | | |
| Land Acquisition | | | \$1,948 / Unit | \$124,645 | \$124,645 | \$1,948 / Unit | | | | 0.0% | \$0 | |
| Building Acquisition | \$0 | | \$ / Unit | \$0 | \$0 | \$ / Unit | | | \$0 | 0.0% | \$0 | |
| | | | | \$0 | \$0 | | | | | | \$0 | |
| Off-Sites | | | \$ / Unit | \$0 | \$0 | \$ / Unit | | | | 0.0% | \$0 | |
| Site Work | | \$1,328,390 | \$20,756 / Unit | \$1,328,390 | \$1,328,390 | \$20,756 / Unit | \$1,328,390 | | | 0.0% | \$0 | |
| Site Amenities | | \$0 | \$ / Unit | \$0 | \$0 | \$ / Unit | \$0 | | | 0.0% | \$0 | |
| Building Cost | | \$3,701,872 | \$62.50 /sf | \$60.434/Unit | \$3,867,804 | \$3,994,432 | \$62.413/Unit | \$64.55 /sf | \$3,994,432 | -3.2% | (\$126,628) | |
| Contingency | | \$0 | 0.00% | 0.00% | \$0 | \$0 | 0.00% | 0.00% | \$0 | 0.0% | \$0 | |
| Contractor Fees | | \$351,344 | 6.98% | 6.76% | \$351,344 | \$351,344 | 6.60% | 6.60% | \$351,344 | 0.0% | \$0 | |
| Soft Costs | 0 | \$756,818 | | \$12,158 / Unit | \$778,089 | \$778,089 | \$12,158 / Unit | | \$756,818 | 0.0% | \$0 | |
| Financing | 0 | \$240,092 | | \$7,980 / Unit | \$510,738 | \$510,738 | \$7,980 / Unit | | \$240,092 | 0.0% | \$0 | |
| Developer Fee | \$0 | \$956,777 | 15.00% | 14.91% | \$976,000 | \$976,000 | 14.63% | 14.34% | \$956,777 | 0.0% | \$0 | |
| Reserves | | | | \$5,490 / Unit | \$351,381 | \$202,238 | \$3,160 / Unit | | | 73.7% | \$149,143 | |
| UNADJUSTED BASIS / COST | | | \$0 | \$7,335,293 | \$129,506 / Unit | \$8,288,391 | \$8,265,876 | \$129,154 / Unit | \$7,627,853 | \$0 | 0.3% | \$22,515 |
| Acquisition Cost | \$0 | | | | | | | | | | | |
| Contingency | | \$0 | | | | | | | | | | |
| Contractor's Fee | | \$0 | | | | | | | | | | |
| Interim Interest | | \$0 | | | | | | | | | | |
| Developer Fee | \$0 | \$0 | | | | \$0 | | | | | | |
| Reserves | | | | | | \$0 | | | | | | |
| ADJUSTED BASIS / COST | | | \$0 | \$7,335,293 | \$129,506/Unit | \$8,288,391 | \$8,265,876 | \$129,154/unit | \$7,627,853 | \$0 | 0.3% | \$22,515 |

| | | |
|---|--------------------|--|
| TOTAL UNDERWRITTEN COSTS (Applicant's Uses are within 5% of TDHCA Estimate): | \$8,288,391 | |
|---|--------------------|--|

30-Year Long-Term Pro Forma

Oasis Cove, Not Listed, 9% HTC/HOME #11164

| Growth Rate | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Year 10 | Year 15 | Year 20 | Year 25 | Year 30 | |
|---|------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|--------------------|--------------------|------------------|
| POTENTIAL GROSS RENT | \$522,325 | \$532,771 | \$543,427 | \$554,295 | \$565,381 | \$624,227 | \$689,197 | \$760,929 | \$840,127 | \$927,568 | |
| late fees, laundry, nsf fees reletting, | \$0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| | \$0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| | \$0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| Total Secondary Income | \$15,360 | 15,667 | 15,981 | 16,300 | 16,626 | 18,357 | 20,267 | 22,377 | 24,706 | 27,277 | |
| POTENTIAL GROSS INCOME | \$537,685 | \$548,439 | \$559,407 | \$570,595 | \$582,007 | \$642,583 | \$709,464 | \$783,305 | \$864,832 | \$954,845 | |
| Vacancy & Collection Loss | (\$97,859) | (99,816) | (101,812) | (103,848) | (58,201) | (64,258) | (70,946) | (78,331) | (86,483) | (95,484) | |
| Rental Concessions | \$0 | | | | | | | | | | |
| EFFECTIVE GROSS INCOME | 2.00% | \$439,826 | \$448,623 | \$457,595 | \$466,747 | \$523,807 | \$578,325 | \$638,517 | \$704,975 | \$778,349 | \$859,360 |
| TOTAL EXPENSES | 3.00% | \$325,229 | \$334,766 | \$344,584 | \$354,693 | \$367,487 | \$424,572 | \$490,600 | \$566,977 | \$655,337 | \$757,567 |
| NET OPERATING INCOME ("NOI") | | \$114,597 | \$113,857 | \$113,011 | \$112,054 | \$156,320 | \$153,753 | \$147,918 | \$137,997 | \$123,012 | \$101,793 |
| MUST -PAY DEBT SERVICE | | | | | | | | | | | |
| TDHCA | | \$79,248 | \$79,248 | \$79,248 | \$79,248 | \$79,248 | \$79,248 | \$79,248 | \$79,248 | \$79,248 | #NUM! |
| Bank of America | | | | | | | | | | | |
| 0 | | | | | | | | | | | |
| 0 | | | | | | | | | | | |
| 0 | | | | | | | | | | | |
| TDHCA | | | | | | | | | | | |
| TDHCA | | | | | | | | | | | |
| TDHCA | | | | | | | | | | | |
| 0 | | | | | | | | | | | |
| 0 | | | | | | | | | | | |
| TOTAL DEBT SERVICE | | \$79,248 | \$79,248 | \$79,248 | \$79,248 | \$79,248 | \$79,248 | \$79,248 | \$79,248 | \$79,248 | #NUM! |
| ANNUAL CASH FLOW | | \$35,349 | \$34,609 | \$33,763 | \$32,806 | \$77,072 | \$74,504 | \$68,670 | \$58,749 | \$43,764 | #NUM! |
| CUMULATIVE NET CASH FLOW | | \$35,349 | \$69,958 | \$103,721 | \$136,527 | \$213,599 | \$592,417 | \$948,894 | \$1,264,298 | \$1,515,333 | #NUM! |
| DEBT COVERAGE RATIO | | 1.45 | 1.44 | 1.43 | 1.41 | 1.97 | 1.94 | 1.87 | 1.74 | 1.55 | #NUM! |
| EXPENSE/INCOME RATIO | | 73.9% | 74.6% | 75.3% | 76.0% | 70.2% | 73.4% | 76.8% | 80.4% | 84.2% | 88.2% |
| Deferred Developer Fee Balance | | \$933,174 | \$898,565 | \$864,803 | \$831,997 | \$754,925 | \$376,107 | \$19,630 | \$0 | \$0 | #NUM! |
| Residual Cash Flow | | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$58,749 | \$43,764 | #NUM! |

9

BOARD ACTION REQUEST
COMMUNITY AFFAIRS DIVISION
JANUARY 28, 2016

Presentation, Discussion, and Possible Action on Awards for Program Year 2015 Community Services Block Grant Discretionary Funds Notice of Funding Availability (“NOFA”) I for CSBG Network Operational Investments and Intensive Assessments and NOFA II for Native American and Migrant Seasonal Farmworker Populations.

RECOMMENDED ACTION

WHEREAS, Community Services Block Grant (“CSBG”) funds are awarded annually to the Texas Department of Housing and Community Affairs (the “Department”) by the U.S. Department of Health and Human Services (“USHHS”);

WHEREAS, the Department reserves 90% of the allotment for CSBG eligible entities to provide services/assistance to the low-income population in all 254 counties; up to 5% for state administration expenses; and the remaining amount for state discretionary use;

WHEREAS, at the Board meeting of February 19, 2015, the Department established a set aside of \$1,600,000 for CSBG discretionary projects, including \$200,000 for Migrant Seasonal Farmworker and Native American Population initiatives; \$500,000 for Network Operational Investments; and \$150,000 for Intensive Assessments;

WHEREAS, two NOFAs were released (CSBG-D I and II) covering these activities and awards in response to CSBG-D I for Services to Native American and Migrant and Seasonal Farmworker Populations were made by the Board at the Board meeting of December 17, 2015;

WHEREAS, staff has reviewed and evaluated the applications received under the CSBG-D II NOFA and recommends Board approval of awards for Network Operational Investments totaling the amount of \$291,018 to the 24 CSBG eligible entities that applied and met the requirements for funding;

WHEREAS, staff has reviewed the requests for Intensive Assessments and will designate the available \$150,000 to be utilized for the three CSBG eligible entities that applied for the reviews to receive such Assessments and technical assistance; and

WHEREAS, one qualified and eligible application still remained from the CSBG-I NOFA for which insufficient funds had been available, and after review of the CSBG-D II NOFA awards funds remain from the Network Operational Investment activity, staff recommends an award of \$100,000, the amount requested, to that one application, Family Service Association of San Antonio, Inc. to provide education and employment services to migrant seasonal farm workers;

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees, be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to take any and all such actions as they or any of them may deem necessary or advisable to effectuate the awards, as represented herein, of \$291,018 for Network Operational Investment contracts; and \$100,000 to Family Service Association of San Antonio, Inc., for a services to Native American and Migrant and Seasonal Farmworker Populations contract; and

FURTHER RESOLVED, staff will designate up to the available \$150,000 to be utilized for the provision of Intensive Assessments for the three CSBG eligible entities represented herein and such associated technical assistance.

BACKGROUND

The Department set aside a total of \$500,000 in State CSBG Discretionary funds for Network Operational Investments and \$150,000 for Intensive Community Action Agency Support Assessments to be awarded through the CSBG-D II NOFA as approved at the Board meeting of February 19, 2015. The NOFA sought proposals for Network Operational Investments that focus on assisting agencies within the statewide network as they prepare to meet the requirements of the CSBG Organizational Standards. The funds are specifically for objectives that can be clearly defined and measurable; can be clearly associated with one or more of the nine core organizational capacity areas; can be confirmed as being successfully implemented; and must be performed in a six-month period. The Department received 25 applications under the Network Operational Investments in response to the NOFA. All applications were reviewed and after clarification of deficiencies were determined to be eligible for the proposed activities. Based on the previous participation review, discussed below, one of the 25 applications is being deferred for a recommendation at this time and two are awarded with conditions. The Department received three requests for Intensive Assessments from Aspermont Small Business Development Center, Big Bend Community Action Committee Inc., and South Plains Community Action Association, Inc.

The Department also released \$200,000 for migrant seasonal farm worker and Native American education and employment initiatives through a CSBG-D I NOFA and at the Board Meeting on December 17, 2015, and the board awarded the two highest scoring respondents with those funds. One qualified and eligible application still remained from that NOFA for which insufficient funds had been available. After review of the CSBG-D II NOFA awards, funds remain from the Network Operational Investment activity. Staff recommends an award of \$100,000, the amount requested, to that one application, Family Service Association of San Antonio, Inc., to provide education and employment services to migrant seasonal farm workers.

Based on the Department's review of the proposals, staff recommends Board approval of the 24 awards to the CSBG eligible entities identified in Attachment A, approval of the award to Family Service Association of San Antonio, Inc., identified in Attachment B, and to proceed in our existing procured relationship with the Community Action Partnership to provide intensive assessments to the three applicants that requested the assessments. Staff concurs that assessments will be valuable tools for those entities.

The Previous Participation Rule (10 TAC, Chapter 1, Subchapter C, §1.302) includes a review of CSBG-D awards prior to contract execution. This award is subject to this review. The review has been performed and the following entities have been identified with concerns or conditions:

| Agency | Issue |
|--|--|
| Big Bend Community Action Agency | Action by EARAC deferred for completion of previous participation review. Award can proceed into a contract as executed by the Executive Director only pending EARAC approval. |
| Combined Community Action | Approved conditioned on resolution of outstanding compliance issues prior to contract execution. |
| Hidalgo County Community Services Agency | Approved conditioned on resolution of outstanding compliance issues prior to contract execution. |

Attachments A and B reflect all applicants and the funding recommendation amounts; an asterisk indicates those for which the award is deferred or conditional, and those conditions are identified in the previous table.

Attachment A

Funding Recommendations for Program Year 2015 Community Services Block Grant
Discretionary Funds Notice of Funding Availability II:
CSBG Network Operational Investments

| # | CSBG Eligible Entity/Applicant | Award Recommendation | Project |
|----|--|----------------------|---|
| 1 | Aspermont Small Business Development Center, Inc. | \$12,000 | Upgrade Reporting Software |
| 2 | Big Bend Community Action Committee, Inc.* | \$15,000 | Procure new Client Tracking Software |
| 3 | Central Texas Opportunities | \$12,000 | Procure a consultant to conduct a strategic plan work session, provide for work session meeting space, Community Outreach Event, purchase cell phones for outreach workers doing field work |
| 4 | Combined Community Action* | \$6,883 | Upgrade financial software, purchase computer |
| 5 | Community Action Committee of Victoria Texas | \$12,000 | Procure finance software module, tablet computers, AV equipment, attorney fees to review bylaws and personnel policies, procure consultant to improve Needs Assessment Report for use as marketing tool |
| 6 | Community Action Corporation of South Texas | \$12,000 | Develop a unified intake/enrollment system for all programs |
| 7 | Community Action Inc. of Central Texas | \$12,000 | Purchase telephone system |
| 8 | Community Council of South Central Texas, Inc. | \$12,000 | Develop new website to include Board section including meeting materials and Board training materials |
| 9 | Community Services Agency of South Texas | \$12,000 | Procure professional financial and management consultants to update financial policies and procedures, develop monitoring system, and a records retention system |
| 10 | Community Services of Northeast Texas, Inc. | \$12,000 | Purchase hardware, software system, computers, and equipment and supplies (scanners/printers) as part of streamlining their client intake process, identification system and to have a paperless documentation system. System will collect client satisfaction data and track outcomes. |
| 11 | Concho Valley Community Action Agency | \$11,995 | Conduct board training through a Board governance DVD training series, financial management training, and Organizational Standards Assessment training. |
| 12 | Economic Action Committee of the Gulf Coast | \$5,500 | Secure attorney to review agency bylaws and personnel policies |
| 13 | Economic Opportunities Advancement Corp. of Planning Region XI | \$12,000 | Procure a consultant to develop survey assessment tools to assess client needs and satisfaction and to work on strategic planning. |

| | | | |
|----|--|-----------|--|
| 14 | El Paso Community Action Program – Project BRAVO | \$12,000 | Secure attorney and or consultant to review and revise bylaws, agency policies and procedures and indirect cost rate and cost allocation plan. |
| 15 | Greater East Texas Community Action Program | \$4,000 | Secure attorney to review and revise bylaws and policies related to personnel, accounting, and procurement. |
| 16 | Hidalgo County Community Services Agency * | \$12,000 | Procure a consultant to develop a Strategic Plan and conduct board training, procure high speed scanner and computer software |
| 17 | Hill Country Community Action Association, Inc. | \$12,000 | Customize performance reporting and vendor payment software and purchase related technology to use electronic signature pads and scanners for intakes |
| 18 | Nueces County Community Action | \$12,000 | Conduct a board and staff retreat and training, purchase computer hardware and software, modernize accounting and performance reporting, purchase monitors to use of for training |
| 19 | Panhandle Community Services | \$11,500 | Procure consultant to develop and improve system to assess customer satisfaction and to develop new board member orientation. Upgrade finance systems software. |
| 20 | Rolling Plains Management Corporation | \$14,500 | Obtain access to fiber optic cable internet service for key service centers and install network switches to ensure efficient collection and analysis of client data. |
| 21 | South Plains Community Action Association, Inc. | \$12,000 | Consolidation of three neighborhood centers. Purchase portable laptops, scanners, faxes, computers, copiers and wifi capacity to provide improved services to satellite locations. |
| 22 | South Texas Development Council | \$12,000 | Procure a consultant to conduct a risk assessment for compliance with CSBG organizational standards, update bylaws and board and committee governance, update policies and procedures, and develop a succession plan |
| 23 | Texas Neighborhood Services | \$12,000 | Procure a consultant or legal counsel to conduct board training, secure legal counsel and consultant to guide board. Revise bylaws, policies and procedures, and strategic plan. |
| 24 | Tri-County Community Action, Inc. | \$12,000 | Procure a consultant to conduct board and executive staff training on strategic planning and ROMA. |
| 25 | Williamson Burnet County Opportunities, Inc. | \$17,640 | Purchase client tracking software to consolidate data from all programs. |
| | TOTAL | \$291,018 | |

Attachment B

Funding Recommendations for Program Year 2015 Community Services Block Grant
Discretionary Funds Notice of Funding Availability I:
Migrant Seasonal Farmworker Populations

| # | Applicant | Award Recommendation | Project/Activity |
|---|---|----------------------|---|
| 1 | Family Service Association of San Antonio, Inc. | \$100,000 | Provide migrant seasonal farm workers adult basic skills education, college prep/GED classes, occupational skills training, case management, and referrals to job training and skills programs. Provide wealth building asset protection education. |