

BOARD BOOK OF FEBRUARY 25, 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
February 25, 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.

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:

LEGAL

- a) Presentation, Discussion, and Possible Action regarding the adoption of an Agreed Final Order concerning Oakridge Apartments (HTC 93159 / CMTS 1189)
- b) Presentation, Discussion, and Possible Action regarding the adoption of an Agreed Final Order concerning Mill Run Apartments (HTC 91021 / CMTS 950)
- c) Presentation, Discussion, and Possible Action regarding the adoption of an Agreed Final Order concerning Ebenezer Senior Housing (HOME 532339 / CMTS 2681) and Medina Court Senior Housing (HOME 531103 / CMTS 2635)
- d) Presentation, Discussion, and Possible Action regarding the adoption of an Agreed Final Order concerning Quail Run (HTC 91049 / CMTS 964)

Jeff Pender
Deputy General Counsel

HOUSING RESOURCE CENTER

- e) Presentation, Discussion, and Possible Action on Amendments to the 2016 State of Texas Consolidated Plan: One-Year Action Plan

Elizabeth Yevich
Director

COMMUNITY AFFAIRS

- f) Presentation, Discussion, and Possible Action on Approval of the Draft Federal Fiscal Year ("FFY") 2016 Department of Energy ("DOE") Weatherization Assistance Program ("WAP") State Plan for Public Comment
- g) Presentation, Discussion, and Possible Action on the Reprogramming of Certain Program Year ("PY") 2015 Emergency Solutions Grant Funds from the Coalition for the Homeless Houston/Harris County to Harris County Domestic Violence Coordinating Council

Michael DeYoung
Director

MULTIFAMILY FINANCE

- h) Presentation, Discussion, and Possible Action on Determination Notices for Housing Tax Credits with another Issuer
15423 Austin Colorado Creek Apartments Austin
- i) Presentation, Discussion, and Possible Action on Waivers Relating to Mandatory Development Amenities
16124 Balcones Haus Apartments New Braunfels

Marni Holloway
Director

ASSET MANAGEMENT

- j) Presentation, Discussion and Possible Action on Material Amendments to the Housing Tax Credit Land Use Restriction Agreement (LURA)
 - 01111 Village at Meadowbend Temple
 - 04145 Village at Meadowbend II Temple
 - 04146 Casa Saldana Mercedes
 - 97050 Cimarron Senior Apartments Corpus Christi
 - 98020 South Pointe Apartments Corpus Christi
 - 00068 Timber Run Apartments Spring
 - 01076 Laurel Point Apartments Houston
 - 02149 Madison Pointe Apartments Dallas
- k) Presentation, Discussion and Possible Action regarding Material Amendments to Housing Tax Credit Application
 - 13032 Stoneleaf at Eustace Eustace
 - 13033 Stoneleaf at Fairfield Fairfield
 - 15281 Cayetano Villas of La Vernia La Vernia

Raquel Morales
Director

RULES

- l) Presentation, Discussion, and Possible Action on adoption of the 2016 State of Texas Low Income Housing Plan and Annual Report, and an order adopting amendments to 10 TAC Chapter 1, Subchapter A, General Policies and Procedures §1.23 concerning State of Texas Low Income Housing Plan and Annual Report, and directing their publication in the *Texas Register*

Elizabeth Yevich
Director, Housing Resource Center

CONSENT AGENDA REPORT ITEMS

ITEM 2: THE BOARD ACCEPTS THE FOLLOWING REPORTS:

- a) TDHCA Outreach Activities, January 2016
- b) Report on the Department’s 1st Quarter Investment Report in accordance with the Public Funds Investment Act (“PFIA”)
- c) Report on the Department’s 1st Quarter Investment Report relating to funds held under Bond Trust Indentures
- d) 2017 Qualified Allocation Plan Project

Michael Lyttle
Chief, External Affairs

David Cervantes
Chief Financial Officer

Monica Galuski
Director, Bond Finance

Marni Holloway
Director, MF Finance

ACTION ITEMS

ITEM 3: REPORTS

Report Regarding the *Housing and Services Partnership Academy*

Elizabeth Yevich
Director, Housing Resource Center

ITEM 4: SINGLE FAMILY OPERATIONS AND SERVICES

Presentation, Discussion, and Possible Action to authorize staff to procure a statewide pool of housing industry professionals to assist on an as-needed basis with practical, *ad hoc* solutions for Department Single Family contracts, activities, and assets

Homero Cabello, Jr.
Director

ITEM 5: MULTIFAMILY FINANCE

- a) Report regarding the effect of adding Elderly Preference funding to a previously approved Elderly Limitation Development
- b) Presentation, Discussion, and Possible Action regarding Frequently Asked Questions for Multifamily Programs
- c) Report regarding disclosure of Undesirable Site and Neighborhood Features for 4% Housing Tax Credit and Direct Loan Applications
- d) Presentation, Discussion, and Possible Action on a Determination Notice for Housing Tax Credits with another Issuer
16405 New Hope at Harrisburg Houston
- e) Presentation, Discussion, and Possible Action Regarding the Issuance of Multifamily Housing Revenue Bonds (Chisolm Trace and Cheyenne Village Apartments) Series 2016 Resolution No. 16-011 and Determination Notices of Housing Tax Credits
- f) Presentation, Discussion, and Possible Action Regarding Appeal of tax credit application amendment
15267 Thomas Westfall Memorial Apartments El Paso
- g) Report and Possible Action to Address a State Representative Vacancy and its Impact on Obtaining a Scoring Letter Under §11.9(d)(5)

Tom Gouris
Deputy Executive Director
Marni Holloway
Director

ITEM 6: ENFORCEMENT COMMITTEE

Presentation, Discussion, and Possible Action on appeal of recommendation to debar Charles Miller for a period of ten years

Marni Holloway
Chair

ITEM 7: COMMUNITY AFFAIRS

- a) Presentation, Discussion, and Possible Action on the Reprogramming of Program Year (“PY”) 2015 Community Services Block Grant (“CSBG”) Discretionary and Administrative Funds
- b) Presentation, Discussion, and Possible Action regarding Program Year 2015 Low-Income Home Energy Assistance Program (“LIHEAP”) Reprogramming of Unused Funds
- c) Presentation, Discussion, and Possible Action on the Use of Program Year 2016 Community Services Block Grant (“CSBG”) Discretionary Funds

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.

J. Paul Oser
Chairman

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

CONSENT AGENDA

1a

BOARD ACTION REQUEST

LEGAL DIVISION

FEBRUARY 25, 2016

Presentation, Discussion, and Possible Action regarding the adoption of an Agreed Final Order concerning Oakridge Apartments (HTC 93159 / CMTS 1189)

RECOMMENDED ACTION

WHEREAS, Oakridge Apartments (HTC 93159 / CMTS 1189), owned by Ahouramazda, LLC (“Owner”), has uncorrected compliance findings relating to the applicable land use restriction agreement and the associated statutory and rule requirements;

WHEREAS, on January 26, 2016, 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 March 28, 2016;

WHEREAS, unresolved compliance findings include: Uniform Physical Condition Standards (“UPCS”) violations from the 2014 inspection; 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 Oakridge Apartments (HTC 93159 / CMTS 1189), 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

Ahouramazda, LLC ("Owner") is the owner of Oakridge Apartments ("Property"), a low income apartment complex comprising 46 units, located in Dallas. Records of the Texas Secretary of State list Claudia Amini as the manager of Ahouramazda, LLC. The property is also associated with Ramin Amini, who claims to be an owner. The property is managed internally by Ahouramazda, LLC, with Hector M. Molina as the primary property manager.

The Property is subject to a Land Use Restriction Agreement ("LURA") signed by a prior owner in 1995 in consideration of an annual housing tax credit allocation in the amount of \$34,726 to rehabilitate and operate the Property.

Owner was previously referred for an administrative penalty in 2013 and was closed informally with a warning letter and no administrative penalty recommendation after full corrections were received.

The following compliance violations identified during 2014 were referred for an administrative penalty and are unresolved:

1. 2014 UPCS violations:

Inspectible Area Inspectible Item	Deficiency	5	4	3	Comments
Oakridge Apartments 2803 West Illinois Avenue Dallas, TX 75223					
Building:					
Unit:					
Health & Safety	Hazards - Tripping			L3	front of bldg 3, heaved sidewalk, trip hazard
Building: Bldg 1					
Unit:					
Building Exterior					
Roofs	Missing/Damaged Components from Downspout/Gutter			L2	2 sections of downspout missing
Unit: 102					
Bathroom	Lavatory Sink - Damaged/Missing		L1		sink stopper disconnected
Health & Safety	Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable			L3	only bedroom window blocked by a/c, no egress
Kitchen	Range/Stove - Missing/Damaged/Inoperable			L2	one burner inop
Windows	Inoperable/Not Lockable			L3	only bedroom window blocked by a/c
Unit: 207					
Hot Water Heater	Missin Pressure Relief Valve			L3	no pipe on relief valve
Smoke Detector	Missing/Inoperable			L3	bedroom missing
Building: Bldg 2					
Unit:					
Building Exterior					
Roofs	Missing/Damaged Components from Downspout/Gutter			L1	downspout section missing
Unit: 209					
Hot Water Heater	Missin Pressure Relief Valve			L3	no pipe on relief valve
Smoke Detector	Missing/Inoperable			L3	bedroom , missing
Building: Bldg 3					
Unit:					
Building Exterior					
Roofs	Missing/Damaged Components from Downspout/Gutter			L1	gutter corner damaged
Unit: 121					
Doors	Missing Door			L1	bedroom closet door missing
Outlets/Switches	Missing/Broken Cover Plates			L1	bedroom switch cover cracked
Building: Bldg 4-Shop					
Unit:					
Closet/Utility/Mechanical					
Electrical	Missing Breakers			L3	2 breakers missing
Outlets/Switches/Cover Plates	Missing or Broken			L3	3 outlet covers missing

Owner participated in an informal conference with the Enforcement Committee on January 26, 2016, 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 UPCS violations as indicated in the Agreed Final Order, and submit full documentation of the corrections to TDHCA on or before March 28, 2016;
3. Owner must submit \$500 portion of the administrative penalty on or before March 28, 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
AHOURLAMAZDA, LLC WITH
RESPECT TO OAKRIDGE
APARTMENTS (HTC FILE # 93159 /
CMTS # 1189)

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BEFORE THE
TEXAS DEPARTMENT OF
HOUSING AND
COMMUNITY AFFAIRS

AGREED FINAL ORDER

General Remarks and official action taken:

On this 25th day of February, 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 **AHOURLAMAZDA, LLC**, a Texas limited liability company (“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, Beverly Partners Ltd (“Prior Owner”) was awarded an allocation of Low Income Housing Tax Credits by the Board, in an annual amount of \$34,726 to build and operate Oakridge Apartments (“Property”) (HTC file No. 93159 / CMTS No. 1189 / LDDL No. 426).

2. Prior Owner signed a land use restriction agreement (“LURA”) regarding the Property. The LURA was effective November 9, 1995, and filed of record at Volume 96008, Page 0953 of the Official Public Records of Real Property of Dallas 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 February 17, 2010, and filed the same in the Records at Document Number 201000041489, thereby binding Respondent to the terms of the LURA.
4. Respondent is a Texas limited liability company 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. A Uniform Physical Condition Standards (“UPCS”) inspection was conducted on December 15, 2014. Inspection reports showed numerous serious property condition violations, a violation of 10 TEX. ADMIN. CODE § 10.621 (Property Condition Standards). Notifications of noncompliance were sent and a March 29, 2015, corrective action deadline was set. No response was received until a set of work orders was provided during the informal conference that took place on January 26, 2016; the work orders have not been accepted to correct the violations and must be submitted via CMTS.
6. The following violations remain outstanding at the time of this order:
 - a. UPCS violation described in FOF #5;

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.

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.

4. Respondent violated 10 TEX. ADMIN. CODE § 10.621 in 2014, and I.R.C. §42, as amended, by failing to comply with HUD's Uniform Physical Condition Standards when major violations were discovered and not timely corrected.²
5. 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.
6. 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.
7. 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.
8. 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 March 28, 2016.

IT IS FURTHER ORDERED that Respondent shall repair all UPCS violations as indicated in Attachment 1 and submit work orders in the correct format, and including all necessary parts, to document the corrections to TDHCA on or before March 28, 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 2, 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 in the amount of \$500, which will be deferred and forgiven.

² HUD's Uniform Physical Condition Standards are the standards adopted by TDHCA pursuant to 10 TEX. ADMIN. CODE 10.621(a)

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 the UPCS 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>. It may not be submitted via email, fax, or mail. 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. As 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.

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Attachment 1

UPCS Instructions

- Review list of UPCS violations that must be corrected:

Inspectible Area	Inspectible Item	Deficiency	L1	L2	L3	Comments
Oakridge Apartments 2803 West Illinois Avenue Dallas, TX 75223						
Building:						
Unit:						
	Health & Safety	Hazards - Tripping			L3	front of bldg 3, heaved sidewalk, trip hazard
Building: Bldg 1						
Unit:						
	Building Exterior					
	Roofs	Missing/Damaged Components from Downspout/Gutter		L2		2 sections of downspout missing
Unit: 102						
	Bathroom	Levatory Sink - Damaged/Missing	L1			sink stopper disconnected
	Health & Safety	Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable			L3	only bedroom window blocked by a/c, no egress
	Kitchen	Range/Stove - Missing/Damaged/Inoperable		L2		one burner inop
	Windows	Inoperable/Not Lockable			L3	only bedroom window blocked by a/c
Unit: 207						
	Hot Water Heater	Missin Pressure Relief Valve			L3	no pipe on relief valve
	Smoke Detector	Missing/Inoperable			L3	bedroom missing
Building: Bldg 2						
Unit:						
	Building Exterior					
	Roofs	Missing/Damaged Components from Downspout/Gutter		L1		downspout section missing
Unit: 209						
	Hot Water Heater	Missin Pressure Relief Valve			L3	no pipe on relief valve
	Smoke Detector	Missing/Inoperable			L3	bedroom , missing
Building: Bldg 3						
Unit:						
	Building Exterior					
	Roofs	Missing/Damaged Components from Downspout/Gutter		L1		gutter corner damaged
Unit: 121						
	Doors	Missing Door	L1			bedroom closet door missing
	Outlets/Switches	Missing/Broken Cover Plates	L1			bedroom switch cover cracked
Building: Bldg 4-Shop						
Unit:						
	Close/Utility/Mechanical					
	Electrical	Missing Breakers			L3	2 breakers missing
	Outlets/Switches/Cover Plates	Missing or Broken			L3	3 outlet covers missing

- Prepare corrective documentation for each violation following these guidelines:
<http://www.tdhca.state.tx.us/pmcomp/inspections/docs/UPCS-WorkOrderGuidelines.pdf>
- Submit complete corrective documentation via CMTS following the instructions at <http://www.tdhca.state.tx.us/pmcdocs/CMTSUserGuide-AttachingDocs.pdf> on or before 11/25/2016, then email Ysella Kaseman at ysella.kaseman@tdhca.state.tx.us to let her know that the submission is ready for review

Attachment 2:

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

1b

BOARD ACTION REQUEST

LEGAL DIVISION

FEBRUARY 25, 2016

Presentation, Discussion, and Possible Action regarding the adoption of an Agreed Final Order concerning Mill Run Apartments (HTC 91021 / CMTS 950)

RECOMMENDED ACTION

WHEREAS, Mill Run Apartments (HTC 91021 / CMTS 950), owned by Mosaic Mill Run, LLC (“Owner”), has uncorrected compliance findings relating to the applicable land use restriction agreement and the associated statutory and rule requirements;

WHEREAS, on January 26, 2016, 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 \$1,500, to be fully forgiven if all violations are resolved, as specified in the Agreed Final Order, on or before May 25, 2016;

WHEREAS, unresolved compliance findings include: failure to provide an affirmative marketing plan, failure to submit pre-onsite documentation, failure to collect Annual Eligibility Certifications for 17 units, failure to collect evidence that household incomes were within prescribed limits upon initial occupancy for 10 households, failure to execute Fair Housing Disclosure Notices for 10 units, failure to execute Notices of Amenities and Services for nine units, and one Uniform Physical Condition Standards (“UPCS”) violation related to a mechanical vehicle entry gate; 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 \$1,500, subject to full forgiveness as outlined above for noncompliance at Mill Run Apartments (HTC 91021 / CMTS 950), 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

Mosaic Mill Run, LLC ("Owner") is the owner of Mill Run Apartments ("Property"), a low income apartment complex comprising 112 units, located in Dallas. Records of the Texas Secretary of State list Michael Epstein as the manager of Mosaic Mill Run, LLC; no other officers or members are listed. The property is managed by Sungate Management.

The Property is subject to a Land Use Restriction Agreement ("LURA") signed by a prior owner in 1991 in consideration for an annual housing tax credit allocation in the amount of \$44,811 to rehabilitate and operate the Property.

Owner was previously referred for an administrative penalty for failure to submit the 2013 Annual Owner's Compliance Report, but submitted the report upon the request of the Legal Division and no informal conference was scheduled. Corrective documentation was also submitted in response to the informal conference notice relating to the current administrative penalty referral, but although the response resolved all but 1 of the UPCS violations, it resolved only 3 of the file violations and highlighted the need for training regarding how to complete an acceptable tenant file.

The following compliance violations identified during 2014 were referred for an administrative penalty and were resolved in December of 2015, after intervention by the Enforcement Committee:

1. UPCS violations, with the exception of the violation relating to the mechanical vehicle entry gate. A complete list of the referred violations is attached.
2. Fair Housing Disclosure Notice violations for 2 units;
3. Notice of Amenities and Services violation for 1 unit.

The following compliance violations identified during 2014 were referred for an administrative penalty and are unresolved:

1. Affirmative marketing plan violation;
2. Pre-onsite documentation violation;
3. Annual Eligibility Certification violations for units 128, 120, 124, 130, 131, 132, 135, 136, 139, 103, 104, 105, 112, 114, 115, 118, and 119;
4. Household income violations for units 104, 107, 108, 123, 125, 155, 201, 207, 215, and 223;
5. Fair Housing Disclosure Notice violations for units 107, 108, 125, 155, 201, 207, 215, and 223;
6. Notice of Amenities and Services violations for units 107, 108, 125, 155, 201, 207, 215, and 223;
7. UPCS violation related to a mechanical vehicle entry gate.

Owner participated in an informal conference with the Enforcement Committee on January 26, 2016, and agreed to sign an Agreed Final Order with the following terms:

1. A \$1,500 administrative penalty, subject to full forgiveness as indicated below;
2. Property managers must attend First Thursday Income Eligibility Training and HTC Compliance Training on or before May 25, 2016;
3. Owner must correct all violations as indicated in the Agreed Final Order, and submit full documentation of the corrections to TDHCA on or before May 25, 2016;
4. If Owner complies with all requirements and addresses all violations as required, the full administrative penalty 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, fully forgivable administrative penalty in the amount of \$1,500 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
MOSAIC MILL RUN LLC WITH
RESPECT TO MILL RUN
APARTMENTS (HTC FILE # 91021 /
CMTS # 950)

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BEFORE THE
TEXAS DEPARTMENT OF
HOUSING AND
COMMUNITY AFFAIRS

AGREED FINAL ORDER

General Remarks and official action taken:

On this 25th day of February, 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 **MOSAIC MILL RUN LLC**, a Texas limited liability company (“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 1991, Chantelle Associates (“Prior Owner”) was awarded an allocation of Low Income Housing Tax Credits by the Board, in an annual amount of \$44,811 to build and operate Mill Run Apartments (“Property”) (HTC file No. 91021 / CMTS No. 950 / LDLD No. 337).

2. Prior Owner signed a land use restriction agreement (“LURA”) regarding the Property. The LURA was effective September 9, 1991, and filed of record at Volume 91175, Page 5601 of the Official Public Records of Real Property of Dallas 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 Comply with and First Amendment to Declaration of Land Use Restrictive Covenants), effective May 3, 2013, and filed the same in the Records at Document Number 201300218716, thereby binding Respondent to the terms of the LURA.
4. Respondent is a Texas limited liability company 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 September 11, 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 March 22, 2015, corrective action deadline was set, however, the following violations were not corrected before the corrective action deadline:
 - a. Respondent failed to provide an affirmative marketing plan and supporting marketing documentation, a violation of 10 TEX. ADMIN. CODE §10.617 (Affirmative Marketing Requirements), which requires developments to approve and distribute an affirmative marketing plan, and to distribute marketing materials to selected marketing organizations that reach groups identified as least likely to apply and to the disabled;
 - b. Respondent failed to submit pre-onsite documentation, a violation of 10 TEX. ADMIN. CODE §10.607 (Reporting Requirements) and 10 TEX. ADMIN. CODE §10.618 (Onsite Monitoring), which require all developments to submit necessary documentation as requested in preparation for an upcoming monitoring review;
 - c. Respondent failed to provide an Annual Eligibility Certifications for units 128, 120, 124, 130, 131, 132, 135, 136, 139, 103, 104, 105, 112, 114, 115, 118, and 119, 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.

- d. Respondent failed to provide documentation that household incomes were within prescribed limits upon initial occupancy for units 104, 107, 108, 123, 125, 155, 201, 207, 215, and 223, 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;
- e. Respondent failed to provide the Fair Housing Disclosure Notice for units 104, 107, 108, 123, 125, 155, 201, 207, 215, and 223, a violation of 10 TEX. ADMIN. CODE § 10.612 (Tenant File 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."

Acceptable corrective documentation was submitted for units 104 and 123 on December 28, 2015, 473 days past the corrective deadline, and after an administrative penalty informal conference notice was sent. The finding remains unresolved for units 107, 108, 125, 155, 201, 207, 215, and 223.

- f. Respondent failed to provide a Notice of Amenities and Services to units 104, 107, 108, 125, 155, 201, 207, 215, and 223, 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."

Acceptable corrective documentation was submitted for unit 104 on December 28, 2015, 473 days past the corrective deadline, and after an administrative penalty informal conference notice was sent. The finding remains unresolved for units 107, 108, 125, 155, 201, 207, 215, and 223.

6. A Uniform Physical Condition Standards ("UPCS") inspection was conducted on November 24, 2014. Inspection reports showed numerous serious property condition violations, a violation of 10 TEX. ADMIN. CODE § 10.621 (Property Condition Standards). Notifications of noncompliance were sent and a March 3, 2015, corrective action deadline was set. Partial corrective action was received on December 28, 2015, 300 days after the corrective action deadline, after the administrative penalty informal conference notice was sent. All violations were resolved with the exception of a violation related to a mechanized vehicle entry gate that was not corrected before the deadline and remains unresolved.
7. The following violations remain outstanding at the time of this order:
 - a. Affirmative marketing plan violation described in FOF #5.a;
 - b. Pre-onsite documentation violation described in FOF #5.b;
 - c. Annual Eligibility Certification violations described in FOF #5.c;

- d. Household income above limit violations described in FOF #5.d;
- e. Fair Housing Disclosure Notice violations described in FOF #5.e;
- f. Notice of Amenities and Services violations described in FOF #5.f;
- g. UPCS violation described in FOF #6;

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 §10.617 in 2014, by failing to provide a complete affirmative marketing plan and supporting materials;
5. Respondent violated 10 TEX. ADMIN. CODE §10.607 and §10.618 in 2014, by not submitting pre-on-site documentation including a unit status report and entrance interview questionnaire in preparation for the monitoring review;
6. Respondent violated 10 TEX. ADMIN. CODE §10.612 in 2014 by failing to collect Annual Eligibility Certifications for 17 units;
7. Respondent violated Section 4 of the LURA and 10 TEX. ADMIN. CODE §10.611 in 2014 by failing to provide documentation that household incomes were within prescribed limits upon initial occupancy for 10 units;.
8. Respondent violated 10 TEX. ADMIN. CODE § 10.612 in 2014, by failing to execute the Fair Housing Disclosure Notice during the appropriate time frame for 10 units;
9. Respondent violated 10 TEX. ADMIN. CODE §10.613 in 2014, by failing to execute the Notice of Amenities and Services for 9 units;
10. Respondent violated 10 TEX. ADMIN. CODE § 10.621 in 2014, and I.R.C. §42, as amended, by failing to comply with HUD's Uniform Physical Condition Standards when major violations were discovered and not timely corrected.²

² HUD's Uniform Physical Condition Standards are the standards adopted by TDHCA pursuant to 10 TEX. ADMIN. CODE 10.621(a)

11. 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.
12. 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.
13. 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.
14. An administrative penalty of \$1,500 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 \$1,500, subject to deferral as further ordered below.

IT IS FURTHER ORDERED that all onsite property management staff and supervisors at Mill Run Apartments who will be working on tenant files shall attend First Thursday Income Eligibility Training offered by TDHCA and submit completion certificate(s) on or before May 25, 2016. The next course will be held at TDHCA headquarters on April 7, 2016 and registration will open online at <http://www.tdhca.state.tx.us/pmcomp/COMPtrain.html> on March 4, 2016.

IT IS FURTHER ORDERED that all onsite property management staff and supervisors at Mill Run Apartments who will be working on tenant files shall attend Housing Tax Credit ("HTC") Compliance Training through the Texas Apartment Association and submit completion certificate(s) on or before May 25, 2016. The following courses are available and may be chosen: Houston on March 15, 2016, Beaumont on March 22, 2016, San Antonio on May 10, 2016, or Fort Worth on May 18, 2016. Registration is available online at: <http://www.taa.org/member/education/registerforprograms/>

IT IS FURTHER ORDERED that Respondent shall fully correct the file monitoring violations as indicated in Attachments 1, 2, and 3, and submit full documentation of the corrections to TDHCA on or before May 25, 2016.

IT IS FURTHER ORDERED that Respondent shall fully address all UPCS violations as indicated in Attachment 4 and submit work orders in the correct format, and including all necessary parts, to document the corrections to TDHCA on or before May 25, 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 assessed administrative penalty and the full 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 full administrative penalty in the amount of \$1,500 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. 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 Ozer
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 Ozer, 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

Attachment 1

File Monitoring Violation Resources and Instructions

1. *Do not back-date any of the tenant forms required for this Agreed Final Order.*
2. All documentation must be uploaded to CMTS at <https://pox.tdhca.state.tx.us/aims2/pox>, then an email must be sent to Ysella Kaseman notifying her that the upload(s) are complete and ready for review. Upload instructions are available at: <http://www.tdhca.state.tx.us/pmedocs/CMTSUserGuide-AttachingDocs.pdf>.
3. 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/readtac\\$ext.ViewTAC?tac_view=5&tj=10&pt=1&ch=10&sch=F&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&tj=10&pt=1&ch=10&sch=F&rl=Y)
4. Refer to the following link for copies of forms that are referenced below:
<http://www.tdhca.state.tx.us/pmcomp/forms.htm>
5. 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/compFaq.htm>
6. **Affirmative marketing plan** – Complete affirmative marketing plan using any version of HUD Form 935.2A. Submit updated plan following all requirements of 10 TEX. ADMIN. CODE §10.617, along with evidence of outreach marketing efforts to selected groups identified in the plan. The affirmative marketing web tool referenced in the rule in order to determine groups that are least likely to apply is available online at: <http://www.tdhca.state.tx.us/pmcomp/forms.htm>. The plan must identify those groups that are least likely to apply, along with specific media and community contacts that reach those designated groups. Persons with disabilities must always be selected as a group least likely to apply.
7. **Pre-onsite documentation** – Submit the Entrance Interview Questionnaire and unit status report through the Department's Compliance Monitoring and Tracking System ("CMTS"). For assistance with the process, visit: http://www.tdhca.state.tx.us/comp_reporting.htm.

8. **Fair Housing Disclosure Notice** – This notice has been replaced by the Tenants Rights and Resource Guide as indicated at 10 TEX. ADMIN. CODE §10.613(k).

Correctable findings: Implement Tenants Rights and Resource Guide as indicated at 10 TEX. ADMIN. CODE §10.613(k) and submit properly signed Tenants Rights and Resource Guide Acknowledgments for units 108, 201, 207, 215, and 223. If the tenant has moved out without signing this form, please submit a letter to TDHCA including the move-out date and acknowledging that the finding cannot be resolved. Prior submissions for these units were backdated, with signatures dated before the form was created. Do not back-date any forms.

Uncorrectable findings: The households that triggered the findings for units 107, 125, and 155 have vacated the units without completing the required form. Therefore, there is no corrective action available and the finding will remain outstanding.

9. **Notice of Amenities and Services** – Respondent submitted notices for multiple units, but the submission was incomplete.

Correctable findings: Implement Tenants Rights and Resource Guide as indicated at 10 TEX. ADMIN. CODE §10.613(k) and submit signed Tenants Rights and Resource Guide Acknowledgments for units 108, 201, 207, 215, and 223. If the tenant has moved out without signing this form, please submit a letter to TDHCA including the move-out date and acknowledging that the finding cannot be resolved. Prior submissions for these units were backdated, with signatures dated before the form was created. Do not back-date any forms.

Uncorrectable findings: The households that triggered the findings for units 107, 125, and 155 have vacated the units without completing the required form. Therefore, there is no corrective action available and the finding will remain outstanding.

10. **Failure to collect data required by 10.612 (Annual Eligibility Certifications)** – Owners of HTC developments must collect and maintain current data annually on each household that includes the number of household members, age, ethnicity, race, disability status, rental amounts and rental assistance (if any). This information can be collected on the Department's Annual Eligibility Certification (AEC) or the Income Certification form.

- i. Update the Unit Status Report in CMTS to reflect current household information and unit occupancy for the entire development;
- ii. For units listed in the table on the next page, which were spot-checked during the monitoring review: Collect and submit the annual data collection on either (A) the AEC form, or (B) the Income Certification Form (see table below for details). If the household has not already executed one of the required forms, then the Department will consider the noncompliance corrected if the household executes the form reflecting current circumstances. In no instance should a household backdate a form. (i.e. If an AEC form from 2014 is present in the file as indicated in the table below, but was not signed by the household, a new form with the current date must be signed)

Unit	Move-in Date	Date AEC Signed	Problem:
128	5/28/2010	N/A	An AEC dated 7/1/14 is present in the file but was not executed by the household
120	3/27/2009	N/A	An AEC dated 7/1/14 is present in the file but was not executed by the household
124	10/1/2008	N/A	An AEC dated 3/1/14 is present in the file but was not executed by the household
130	2/1/2005	N/A	An AEC dated 8/1/14 is present in the file but was not executed by the household
131	3/25/2013	N/A	An undated AEC is present in the file but was not executed by the household
132	5/15/2012	N/A	An AEC dated 7/1/14 is present in the file but was not executed by the household
135	4/6/2008	N/A	An AEC is present in the file and is signed by the household, however it is not signed or filled out
136	12/1/2010	N/A	An AEC dated 4/15/14 is present in the file but was not executed by the household
139	5/4/2012	5/1/2013	Must be completed annually
103	3/8/2012	N/A	An AEC dated 7/1/14 is present in the file but was not executed by the household
104	8/16/2013	N/A	An undated AEC is present in the file but was not executed by the household
105	10/1/2009	N/A	An AEC dated 8/1/14 is present in the file but was not executed by the household
112	9/1/2012	N/A	An undated AEC is present in the file but was not executed by the household
114	10/1/2013	N/A	An AEC dated 4/1/14 is present in the file but was not executed by the household
115	5/1/2012	1/1/2014	Form was signed more than 120 days prior to the due date
118	1/23/2013	N/A	An undated AEC is present in the file but was not executed by the household
119	4/30/2011	N/A	An undated AEC is present in the file but was not executed by the household

- iii. Submit a certification that all households on the development which were not spot-checked during the review have completed the necessary forms to be in compliance with the annual data collection requirements.

11. **Household income above limit upon initial occupancy** – Follow the instructions below and submit documentation with respect to units 104, 107, 108, 123, 125, 155, 201, 207, 215, and 223. Further details and guidance is included at Attachments 2 and 3.

A. Who should complete tenant forms: Do not complete screening documentation on the tenants' behalf. In the event that a tenant is unable to fill out a form, then a family member, friend, or case-worker should be asked and a note should be added to the file. As a last resort, management may fill out forms for tenants, but a clarification should be maintained in the file explaining the circumstances. The Department will not accept screening documentation that has been filled out by onsite staff except in circumstances of documented need.

B. Errors in forms. Under no circumstances should white-out or corrective tape be used on program forms. If a correction is needed, the tenant may mark through the error with a single line and initial any corrections made.

C. Form dates: Backdating forms is not acceptable under any circumstances. If a form is backdated, it will be rejected.

D. Income verification: In this instance, if the owner chooses to certify a household under current circumstances, first-hand documentation must be obtained in order to document the income. Examples of first-hand documentation include paycheck stubs, payroll history printouts, and leave and earnings statements. Third-party documentation (employment verifications, letters from employers, etc) will not be sufficient to correct the noncompliance under this Agreed Final Order if a household is being recertified under current circumstances.

E. Specific requirements:

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 the 1/26/2016 letter at Attachment 2. If the circumstances outlined in the instruction letter at Attachment 2 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 5/25/2016 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 5/25/2016 is acceptable for this circumstance provided that Requirement A</p>

	above is fulfilled.
If unit 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*. Receipt after 5/25/2016 is acceptable for this circumstance provided that Requirement A above is fulfilled.</p>
If unit 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*. Receipt after 5/25/2016 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. Attachment 3 provides some basic details regarding each tenant file component.*

Attachment 2

Compliance Monitoring Letter dated 1/26/2016

(see attached)



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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January 26, 2016

Writer's direct phone # (512) 475-4603
Email: cody.campbell@tdhca.state.tx.us

Michael Epstein
Mosaic Mill Run LLC
Dallas, Texas
mepstein@mosaicrealtyllc.com

RE: Mill Run

CMTS ID: 950

Dear Mr. Epstein:

The Texas Department of Housing and Community Affairs (Department) received documentation on December 28, 2015 addressing the noncompliance identified during the monitoring review conducted at Mill Run on September 11, 2014. Corrective action was due on March 22, 2014.

The documentation submitted was sufficient to correct the noncompliance related to **Failure to provide Fair Housing Disclosure** affecting units 104 and 123 and **Noncompliance with lease requirements described in 10.613** affecting unit 104. Please see attached Finding Report for details.

The documents submitted do not correct the following findings:

- **Noncompliance related to Affirmative Marketing requirements described in 10.617:** No documentation was submitted to address the noncompliance. See the attached Findings Report for required corrective action.
- **Failure to provide pre-on-site documentation as required:** No documentation was submitted to address the noncompliance. See the attached Findings Report for required corrective action.
- **Failure to collect data required by 10.612(b)(1) and/or 10.612(b)(2):** No documentation was submitted to address the noncompliance. See the attached Findings Report for required corrective action.
- **Failure to provide Fair Housing Disclosure** affecting units 107, 125, and 155: As corrective action, the owner has submitted an Acknowledgment from the Department's Tenant Rights and Resources Guide from a new household; however, it appears that the household originally cited vacated the unit prior to executing the form. As a result, the finding remains uncorrected and no corrective action is available.
- **Noncompliance with lease requirements described in 10.613** affecting units 107, 125, and 155: As corrective action, the owner has submitted an Acknowledgment from the Department's Tenant Rights and Resources Guide from a new household; however, it appears that the household originally cited vacated the unit prior to executing the form. As a result, the finding remains uncorrected and no corrective action is available.



- **Failure to provide Fair Housing Disclosure** affecting units 108, 201, 207, and 223: As corrective action, the owner has submitted an Acknowledgment from the Department's Tenant Rights and Resources Guide; however, the form appears to have been backdated and is therefore insufficient to correct the noncompliance. The form was published by the Department on January 8, 2015 and the submitted form is dated prior. To correct, have the household correctly execute the Department's Tenant Rights and Resources Guide Acknowledgement and submit for review. Additionally, the owner must submit a written narrative acknowledging the backdating and committing to ceasing the practice in the future.
- **Noncompliance with lease requirements described in 10.613** affecting units 108, 201, 207, and 223: As corrective action, the owner has submitted an Acknowledgment from the Department's Tenant Rights and Resources Guide; however, the form appears to have been backdated and is therefore insufficient to correct the noncompliance. The form was published by the Department on January 8, 2015 and the submitted form is dated prior. To correct, have the household correctly execute the Department's Tenant Rights and Resources Guide Acknowledgement and submit for review. Additionally, the owner must submit a written narrative acknowledging the backdating and committing to ceasing the practice in the future.
- **Failure to provide Fair Housing Disclosure** affecting unit 215: No documentation was submitted to address this finding. To correct, if the same household which was originally cited still occupies the unit, then present the household with the Tenant Rights and Resources Guide and submit the executed Acknowledgment to the Department for review. If the household no longer occupies the unit, then no corrective action is available and the noncompliance will remain uncorrected.
- **Noncompliance with lease requirements described in 10.613** affecting unit 215: No documentation was submitted to address this finding. To correct, if the same household which was originally cited still occupies the unit, then present the household with the Tenant Rights and Resources Guide and submit the executed Acknowledgment to the Department for review. If the household no longer occupies the unit, then no corrective action is available and the noncompliance will remain uncorrected.
- **Household income above income limit upon initial occupancy/Program Unit not leased to Low-Income household** affecting unit 104: As corrective action, the owner submitted the income documentation which was present in the file and reviewed during the onsite review. No additional documentation of income was submitted for consideration, and the requested documentation was not submitted as specified in the monitoring letter. See the attached Findings Report for required corrective action.
- **Household income above income limit upon initial occupancy/Program Unit not leased to Low-Income household** affecting unit 107: As corrective action, the owner submitted evidence that a new household occupied the unit on December 1, 2015; however, no screening documentation was present in the file. The Department is unable to determine that the household was income eligible upon initial occupancy. To correct, obtain screening and documentation of all of the household members' income and assets at the time of initial move-in. If the household was income eligible at the time of move-in, submit these documents to the Department for review. If the household was not eligible at initial occupancy but circumstances have changed, certify the household under current circumstances. If the household was not eligible at initial occupancy and cannot be certified under current circumstances, then when the unit becomes available, occupy it with a qualifying household and submit: the lease and all lease addenda, the rental applications, the Income Certification, all supporting documentation for assets and income, and the Tenant Rights and Resources Guide Acknowledgment notice to the Department for review.

- **Household income above income limit upon initial occupancy/Program Unit not leased to Low-Income household** affecting unit 108: As corrective action, the owner submitted the following documentation of income: a 2014 Social Security award letter, a child support pay history dated May 15, 2013, and three paycheck stubs dated for May and June of 2015. Pay history print-outs are not sufficient documentation of child support income, and paycheck stubs from 2015 are not sufficient to demonstrate that the household qualified upon initial occupancy on July 25, 2014. If the owner chooses to certify the household under current circumstances, then an entire certification must be completed including current documentation of all income and assets and current screening documentation. See the attached Findings Report for further details.
- **Household income above income limit upon initial occupancy/Program Unit not leased to Low-Income household** affecting unit 201: As corrective action, the owner submitted the income documentation which was present in the file and reviewed during the onsite review. No additional documentation of income was submitted for consideration, and the requested documentation was not submitted as specified in the monitoring letter. See the attached Findings Report for required corrective action.
- **Household income above income limit upon initial occupancy/Program Unit not leased to Low-Income household** affecting unit 207: As corrective action, the owner submitted the income documentation which was present in the file and reviewed during the onsite review. No additional documentation of income was submitted. See the attached Findings Report for corrective action.
- **Household income above income limit upon initial occupancy/Program Unit not leased to Low-Income household** affecting unit 215: No documentation was submitted to address the noncompliance. See the attached Findings Report for corrective action.
- **Household income above income limit upon initial occupancy/Program Unit not leased to Low-Income household** affecting unit 123: As corrective action, the owner submitted an Income Certification effective November 11, 2015 and three paycheck stubs from September 2015. No screening documentation was provided; therefore, the Department cannot determine that the household income qualified as of this certification. See the attached Findings Report for corrective action.
- **Household income above income limit upon initial occupancy/Program Unit not leased to Low-Income household** affecting unit 223: As corrective action, the owner submitted the income documentation which was present in the file and reviewed during the onsite review. No additional documentation of income was submitted. See the attached Findings Report for corrective action.
- **Household income above income limit upon initial occupancy/Program Unit not leased to Low-Income household** affecting unit 155: As corrective action, the owner submitted evidence that a new household occupied the unit on February 1, 2015; however, no screening documentation was present in the file. The Department is unable to determine that the household was income eligible upon initial occupancy. To correct, obtain screening and documentation of all of the household members' income and assets at the time of initial move-in. If the household was income eligible at the time of move-in, submit these documents to the Department for review. If the household was not eligible at initial occupancy but circumstances have changed, certify the household under current circumstances. If the household was not eligible at initial occupancy and cannot be certified under current circumstances, then when the unit becomes available, occupy it with a qualifying household and submit: the lease and all lease addenda, the rental applications, the Income Certification, all supporting documentation for assets and income, and the Tenant Rights and Resources Guide Acknowledgment notice to the Department for review.

While reviewing the submitted documentation, it was noted that the onsite staff continues to complete screening documentation on the tenants' behalf. As stated in the Department's correspondence to the owner on December 22, 2014, this is strongly discouraged in order to maintain the integrity of the information. **This practice must cease immediately.** In the event that a tenant is unable to fill out a form, then a family member, friend, or case-worker should be asked. As a last resort, management may fill out forms for tenants, but a clarification should be maintained in the file explaining the circumstances. Under no circumstances should White-Out or corrective tape be used on program forms. If a correction is needed, the tenant may mark through the error with a single line and initial any corrections made. The Department will not accept screening documentation that has been filled out by onsite staff as corrective action except in circumstances of documented need.

For units that were cited with noncompliance related to income eligibility, if the owner chooses to certify the household under current circumstances, first-hand documentation must be obtained in order to document the income. Examples of first-hand documentation include paycheck stubs, payroll history printouts, and leave and earnings statements. Third-party documentation (employment verifications, letters from employers, etc) will not be sufficient to correct the noncompliance.

The Department offers free or low-cost training classes for owners and on-site staff to assist in maintaining compliance with program requirements. The owner is strongly encouraged to attend the Department's Income Eligibility Training (formerly known as First Thursday Training). Further information is available at: <http://www.tdhca.state.tx.us/pmcomp/COMPtrain.html>.

The Department's Enforcement Committee will be updated with the status of the noncompliance associated with this review. Please note, noncompliance that is corrected but that was not corrected during the applicable corrective action period and noncompliance which has not been corrected will be considered for a three (3) year period in funding decisions. Please see 10TAC §1.301 for details.

If you have any questions, please contact Cody Campbell toll free in Texas at (800) 643-8204, directly at (512) 475-4603 or email: cody.campbell@tdhca.state.tx.us.

Sincerely,



Digitally signed by
Cody Campbell
Date: 2016.01.26
11:47:31 -06'00'

Cody Campbell
Compliance Monitor

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
COMPLIANCE REVIEW
DETAIL FINDINGS AND CORRECTIVE ACTION
By program

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Property ID # 950
Property Mill Run
Address 2732 W Colorado Blvd, Dallas, TX-75211

Last Desk Review Date:
Last Onsite Review Date: 09/11/14
Program(s): LIHTC File # 91021
Occupancy as of 09/30/14

PROGRAM: ALL FILE#

PROGRAM: LIHTC FILE# 91021

PROPERTY FINDINGS

Finding	Noncompliance related to Affirmative Marketing requirements described in 10.617				
Noncompliance Date	09/11/2014	Current Status	Uncorrected	Correction Date	
Reason	§10.617 requires that owners of developments with 5 or more total units must use an Affirmative Fair Housing Marketing Plan to attract prospective applicants of all minority and non-minority groups in the housing market area regardless of their race, color, religion, sex, national origin, disability, familial status, or religious affiliation. Owners are encouraged to use HUD Form 935.2A, and may use any version of this form as applicable. The Affirmative Marketing Plan must identify which group(s) the owner believes are least likely to apply for housing at the development without special outreach. The Plan must identify specific media and community contacts that reach those groups designated as least likely to apply. At minimum, contact must be made annually, but more frequent contact is encouraged. Persons with Disabilities must always be selected as a group least likely to apply. The owner currently has not implemented an Affirmative Fair Housing Marketing Plan.				
Corrective Action	Implement an Affirmative Marketing Plan which meets the requirements of 10TAC §10.617 and execute any required outreach marketing. Submit the plan and evidence of marketing to the Department for review.				
Potential Administrative Penalty	\$5 per day per violation				
Finding	Failure to provide pre-onsite documentation as required.				
Noncompliance Date	08/25/2014	Current Status	Uncorrected	Correction Date	
Reason	On August 11, 2014, the Department sent the owner notice of the onsite review, with a deadline of August 25, 2014 for the owner to submit all required pre-onsite documentation. The owner did not submit the documentation to the Department.				
Corrective Action	Submit the entrance interview questionnaire and unit status report through the Department's Compliance Monitoring Tracking Systems (CMTS) as required by the Texas Administrative Code. For assistance with this process, please visit the following link: http://www.tdhca.state.tx.us/comp_reporting.htm .				
Potential Administrative Penalty	Up to \$1000 per violation.				

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PROPERTY FINDINGS

Finding	Failure to collect data required by 10.612(b)(1) and/or 10.612(b)(2)
Noncompliance Date	09/11/2014
Reason	Owners of HTC developments must collect and maintain current data annually on each household that includes the number of household members, age, ethnicity, race, disability status, rental amounts and rental assistance (if any). This information can be collected on the Department's Annual Eligibility Certification (AEC) or the Income Certification form. The Unit Status Report (USR) in the Department's Compliance Monitoring and Tracking System (CMTS) has not been updated to reflect current household information and unit occupancy for the development. As a result, the Department is unable to determine that the owner is annually collecting the required data for each household based on this report. During the onsite review, the Department performed a spot-check of approximately 20% of the tenant files and could not determine that the owner is in compliance with this requirement.
Corrective Action	Update the USR to reflect current household information and unit occupancy for the entire development. For all households which were spot-checked, submit the executed annual data collection on either the AEC form or the Income Certification form (please see the attached list). If the household has not already executed one of the required forms, then the Department will consider the noncompliance corrected if the household executes the form reflecting current circumstances. In no instance should a household backdate a form to satisfy the annual data collection requirement. Submit the updated USR along with evidence of the required annual data collection for each household that was spot-checked during the review to evidence that the owner is in compliance with this requirement. Additionally, the owner must submit a certification that all households on the development which were not spot-checked during the review have completed the necessary forms to be in compliance with the annual data collection requirements.
Potential Administrative Penalty	

UNIT FINDINGS

Unit # 104	Bldg. # 1	BIN # TX9100257
Finding	Failure to provide Fair Housing Disclosure	
Noncompliance Date	05/01/2014	Correction Date 05/21/2015
Reason	Per 10TAC 10.612(a)(4), the Department's Fair Housing Disclosure Notice must be presented to the household at the time of application for occupancy and must be executed no more than one hundred twenty (120) days prior to the effective date of the lease. This requirement pertains to all households taking initial occupancy of a low-income unit on a Development administered by the Department including households transferring within the same Development. This household does not appear to have executed the notice.	
Corrective Action	Present the household with the Fair Housing Disclosure Notice form no more than one hundred twenty (120) and no fewer than thirty (30) days prior to the date the household is legally required to provide notice of their intention to terminate or renew their current lease. Submit the notice along with the first and signatory pages of the household's current lease to the Department for review. The Department has created a Corrective Action Calculator for this finding to determine the correct time frame to provide the household with the form. The calculator and the form are both available on the Department's website at http://www.tdhca.state.tx.us/pmcomp/forms.htm . Please be advised that only the units reviewed during the onsite	

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UNIT FINDINGS

monitoring visit were cited with noncompliance; however, it is the owner's responsibility to maintain compliance with all applicable rules and regulations. Ensure that all households that have moved in at the development since December 27, 2012 execute the form during the required timeframe. The executed notices do not need to be submitted to the Department since the units were not reviewed during the monitoring visit; however, these units may be deemed out of compliance during future visits if the form is not executed correctly.

Potential Administrative Penalty \$50 per violation

Unit # 104	Bldg. # 1	BIN # TX9100257
Finding	Noncompliance with lease requirements described in 10.613 of this subchapter	
Noncompliance Date	05/01/2014	Current Status Corrected
Reason	According to 10TAC §10.613, "a development owner shall provide each household, at the time of execution of an initial lease and whenever there is a subsequent change in common amenities, unit amenities, or required services, a notice describing those amenities and services. The notice must also contain the language listed in §10.613(l). The household was not presented with this notice at the time of initial occupancy.	
Corrective Action	Present the household with the form and submit evidence that the household has received the form to the Department for review. Do not backdate. Please be advised that only the units reviewed during the onsite monitoring visit were cited with noncompliance; however, it is the owner's responsibility to maintain compliance with all applicable rules and regulations. Ensure that all households that have moved in at the development since January 1, 2014 are presented with the required form. The executed forms do not need to be submitted to the Department since the units were not reviewed during the monitoring visit; however, these units may be deemed out of compliance during future visits if the form is not executed correctly.	

Potential Administrative Penalty

Unit # 104	Bldg. # 1	BIN # TX9100257
Finding	Household income above income limit upon initial occupancy / Program Unit not leased to Low-Income household	
Noncompliance Date	05/01/2014	Current Status Uncorrected
Reason	A household occupied this unit on May 1, 2014. The paycheck stubs used to verify income are dated July 26, 2013 and August 9, 2013. No documentation reflecting income at the time of initial occupancy was present in the file during the onsite review. Additionally, dates-of-birth were not collected for all household members and the household did not execute an Income Certification upon initial occupancy. The Department is unable to determine that the household was income eligible at the time of initial occupancy.	
Corrective Action	Obtain screening and documentation of all of the household members' income and assets at the time of initial move-in. If the household was income eligible at the time of move-in, submit these documents to the Department for review. If the household was not eligible at initial occupancy but circumstances have changed, certify the household under current circumstances. If the household was not eligible at initial occupancy and cannot be certified under current circumstances,	

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then when the unit becomes available, occupy it with a qualifying household and submit: the lease and all lease addenda, the rental applications, the Income Certification, all supporting documentation for assets and income, the Fair Housing Choice Disclosure, and the Amenity and Supportive Services notice to the Department for review.

Potential Administrative Penalty \$1000 per violation

Unit # 107 **Bldg. # 1** **BIN # TX9100257**

Finding Failure to provide Fair Housing Disclosure

Noncompliance Date 07/12/2014 **Current Status** Uncorrected **Correction Date**

Reason Per 10TAC 10.612(a)(4), the Department's Fair Housing Disclosure Notice must be presented to the household at the time of application for occupancy and must be executed no more than one hundred twenty (120) days prior to the effective date of the lease. This requirement pertains to all households taking initial occupancy of a low-income unit on a Development administered by the Department including households transferring within the same Development. This household does not appear to have executed the notice.

Corrective Action Present the household with the Fair Housing Disclosure Notice form no more than one hundred twenty (120) and no fewer than thirty (30) days prior to the date the household is legally required to provide notice of their intention to terminate or renew their current lease. Submit the notice along with the first and signatory pages of the household's current lease to the Department for review. The Department has created a Corrective Action Calculator for this finding to determine the correct time frame to provide the household with the form. The calculator and the form are both available on the Department's website at <http://www.tdhca.state.tx.us/pmcomp/forms.htm>. Please be advised that only the units reviewed during the onsite monitoring visit were cited with noncompliance; however, it is the owner's responsibility to maintain compliance with all applicable rules and regulations. Ensure that all households that have moved in at the development since December 27, 2012 execute the form during the required timeframe. The executed notices do not need to be submitted to the Department since the units were not reviewed during the monitoring visit; however, these units may be deemed out of compliance during future visits if the form is not executed correctly.

Potential Administrative Penalty \$50 per violation

Unit # 107 **Bldg. # 1** **BIN # TX9100257**

Finding Noncompliance with lease requirements described in 10.613 of this subchapter

Noncompliance Date 07/12/2014 **Current Status** Uncorrected **Correction Date**

Reason According to 10TAC §10.613, "a development owner shall provide each household, at the time of execution of an initial lease and whenever there is a subsequent change in common amenities, unit amenities, or required services, a notice describing those amenities and services. The notice must also contain the language listed in §10.613(l). The household was not presented with this notice at the time of initial occupancy.

Corrective Action Present the household with the form and submit evidence that the household has received the form to the Department for review. Do not backdate. Please be advised that only the units reviewed during the onsite monitoring visit were cited with noncompliance; however, it is the owner's responsibility to maintain compliance with all applicable rules and regulations.

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Ensure that all households that have moved in at the development since January 1, 2014 are presented with the required form. The executed forms do not need to be submitted to the Department since the units were not reviewed during the monitoring visit; however, these units may be deemed out of compliance during future visits if the form is not executed correctly.

Potential Administrative Penalty

Unit # 107	Bldg. # 1	BIN # TX9100257
Finding	Household income above income limit upon initial occupancy / Program Unit not leased to Low-Income household	
Noncompliance Date	07/12/2014	Current Status Uncorrected Correction Date
Reason	A household occupied this unit on July 12, 2014. The rental application and Income Certification indicate that there are three adult household members, but only two were screened for income. No household members were screened for assets. Paycheck stubs and an employment verification letter present in the file indicate that the household is over the allowable income limit for a six-person household.	
Corrective Action	If circumstances have changed, certify the household under current circumstances and submit screening documentation for all household members along with documentation of income and assets to the Department for review. If the household cannot be certified under current circumstances, then when the unit becomes available, occupy it with a qualifying household and submit: the lease and all lease addenda, the rental applications, the Income Certification, all supporting documentation for assets and income, the Fair Housing Choice Disclosure, and the Amenity and Supportive Services notice to the Department for review.	
Potential Administrative Penalty	\$1000 per violation	

Unit # 108	Bldg. # 1	BIN # TX9100257
Finding	Failure to provide Fair Housing Disclosure	
Noncompliance Date	07/25/2014	Current Status Uncorrected Correction Date
Reason	Per 10TAC 10.612(a)(4), the Department's Fair Housing Disclosure Notice must be presented to the household at the time of application for occupancy and must be executed no more than one hundred twenty (120) days prior to the effective date of the lease. This requirement pertains to all households taking initial occupancy of a low-income unit on a Development administered by the Department including households transferring within the same Development. This household does not appear to have executed the notice.	
Corrective Action	Present the household with the Fair Housing Disclosure Notice form no more than one hundred twenty (120) and no fewer than thirty (30) days prior to the date the household is legally required to provide notice of their intention to terminate or renew their current lease. Submit the notice along with the first and signatory pages of the household's current lease to the Department for review. The Department has created a Corrective Action Calculator for this finding to determine the correct time frame to provide the household with the form. The calculator and the form are both available on the Department's website at http://www.tdhca.state.tx.us/pmcomp/forms.htm . Please be advised that only the units reviewed during the onsite monitoring visit were cited with noncompliance; however, it is the owner's responsibility to maintain compliance with all	

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applicable rules and regulations. Ensure that all households that have moved in at the development since December 27, 2012 execute the form during the required timeframe. The executed notices do not need to be submitted to the Department since the units were not reviewed during the monitoring visit; however, these units may be deemed out of compliance during future visits if the form is not executed correctly.

Potential Administrative Penalty \$50 per violation

Unit # 108	Bldg. # 1	BIN # TX9100257
Finding	Noncompliance with lease requirements described in 10.613 of this subchapter	
Noncompliance Date	07/25/2014	Current Status Uncorrected
Reason	According to 10TAC §10.613, "a development owner shall provide each household, at the time of execution of an initial lease and whenever there is a subsequent change in common amenities, unit amenities, or required services, a notice describing those amenities and services. The notice must also contain the language listed in §10.613(l). The household was not presented with this notice at the time of initial occupancy.	
Corrective Action	Present the household with the form and submit evidence that the household has received the form to the Department for review. Do not backdate. Please be advised that only the units reviewed during the onsite monitoring visit were cited with noncompliance; however, it is the owner's responsibility to maintain compliance with all applicable rules and regulations. Ensure that all households that have moved in at the development since January 1, 2014 are presented with the required form. The executed forms do not need to be submitted to the Department since the units were not reviewed during the monitoring visit; however, these units may be deemed out of compliance during future visits if the form is not executed correctly.	

Potential Administrative Penalty

Unit # 108	Bldg. # 1	BIN # TX9100257
Finding	Household income above income limit upon initial occupancy / Program Unit not leased to Low-Income household	
Noncompliance Date	07/25/2014	Current Status Uncorrected
Reason	A household occupied this unit on July 25, 2014. On the rental application, the household disclosed income from employment, Social Security income, and child support income, but none of these were properly verified. The Department is unable to determine that the household was income eligible at the time of initial occupancy.	
Corrective Action	Obtain either check stubs or a payroll print out of earnings from the time of move-in to document employment income. Obtain the 2014 annual Social Security benefits letter to document Social Security income. Obtain either a child support verification from the Office of the Attorney General or the entire court order to document child support income. If the household was income eligible at the time of move-in, submit these documents to the Department for review. If the household was not eligible at initial occupancy but circumstances have changed, certify the household under current circumstances. If the household was not eligible at initial occupancy and cannot be certified under current circumstances, then when the unit	

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becomes available, occupy it with a qualifying household and submit: the lease and all lease addenda, the rental applications, the Income Certification, all supporting documentation for assets and income, the Fair Housing Choice Disclosure, and the Amenity and Supportive Services notice to the Department for review.

Potential Administrative Penalty \$1000 per violation

Unit # 201 Bldg. # 1 BIN # TX9100257

Finding Failure to provide Fair Housing Disclosure
Noncompliance Date 02/27/2014 **Current Status** Uncorrected **Correction Date**

Reason Per 10TAC 10.612(a)(4), the Department's Fair Housing Disclosure Notice must be presented to the household at the time of application for occupancy and must be executed no more than one hundred twenty (120) days prior to the effective date of the lease. This requirement pertains to all households taking initial occupancy of a low-income unit on a Development administered by the Department including households transferring within the same Development. This household does not appear to have executed the notice.

Corrective Action Present the household with the Fair Housing Disclosure Notice form no more than one hundred twenty (120) and no fewer than thirty (30) days prior to the date the household is legally required to provide notice of their intention to terminate or renew their current lease. Submit the notice along with the first and signatory pages of the household's current lease to the Department for review. The Department has created a Corrective Action Calculator for this finding to determine the correct time frame to provide the household with the form. The calculator and the form are both available on the Department's website at <http://www.tdhca.state.tx.us/pmcomp/forms.htm>. Please be advised that only the units reviewed during the onsite monitoring visit were cited with noncompliance; however, it is the owner's responsibility to maintain compliance with all applicable rules and regulations. Ensure that all households that have moved in at the development since December 27, 2012 execute the form during the required timeframe. The executed notices do not need to be submitted to the Department since the units were not reviewed during the monitoring visit; however, these units may be deemed out of compliance during future visits if the form is not executed correctly.

Potential Administrative Penalty \$50 per violation

Unit # 201 Bldg. # 1 BIN # TX9100257

Finding Noncompliance with lease requirements described in 10.613 of this subchapter
Noncompliance Date 02/27/2014 **Current Status** Uncorrected **Correction Date**

Reason According to 10TAC §10.613, "a development owner shall provide each household, at the time of execution of an initial lease and whenever there is a subsequent change in common amenities, unit amenities, or required services, a notice describing those amenities and services. The notice must also contain the language listed in §10.613(l). The household was not presented with this notice at the time of initial occupancy.

Corrective Action Present the household with the form and submit evidence that the household has received the form to the Department for review. Do not backdate. Please be advised that only the units reviewed during the onsite monitoring visit were cited with noncompliance; however, it is the owner's responsibility to maintain compliance with all applicable rules and regulations.

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Ensure that all households that have moved in at the development since January 1, 2014 are presented with the required form. The executed forms do not need to be submitted to the Department since the units were not reviewed during the monitoring visit; however, these units may be deemed out of compliance during future visits if the form is not executed correctly.

Potential Administrative Penalty

Unit # 201	Bldg. # 1	BIN # TX9100257
Finding	Household income above income limit upon initial occupancy / Program Unit not leased to Low-Income household	
Noncompliance Date	02/27/2014	Current Status Uncorrected
Reason	A household occupied this unit on February 27, 2014. Paycheck stubs present in the file indicate that the household was not eligible at the time of initial occupancy.	
Corrective Action	If circumstances have changed, certify the household under current circumstances and submit screening documentation for all household members along with documentation of income and assets to the Department for review. If the household cannot be certified under current circumstances, then when the unit becomes available, occupy it with a qualifying household and submit: the lease and all lease addenda, the rental applications, the Income Certification, all supporting documentation for assets and income, the Fair Housing Choice Disclosure, and the Amenity and Supportive Services notice to the Department for review.	
Potential Administrative Penalty	\$1000 per violation	

Unit # 207	Bldg. # 1	BIN # TX9100257
Finding	Failure to provide Fair Housing Disclosure	
Noncompliance Date	03/01/2014	Current Status Uncorrected
Reason	Per 10TAC 10.612(a)(4), the Department's Fair Housing Disclosure Notice must be presented to the household at the time of application for occupancy and must be executed no more than one hundred twenty (120) days prior to the effective date of the lease. This requirement pertains to all households taking initial occupancy of a low-income unit on a Development administered by the Department including households transferring within the same Development. This household does not appear to have executed the notice.	
Corrective Action	Present the household with the Fair Housing Disclosure Notice form no more than one hundred twenty (120) and no fewer than thirty (30) days prior to the date the household is legally required to provide notice of their intention to terminate or renew their current lease. Submit the notice along with the first and signatory pages of the household's current lease to the Department for review. The Department has created a Corrective Action Calculator for this finding to determine the correct time frame to provide the household with the form. The calculator and the form are both available on the Department's website at http://www.tdhca.state.tx.us/pmcomp/forms.htm . Please be advised that only the units reviewed during the onsite monitoring visit were cited with noncompliance; however, it is the owner's responsibility to maintain compliance with all applicable rules and regulations. Ensure that all households that have moved in at the development since December 27,	

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2012 execute the form during the required timeframe. The executed notices do not need to be submitted to the Department since the units were not reviewed during the monitoring visit; however, these units may be deemed out of compliance during future visits if the form is not executed correctly.

Potential Administrative Penalty \$50 per violation

Unit # 207	Bldg. # 1	BIN # TX9100257
Finding	Noncompliance with lease requirements described in 10.613 of this subchapter	
Noncompliance Date	03/01/2014	Current Status Uncorrected
Reason	According to 10TAC §10.613, "a development owner shall provide each household, at the time of execution of an initial lease and whenever there is a subsequent change in common amenities, unit amenities, or required services, a notice describing those amenities and services. The notice must also contain the language listed in §10.613(i). The household was not presented with this notice at the time of initial occupancy.	
Corrective Action	Present the household with the form and submit evidence that the household has received the form to the Department for review. Do not backdate. Please be advised that only the units reviewed during the onsite monitoring visit were cited with noncompliance; however, it is the owner's responsibility to maintain compliance with all applicable rules and regulations. Ensure that all households that have moved in at the development since January 1, 2014 are presented with the required form. The executed forms do not need to be submitted to the Department since the units were not reviewed during the monitoring visit; however, these units may be deemed out of compliance during future visits if the form is not executed correctly.	

Potential Administrative Penalty

Unit # 207	Bldg. # 1	BIN # TX9100257
Finding	Household income above income limit upon initial occupancy / Program Unit not leased to Low-Income household	
Noncompliance Date	03/01/2014	Current Status Uncorrected
Reason	A household occupied this unit on March 1, 2014. Paycheck stubs and an employment verification letter present in the file for both adult household members indicate that the household was not eligible at the time of initial occupancy.	
Corrective Action	If circumstances have changed, certify the household under current circumstances and submit screening documentation for all household members along with documentation of income and assets to the Department for review. If the household cannot be certified under current circumstances, then when the unit becomes available, occupy it with a qualifying household and submit: the lease and all lease addenda, the rental applications, the Income Certification, all supporting documentation for assets and income, the Fair Housing Choice Disclosure, and the Amenity and Supportive Services notice to the Department for review.	

Potential Administrative Penalty \$1000 per violation

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Unit # 215	Bldg. # 1	BIN # TX9100257
Finding	Failure to provide Fair Housing Disclosure	
Noncompliance Date	09/03/2014	Current Status Uncorrected
Reason	Per 10TAC 10.612(a)(4), the Department's Fair Housing Disclosure Notice must be presented to the household at the time of application for occupancy and must be executed no more than one hundred twenty (120) days prior to the effective date of the lease. This requirement pertains to all households taking initial occupancy of a low-income unit on a Development administered by the Department including households transferring within the same Development. This household does not appear to have executed the notice.	
Corrective Action	Present the household with the Fair Housing Disclosure Notice form no more than one hundred twenty (120) and no fewer than thirty (30) days prior to the date the household is legally required to provide notice of their intention to terminate or renew their current lease. Submit the notice along with the first and signatory pages of the household's current lease to the Department for review. The Department has created a Corrective Action Calculator for this finding to determine the correct time frame to provide the household with the form. The calculator and the form are both available on the Department's website at http://www.tdhca.state.tx.us/pmcomp/forms.htm . Please be advised that only the units reviewed during the onsite monitoring visit were cited with noncompliance; however, it is the owner's responsibility to maintain compliance with all applicable rules and regulations. Ensure that all households that have moved in at the development since December 27, 2012 execute the form during the required timeframe. The executed notices do not need to be submitted to the Department since the units were not reviewed during the monitoring visit; however, these units may be deemed out of compliance during future visits if the form is not executed correctly.	
Potential Administrative Penalty	\$50 per violation	

Unit # 215	Bldg. # 1	BIN # TX9100257
Finding	Noncompliance with lease requirements described in 10.613 of this subchapter	
Noncompliance Date	09/03/2014	Current Status Uncorrected
Reason	According to 10TAC §10.613, "a development owner shall provide each household, at the time of execution of an initial lease and whenever there is a subsequent change in common amenities, unit amenities, or required services, a notice describing those amenities and services. The notice must also contain the language listed in §10.613(l). The household was not presented with this notice at the time of initial occupancy.	
Corrective Action	Present the household with the form and submit evidence that the household has received the form to the Department for review. Do not backdate. Please be advised that only the units reviewed during the onsite monitoring visit were cited with noncompliance; however, it is the owner's responsibility to maintain compliance with all applicable rules and regulations. Ensure that all households that have moved in at the development since January 1, 2014 are presented with the required	

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form. The executed forms do not need to be submitted to the Department since the units were not reviewed during the monitoring visit; however, these units may be deemed out of compliance during future visits if the form is not executed correctly.

Potential Administrative Penalty

Unit # 215	Bldg. # 1	BIN # TX9100257
Finding	Household income above income limit upon initial occupancy / Program Unit not leased to Low-Income household	
Noncompliance Date	09/03/2014	Current Status Uncorrected Correction Date
Reason	A household occupied this unit on September 3, 2014. Paycheck stubs and an employment verification letter present in the file for both adult household members indicate that the household was not eligible at the time of initial occupancy.	
Corrective Action	If circumstances have changed, certify the household under current circumstances and submit screening documentation for all household members along with documentation of income and assets to the Department for review. If the household cannot be certified under current circumstances, then when the unit becomes available, occupy it with a qualifying household and submit: the lease and all lease addenda, the rental applications, the Income Certification, all supporting documentation for assets and income, the Fair Housing Choice Disclosure, and the Amenity and Supportive Services notice to the Department for review.	
Potential Administrative Penalty	\$1000 per violation	

Unit # 123	Bldg. # 2	BIN # TX9100258
Finding	Failure to provide Fair Housing Disclosure	
Noncompliance Date	01/07/2013	Current Status Corrected Correction Date 12/01/2015
Reason	Per 10TAC 10.612(a)(4), the Department's Fair Housing Disclosure Notice must be presented to the household at the time of application for occupancy and must be executed no more than one hundred twenty (120) days prior to the effective date of the lease. This requirement pertains to all households taking initial occupancy of a low-income unit on a Development administered by the Department including households transferring within the same Development. This household does not appear to have executed the notice.	
Corrective Action	Present the household with the Fair Housing Disclosure Notice form no more than one hundred twenty (120) and no fewer than thirty (30) days prior to the date the household is legally required to provide notice of their intention to terminate or renew their current lease. Submit the notice along with the first and signatory pages of the household's current lease to the Department for review. The Department has created a Corrective Action Calculator for this finding to determine the correct time frame to provide the household with the form. The calculator and the form are both available on the Department's website at http://www.tdhca.state.tx.us/pmcomp/forms.htm . Please be advised that only the units reviewed during the onsite monitoring visit were cited with noncompliance; however, it is the owner's responsibility to maintain compliance with all applicable rules and regulations. Ensure that all households that have moved in at the development since December 27,	

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2012 execute the form during the required timeframe. The executed notices do not need to be submitted to the Department since the units were not reviewed during the monitoring visit; however, these units may be deemed out of compliance during future visits if the form is not executed correctly.

Potential Administrative Penalty \$50 per violation

Unit # 123 **Bldg. # 2** **BIN # TX9100258**
Finding Household income above income limit upon initial occupancy / Program Unit not leased to Low-Income household
Noncompliance Date 11/07/2013 **Current Status** Uncorrected **Correction Date**
Reason A household occupied this unit on November 7, 2013. Paycheck stubs present in the file for both adult household members indicate that the household was not eligible at the time of initial occupancy.
Corrective Action If circumstances have changed, certify the household under current circumstances and submit screening documentation for all household members along with documentation of income and assets to the Department for review. If the household cannot be certified under current circumstances, then when the unit becomes available, occupy it with a qualifying household and submit: the lease and all lease addenda, the rental applications, the Income Certification, all supporting documentation for assets and income, the Fair Housing Choice Disclosure, and the Amenity and Supportive Services notice to the Department for review.
Potential Administrative Penalty \$1000 per violation

Unit # 125 **Bldg. # 2** **BIN # TX9100258**
Finding Failure to provide Fair Housing Disclosure
Noncompliance Date 08/01/2014 **Current Status** Uncorrected **Correction Date**
Reason Per 10TAC 10.612(a)(4), the Department's Fair Housing Disclosure Notice must be presented to the household at the time of application for occupancy and must be executed no more than one hundred twenty (120) days prior to the effective date of the lease. This requirement pertains to all households taking initial occupancy of a low-income unit on a Development administered by the Department including households transferring within the same Development. This household does not appear to have executed the notice.
Corrective Action Present the household with the Fair Housing Disclosure Notice form no more than one hundred twenty (120) and no fewer than thirty (30) days prior to the date the household is legally required to provide notice of their intention to terminate or renew their current lease. Submit the notice along with the first and signatory pages of the household's current lease to the Department for review. The Department has created a Corrective Action Calculator for this finding to determine the correct time frame to provide the household with the form. The calculator and the form are both available on the Department's website at <http://www.tdhca.state.tx.us/pmcomp/forms.htm>. Please be advised that only the units reviewed during the onsite monitoring visit were cited with noncompliance; however, it is the owner's responsibility to maintain compliance with all applicable rules and regulations. Ensure that all households that have moved in at the development since December 27,

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2012 execute the form during the required timeframe. The executed notices do not need to be submitted to the Department since the units were not reviewed during the monitoring visit; however, these units may be deemed out of compliance during future visits if the form is not executed correctly.

Potential Administrative Penalty \$50 per violation

Unit # 125 **Bldg. # 2** **BIN # TX9100258**
Finding Noncompliance with lease requirements described in 10.613 of this subchapter
Noncompliance Date 08/01/2014 **Current Status** Uncorrected **Correction Date**
Reason According to 10TAC §10.613, "a development owner shall provide each household, at the time of execution of an initial lease and whenever there is a subsequent change in common amenities, unit amenities, or required services, a notice describing those amenities and services. The notice must also contain the language listed in §10.613(l). The household was not presented with this notice at the time of initial occupancy.
Corrective Action Present the household with the form and submit evidence that the household has received the form to the Department for review. Do not backdate. Please be advised that only the units reviewed during the onsite monitoring visit were cited with noncompliance; however, it is the owner's responsibility to maintain compliance with all applicable rules and regulations. Ensure that all households that have moved in at the development since January 1, 2014 are presented with the required form. The executed forms do not need to be submitted to the Department since the units were not reviewed during the monitoring visit; however, these units may be deemed out of compliance during future visits if the form is not executed correctly.

Potential Administrative Penalty

Unit # 125 **Bldg. # 2** **BIN # TX9100258**
Finding Household income above income limit upon initial occupancy / Program Unit not leased to Low-Income household
Noncompliance Date 08/01/2014 **Current Status** Uncorrected **Correction Date**
Reason A household occupied this unit on August 1, 2014. Paycheck stubs are present in the file for household member #1, however, they are not consecutive and the Department cannot determine the pay frequency to calculate income. Additionally, household member #2 does not appear to have been adequately screened for income. The Department is unable to determine that the household was income eligible at the time of initial occupancy.
Corrective Action Obtain screening and documentation (either paycheck stubs or a payroll printout) of all of the household members' income and assets at the time of initial move-in. If the household was income eligible at the time of move-in, submit these documents to the Department for review. If the household was not eligible at initial occupancy but circumstances have changed, certify the household under current circumstances. If the household was not eligible at initial occupancy and cannot be certified

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under current circumstances, then when the unit becomes available, occupy it with a qualifying household and submit: the lease and all lease addenda, the rental applications, the Income Certification, all supporting documentation for assets and income, the Fair Housing Choice Disclosure, and the Amenity and Supportive Services notice to the Department for review.

Potential Administrative Penalty \$1000 per violation

Unit # 223 **Bldg. # 2** **BIN # TX9100258**

Finding Failure to provide Fair Housing Disclosure

Noncompliance Date 02/01/2014 **Current Status** Uncorrected **Correction Date**

Reason Per 10TAC 10.612(a)(4), the Department's Fair Housing Disclosure Notice must be presented to the household at the time of application for occupancy and must be executed no more than one hundred twenty (120) days prior to the effective date of the lease. This requirement pertains to all households taking initial occupancy of a low-income unit on a Development administered by the Department including households transferring within the same Development. This household does not appear to have executed the notice.

Corrective Action Present the household with the Fair Housing Disclosure Notice form no more than one hundred twenty (120) and no fewer than thirty (30) days prior to the date the household is legally required to provide notice of their intention to terminate or renew their current lease. Submit the notice along with the first and signatory pages of the household's current lease to the Department for review. The Department has created a Corrective Action Calculator for this finding to determine the correct time frame to provide the household with the form. The calculator and the form are both available on the Department's website at <http://www.tdhca.state.tx.us/pmcomp/forms.htm>. Please be advised that only the units reviewed during the onsite monitoring visit were cited with noncompliance; however, it is the owner's responsibility to maintain compliance with all applicable rules and regulations. Ensure that all households that have moved in at the development since December 27, 2012 execute the form during the required timeframe. The executed notices do not need to be submitted to the Department since the units were not reviewed during the monitoring visit; however, these units may be deemed out of compliance during future visits if the form is not executed correctly.

Potential Administrative Penalty \$50 per violation

Unit # 223 **Bldg. # 2** **BIN # TX9100258**

Finding Noncompliance with lease requirements described in 10.613 of this subchapter

Noncompliance Date 02/01/2014 **Current Status** Uncorrected **Correction Date**

Reason According to 10TAC §10.613, "a development owner shall provide each household, at the time of execution of an initial lease and whenever there is a subsequent change in common amenities, unit amenities, or required services, a notice describing those amenities and services. The notice must also contain the language listed in §10.613(l). The household was not presented with this notice at the time of initial occupancy.

Corrective Action Present the household with the form and submit evidence that the household has received the form to the Department for review. Do not backdate. Please be advised that only the units reviewed during the onsite monitoring visit were cited with noncompliance; however, it is the owner's responsibility to maintain compliance with all applicable rules and regulations.

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Ensure that all households that have moved in at the development since January 1, 2014 are presented with the required form. The executed forms do not need to be submitted to the Department since the units were not reviewed during the monitoring visit; however, these units may be deemed out of compliance during future visits if the form is not executed correctly.

**Potential Administrative
Penalty**

Unit # 223	Bldg. # 2	BIN # TX9100258
Finding	Household income above income limit upon initial occupancy / Program Unit not leased to Low-Income household	
Noncompliance Date	02/01/2014	Current Status Uncorrected Correction Date
Reason	A household occupied this unit on February 1, 2014. Paycheck stubs present in the file indicate that the household was not eligible at the time of initial occupancy.	
Corrective Action	If circumstances have changed, certify the household under current circumstances and submit screening documentation for all household members along with documentation of income and assets to the Department for review. If the household cannot be certified under current circumstances, then when the unit becomes available, occupy it with a qualifying household and submit: the lease and all lease addenda, the rental applications, the Income Certification, all supporting documentation for assets and income, the Fair Housing Choice Disclosure, and the Amenity and Supportive Services notice to the Department for review.	

**Potential Administrative
Penalty** \$1000 per violation

Unit # 155	Bldg. # 3	BIN # TX9100259
Finding	Failure to provide Fair Housing Disclosure	
Noncompliance Date	06/01/2014	Current Status Uncorrected Correction Date
Reason	Per 10TAC 10.612(a)(4), the Department's Fair Housing Disclosure Notice must be presented to the household at the time of application for occupancy and must be executed no more than one hundred twenty (120) days prior to the effective date of the lease. This requirement pertains to all households taking initial occupancy of a low-income unit on a Development administered by the Department including households transferring within the same Development. This household does not appear to have executed the notice.	
Corrective Action	Present the household with the Fair Housing Disclosure Notice form no more than one hundred twenty (120) and no fewer than thirty (30) days prior to the date the household is legally required to provide notice of their intention to terminate or renew their current lease. Submit the notice along with the first and signatory pages of the household's current lease to the Department for review. The Department has created a Corrective Action Calculator for this finding to determine the correct time frame to provide the household with the form. The calculator and the form are both available on the Department's website at http://www.tdhca.state.tx.us/pmcomp/forms.htm . Please be advised that only the units reviewed during the onsite monitoring visit were cited with noncompliance; however, it is the owner's responsibility to maintain compliance with all applicable rules and regulations. Ensure that all households that have moved in at the development since December 27,	

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2012 execute the form during the required timeframe. The executed notices do not need to be submitted to the Department since the units were not reviewed during the monitoring visit; however, these units may be deemed out of compliance during future visits if the form is not executed correctly.

Potential Administrative Penalty \$50 per violation

Unit # 155	Bldg. # 3	BIN # TX9100259
Finding	Noncompliance with lease requirements described in 10.613 of this subchapter	
Noncompliance Date	06/01/2014	Current Status Uncorrected
Reason	According to 10TAC §10.613, "a development owner shall provide each household, at the time of execution of an initial lease and whenever there is a subsequent change in common amenities, unit amenities, or required services, a notice describing those amenities and services. The notice must also contain the language listed in §10.613(l). The household was not presented with this notice at the time of initial occupancy.	
Corrective Action	Present the household with the form and submit evidence that the household has received the form to the Department for review. Do not backdate. Please be advised that only the units reviewed during the onsite monitoring visit were cited with noncompliance; however, it is the owner's responsibility to maintain compliance with all applicable rules and regulations. Ensure that all households that have moved in at the development since January 1, 2014 are presented with the required form. The executed forms do not need to be submitted to the Department since the units were not reviewed during the monitoring visit; however, these units may be deemed out of compliance during future visits if the form is not executed correctly.	

Potential Administrative Penalty

Unit # 155	Bldg. # 3	BIN # TX9100259
Finding	Household income above income limit upon initial occupancy / Program Unit not leased to Low-Income household	
Noncompliance Date	06/01/2014	Current Status Uncorrected
Reason	A household occupied this unit on June 1, 2014. The rental application indicates that the adult household member worked at Home Depot, but no verification of this income is present in the file. A handwritten employment verification from Floor Installation Service is present, but this income does not appear to have been screened for. The Department cannot determine that the household was income eligible at the time of initial occupancy.	
Corrective Action	Obtain screening and documentation (either check stubs or a payroll printout) of all of the household members' income and assets at the time of initial move-in. If the household was income eligible at the time of move-in, submit these documents to the Department for review. If the household was not eligible at initial occupancy but circumstances have changed, certify the household under current circumstances. If the household was not eligible at initial occupancy and cannot be certified under	

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current circumstances, then when the unit becomes available, occupy it with a qualifying household and submit: the lease and all lease addenda, the rental applications, the Income Certification, all supporting documentation for assets and income, the Fair Housing Choice Disclosure, and the Amenity and Supportive Services notice to the Department for review.

**Potential Administrative
Penalty**

\$1000 per violation

Attachment 3

Tenant File Guidelines

The following technical support does not represent a complete list of all file requirements and is intended only as a guide. All onsite staff responsible for accepting and processing applications must 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>.

Do not back-date any forms.

Do not use white-out or corrective tape on program forms. If a correction is needed, the tenant may mark through the error with a single line and initial any corrections made.

Tenant File:

1. **Intake Application:** The Department does not have a required form to screen households, but has published a form that can be used 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, payroll print-outs, leave and earnings statements, etc, 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:** Although Employment Verification Forms are typically acceptable, only first-hand documentation will be accepted under this Agreed Final Order if Owner chooses to certify a household under current circumstances. Third-party documentation (employment verifications, letters from employers, etc) will not be sufficient to correct the noncompliance under this Agreed Final Order if a household is being recertified under current circumstances. Otherwise, the typical requirements for an Employment Verification Form are that 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 financial institution. 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 financial institution's portion has authority to do so and has access to all applicable information in order to verify the asset(s). 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 limit, 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 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 in the rule at 10 Tex. Admin. Code §10.613(a).

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 same 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>.

7. **Notes to the file:** Do not complete screening documentation on the tenants' behalf. In the event that a tenant is unable to fill out a form, then a family member, friend, or case-worker should be asked and a note should be added to the file. As a last resort, management may fill out forms for tenants, but a clarification should be maintained in the file explaining the circumstances. For this Agreed Final Order, the Department will not accept screening documentation that has been filled out by onsite staff except in circumstances of documented need.

Attachment 4

UPCS Instructions

1. **Unresolved UPCS violations:** Broken mechanized vehicle entry gate.
2. **Required action:** The mechanized gate is not a requirement under this LURA, however, if present, it must be fully functional. A mechanized gate that is permanently closed or permanently open does not constitute a fully functional gate. You must either (A) repair the gate to be fully functional as a mechanized vehicle entry gate or (B) remove gate and all evidence of the gate, including mechanical boxes, tracks, chains, supports, etc.
3. **Prepare corrective documentation for your chosen resolution following these guidelines:** <http://www.tdhca.state.tx.us/pmcomp/inspections/docs/UPCS-WorkOrderGuidelines.pdf>
4. **Submit corrective documentation via CMTS** following the instructions at <http://www.tdhca.state.tx.us/pmcdocs/CMTSUserGuide-AttachingDocs.pdf> on or before 11/25/2016, then email Ysella Kaseman at ysella.kaseman@tdhca.state.tx.us to let her know that the submission is ready for review

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

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BOARD ACTION REQUEST

LEGAL DIVISION

FEBRUARY 25, 2016

Presentation, Discussion, and Possible Action regarding the adoption of an Agreed Final Order concerning Ebenezer Senior Housing (HOME 532339 / CMTS 2681) and Medina Court Senior Housing (HOME 531103 / CMTS 2635)

RECOMMENDED ACTION

WHEREAS, Ebenezer Senior Housing (HOME 532339 / CMTS 2681) and Medina Court Senior Housing (HOME 531103 / CMTS 2635), both owned by East Austin Development Corporation (“Owner”), have uncorrected compliance findings relating to the applicable land use restriction agreements and the associated statutory and rule requirements;

WHEREAS, on January 26, 2016, 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 for each property, assessing an administrative penalty of \$250 each, to be fully forgiven if all violations are resolved as specified in the Agreed Final Order on or before March 28, 2016;

WHEREAS, for Ebenezer Senior Housing, there is one unresolved compliance finding for failure to properly calculate the utility allowance for 9 units;

WHEREAS, for Medina Court Senior Housing, there are two unresolved compliance findings, one relating to a Fair Housing Disclosure Notice for one unit and the other relating to a Notice of Amenities and Services for one unit; and

WHEREAS, staff has based its recommendations for the Agreed Final Orders 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 these cases;

NOW, therefore, it is hereby

RESOLVED, that an Agreed Final Order for each property, each assessing an administrative penalty of \$250, subject to full forgiveness as outlined above for noncompliance at Ebenezer Senior Housing (HOME 532339 / CMTS 2681) and Medina Court Senior Housing (HOME 531103 / CMTS 2635), 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

East Austin Development Corporation (“Owner”) is the owner of two properties monitored by the Department: (1) Ebenezer Senior Housing, a low income apartment complex comprising 12 units, located in Austin, Travis County (“Ebenezer”), and (2) Medina Court Senior Housing, a low income apartment complex comprised of 20 units, located in Lockhart, Caldwell County (“Medina”). Records of the Texas Secretary of State list the following corporate officers for Owner: Alfred Dotson (Director), Marvin C Griffin (Director), Mary J Hurst (Director and Secretary), General Marshall (Director and President), Robert Organ (Director and Vice-President), Ricky Freeman (Director), Debra Overton (Director), and Marjorie Rhone (Director). Also associated with the organization is Van Dyke Johnson (Executive Director). The property is self-managed.

Ebenezer is subject to a Land Use Restriction Agreement (“Ebenezer LURA”) signed in 1995 in consideration of a HOME award in the amount of \$701,720 to build and operate the property.

Medina is subject to a Land Use Restriction Agreement (“Ebenezer LURA”) signed in 2002 in consideration of a HOME award in the amount of \$999,890 to build and operate the property.

Owner previously participated in an informal conference with the Enforcement Committee in 2011 regarding both properties. At the time, Ebenezer had accessibility findings and Medina had one non-eligible household. Violations were resolved informally according to a series of deadlines set by the Committee and no penalty was recommended.

The following compliance violations identified during 2013 were referred for an administrative penalty and were resolved in December of 2015, after intervention by the Enforcement Committee:

1. Ebenezer: Fair Housing Disclosure Notice for units 1 and 10.

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

1. Ebenezer:
 - a. Utility allowance. As of the informal conference date, the unit status report showed 9 units with the old 2013 utility allowance and 3 units with the 2015 utility allowance. In order to resolve, Owner must obtain the most recent utility allowance from the Austin Housing Authority, calculate the utility allowance, then update the unit status report for all 12 units.
2. Medina:
 - a. Fair Housing Disclosure Notice – Unit A-2. Form has since been replaced by the Tenant Rights and Resources Guide, the acknowledgment to which must be signed by the household, then submitted via CMTS.
 - b. Notice of Amenities and Services – Unit C-1. Owner represented during the informal conference that this household has moved out. Finding is uncorrectable.

Owner participated in an informal conference with the Enforcement Committee on January 26, 2016, and agreed to sign an Agreed Final Order for each property with the following terms:

1. A \$250 administrative penalty for each property, subject to full forgiveness as indicated below;
2. Owner must correct the file monitoring violations as indicated in the Agreed Final Orders, and submit full documentation of the corrections to TDHCA on or before March 28, 2016;
3. If Owner complies with all requirements and addresses all violations as required, the full administrative penalty will be forgiven, as appropriate for each property; and
4. If Owner violates any provision of the Agreed Final Orders, the full administrative penalty of \$250 will immediately come due and payable, as appropriate for each property.

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 \$250 per property, for a total administrative penalty of \$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
EAST AUSTIN DEVELOPMENT
CORPORATION WITH RESPECT TO
EBENEZER SENIOR HOUSING
(HOME FILE # 532339 / CMTS # 2681)

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BEFORE THE
TEXAS DEPARTMENT OF
HOUSING AND
COMMUNITY AFFAIRS

AGREED FINAL ORDER

General Remarks and official action taken:

On this 25th day of February, 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 **EAST AUSTIN DEVELOPMENT CORPORATION**, a Texas nonprofit 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, Respondent was awarded an allocation of HOME funds by the Board, in the original principal amount of \$701,720 to build and operate Ebenezer Senior Housing (“Property”) (HTC file No. 532339 / CMTS No. 2681 / LDLD No. 78).

2. Respondent signed a land use restriction agreement (“LURA”) regarding the Property. The LURA was effective December 18, 1995, and filed of record at Volume 12595, Page 1096 of the Official Public Records of Real Property of Travis County, Texas (“Records”), as amended by a First Amendment executed on July 7, 2012, and filed in the Records at Document Number 2012111152.
3. Respondent is a Texas nonprofit 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:

4. An on-site monitoring review was conducted on November 22, 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 March 16, 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 §10.607 (Utility Allowances), which requires all developments to establish a utility allowance. Partial corrective documentation was received, but was not fully acceptable and the finding remains unresolved.
 - b. Respondent failed to provide the Fair Housing Disclosure Notice for units 1 and 10, a violation of 10 TEX. ADMIN. CODE § 10.608 (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.” Acceptable corrective documentation to resolve the finding for each unit was submitted December 21, 2015, 394 days past the corrective deadline, after an administrative penalty informal conference notice was sent.
5. The following violations remain outstanding at the time of this order:
 - a. Utility allowance violation described in FOF #4a;

CONCLUSIONS OF LAW

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.

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. Respondent violated 10 TEX. ADMIN. CODE § 10.607 in 2013 by failing to properly calculate a utility allowance;
4. Respondent violated 10 TEX. ADMIN. CODE §10.608 in 2013, by failing to execute the Fair Housing Disclosure Notice during the appropriate time frame for units 1 and 10;
5. 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.
6. 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.
7. 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.
8. An administrative penalty of \$250 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 \$250, 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 March 28, 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, 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 fails to satisfy any conditions or otherwise violates any provision of this order, then the full administrative penalty in the amount of \$250 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. 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.

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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

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

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

3. Utility Allowance – Respondent must:

- i. Obtain the most recent utility allowance schedule from the Austin Housing Authority and upload a copy to CMTS;
- ii. Calculate the utility allowance;
- iii. Update the Unit Status Report / Quarterly Vacancy Report in CMTS with the most current tenant paid rent, utility allowance, and the rental assistance amounts for each of the Property's 12 units;
- iv. Email Ysella Kaseman at ysella.kaseman@tdhca.state.tx.us once all of the above have been completed.

ENFORCEMENT ACTION AGAINST
EAST AUSTIN ECONOMIC
DEVELOPMENT CORPORATION
WITH RESPECT TO MEDINA COURT
SENIOR HOUSING (HOME FILE
531103 / CMTS # 2635)

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BEFORE THE
TEXAS DEPARTMENT OF
HOUSING AND
COMMUNITY AFFAIRS

AGREED FINAL ORDER

General Remarks and official action taken:

On this 25th day of February, 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 **EAST AUSTIN ECONOMIC DEVELOPMENT CORPORATION**, a Texas nonprofit 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 2002, Respondent was awarded an allocation of HOME funds by the Board, in the amount of \$999,890 to build and operate Medina Court Senior Housing ("Property") (HTC file No. 531103 / CMTS No. 2635 / LDLD No. 79).

2. Respondent signed a land use restriction agreement (“LURA”) regarding the Property. The LURA was effective September 26, 2002, and filed of record at Volume 317, Page 115 of the Official Public Records of Real Property of Caldwell County, Texas (“Records”), as amended by a First Amendment executed on January 5, 2012, and mistakenly filed in the Official Public Records of Real Property of Travis County, Texas at Document Number 2012003740. The amendment shall be re-recorded as appropriate in the Records.
3. Respondent is a Texas nonprofit 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:

4. An on-site monitoring review was conducted on July 17, 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 November 13, 2014, corrective action deadline was set, however, the following violations were not corrected before the deadline:

- a. Respondent failed to provide the Fair Housing Disclosure Notice for unit A-2, a violation of 10 TEX. ADMIN. CODE § 10.612 (Tenant File Requirements), which required 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.”

The finding remains unresolved for unit A-2 because a signed Tenant Rights and Resources Guide Acknowledgment has not been submitted.

- b. Respondent failed to provide a Notice of Amenities and Services to unit C-1, 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.”

The finding is uncorrectable for unit C-1 because the household moved out without signing.

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. Fair Housing Disclosure Notice violation described in FOF #4.a;
 - b. Notice of Amenities and Services violation described in FOF #4.a;

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. Respondent violated 10 TEX. ADMIN. CODE §10.612 in 2014, by failing to execute the Fair Housing Disclosure Notice during the appropriate time frame for unit A-2;
4. Respondent violated 10 TEX. ADMIN. CODE §10.613 in 2014, by failing to execute the Notice of Amenities and Services for unit C-1;
5. 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.
6. 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.
7. 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.
8. An administrative penalty of \$250 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 \$250, 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 March 28, 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 2, 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 fails to satisfy any conditions or otherwise violates any provision of this order, then the full administrative penalty in the amount of \$250 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. 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

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

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

3. **Fair Housing Disclosure Notice – Unit A-2.** This notice has since been replaced by the Tenants Rights and Resource Guide as indicated at 10 TEX. ADMIN. CODE §10.613(k).

Implement Tenants Rights and Resource Guide as indicated at 10 TEX. ADMIN. CODE §10.613(k) and submit signed Tenants Rights and Resource Guide Acknowledgments for Unit A-2. If the tenant has moved out without signing this form, please submit a letter to TDHCA including the move-out date and acknowledging that the finding cannot be resolved.

4. **Notice of Amenities and Services – Unit C-1.** This notice has since been replaced by the Tenants Rights and Resource Guide as indicated at 10 TEX. ADMIN. CODE §10.613(k).

Implement Tenants Rights and Resource Guide as indicated at 10 TEX. ADMIN. CODE §10.613(k) and submit signed Tenants Rights and Resource Guide Acknowledgments for Unit C-1. If the tenant has moved out without signing this form, please submit a letter to TDHCA including the move-out date and acknowledging that the finding cannot be resolved.

Attachment 2:

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

FEBRUARY 25, 2016

Presentation, Discussion, and Possible Action regarding the adoption of an Agreed Final Order concerning Quail Run (HTC 91049 / CMTS 964)

RECOMMENDED ACTION

WHEREAS, Quail Run (HTC 91049 / CMTS 964), owned by XIT Rental – Texas, Ltd. (“Owner”), has uncorrected compliance findings relating to the applicable land use restriction agreement and the associated statutory and rule requirements;

WHEREAS, on January 26, 2016, the Enforcement Committee considered a plan submitted by Owner’s representatives and agreed, subject to Board approval, to enter into an Agreed Final Order assessing an administrative penalty of \$500, to be fully forgiven if all violations are resolved as specified in the Agreed Final Order on or before November 25, 2016;

WHEREAS, there are two unresolved Uniform Physical Conditions Standards (“UPCS”) violations that require full replacement of sidewalks and parking spots; this work is scheduled to be completed between spring and fall of 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 \$500, subject to full forgiveness as outlined above for noncompliance at Quail Run (HTC 91049 / CMTS 964), 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

XIT Rental – Texas, Ltd. (“Owner”) is the owner of one property monitored by the Department, Quail Run, a low income apartment complex comprising 24 units, located in Dalhart, Hartley County (“Property”). Records of the Texas Secretary of State (“TX SOS”) list the following corporate officers for Owner: Lev Connor (co-general partner) and XIT Rental, Inc (co-general partner). Records of the TX SOS list the following corporate officers for XIT Rental, Inc.: Joe Youngblood (President, Director), Herbert Youngblood (Vice President, Director), Lev Youngblood (Secretary, Director). Property is managed by Ace Management.

Property is subject to a Land Use Restriction Agreement (“LURA”) signed in 1992 in consideration of an annual low income housing tax credit award in the amount of \$27,668 to build and operate the Property.

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

Deficiency	Level	Title	Notes
Parking lots / driveways / roads	L2	Cracks / Settlement / Heaving / Loose Materials / Potholes	Surface Degradation
Walkways / steps	L2	Cracks / Settlement / Heaving	Spalling

Owner submitted a corrective plan calling for extensive concrete replacement, to be completed in the required sections during the spring and fall of 2016. The plan was considered by the Enforcement Committee on January 26, 2016, and Owner representatives have agreed to sign an Agreed Final Order with the following terms:

1. A \$500 administrative penalty, subject to full forgiveness as indicated below;
2. Owner must correct the UPCS violations as indicated in the Agreed Final Order, and submit full documentation of the corrections to TDHCA on or before November 25, 2016;
3. If Owner complies with all requirements and addresses all violations as required, the full administrative penalty will be forgiven; and
4. If Owner violates any provision of the Agreed Final Order, the full administrative penalty of \$500 will 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 \$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
XIT RENTAL - TEXAS, LTD. WITH
RESPECT TO QUAIL RUN (HTC FILE
91049 / CMTS # 963)

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BEFORE THE
TEXAS DEPARTMENT OF
HOUSING AND
COMMUNITY AFFAIRS

AGREED FINAL ORDER

General Remarks and official action taken:

On this 25th day of February, 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 **XIT RENTAL - TEXAS, 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 1991, Respondent was awarded an allocation of Low Income Housing Tax Credits by the Board, in an annual amount of \$27,668 to build and operate Quail Run (“Property”) (HTC file No. 91049 / CMTS No. 963 / LDLD No. 578).
2. Respondent signed a land use restriction agreement (“LURA”) regarding the Property. The LURA was effective December 1, 1992, and filed of record at Volume 18, Page 862 of the Official Public Records of Real Property of Hartley 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. A Uniform Physical Condition Standards ("UPCS") inspection was conducted on June 29, 2015. Inspection reports showed numerous serious property condition violations, a violation of 10 TEX. ADMIN. CODE § 10.621 (Property Condition Standards). Notifications of noncompliance were sent and an October 8, 2015, corrective action deadline was set. A response was timely received on October 8, 2015, but stated only that funds were not available to complete the repairs. Violations that remain unresolved include:

Deficiency	Level	Title	Notes
Parking lots / driveways / roads	L2	Cracks / Settlement / Heaving / Loose Materials / Potholes	Surface Degradation
Walkways / steps	L2	Cracks / Settlement / Heaving	Spalling

5. The following violations remain outstanding at the time of this order:
 - a. UPCS violations described in FOF #4;

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 10 TEX. ADMIN. CODE § 10.621 in 2015, by failing to comply with HUD's Uniform Physical Condition Standards when major violations were discovered and not timely corrected.²

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. 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.
6. 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.
7. 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.
8. An administrative penalty of \$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 \$500, subject to deferral as further ordered below.

IT IS FURTHER ORDERED that Respondent shall repair all UPCS violations as indicated in Attachment 1 and submit work orders in the correct format, and including all necessary parts, to document the corrections to TDHCA on or before November 25, 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 2, 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 fails to satisfy any conditions or otherwise violates any provision of this order, then the full 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.

² HUD's Uniform Physical Condition Standards are the standards adopted by TDHCA pursuant to 10 TEX. ADMIN. CODE 10.621(a)

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. 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.

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Attachment 1

UPCS Instructions

1. UPCS violations that must be corrected:

Deficiency	Level	Title	Notes
Parking lots / driveways / roads	L2	Cracks / Settlement / Heaving / Loose Materials / Potholes	Surface Degradation
Walkways / steps	L2	Cracks / Settlement / Heaving	Spalling



2. Prepare corrective documentation following these guidelines:
<http://www.tdhca.state.tx.us/pmcomp/inspections/docs/UPCS-WorkOrderGuidelines.pdf>
3. Submit corrective documentation via CMTS following the instructions at <http://www.tdhca.state.tx.us/pmedocs/CMTSUserGuide-AttachingDocs.pdf> on or before 11/25/2016, then email Ysella Kaseman at ysella.kaseman@tdhca.state.tx.us to let her know that the submission is ready for review

Attachment 2:

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
RULE §10.406	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
HOUSING RESOURCE CENTER
FEBRUARY 25, 2016

Presentation, Discussion, and Possible Action on Amendments to the 2016 State of Texas Consolidated Plan: One-Year Action Plan

RECOMMENDED ACTION

WHEREAS, the U.S. Department of Housing and Urban Development (“HUD”) requires the submission of a One-Year Action Plan (“OYAP”) in accordance with 24 CFR §91.320;

WHEREAS, the draft 2016 OYAP was approved by the Board on October 15, 2015, and released for public comment from October 19, 2015, through November 19, 2015;

WHEREAS, the final 2016 OYAP was approved by the Board on December 17, 2015, and the Executive Director and his designees were each authorized, empowered and directed, for and on behalf of the Department, to submit the 2016 OYAP to HUD by the due date of January 15, 2016;

WHEREAS, on January 12, 2016, HUD instructed the Department to wait before submitting the 2016 OYAP until further guidance was released; and

WHEREAS, on January 28, 2016, HUD released Notice CPD-16-01, advising the Department to wait and submit the 2016 OYAP after the FY 2016 formula allocations have been announced;

NOW, therefore, it is hereby

RESOLVED, that the Department will make revisions to the 2016 OYAP in accordance with Notice CPD-16-01 and will release an Amended 2016 OYAP for no less than 30 days of public comment, in accordance with the approved Citizen Participation Plan and

FURTHER RESOLVED, that following the public comment period, the Executive Director and his designees are each hereby authorized, empowered and directed, for and on behalf of the Department, to make such non-substantive grammatical and technical changes as they deem necessary or advisable, and then submit the final Amended 2016 OYAP to HUD within 60 days after the FY 2016 formula allocations have been announced as required by Notice CPD-16-01.

BACKGROUND

The Texas Department of Housing and Community Affairs (“TDHCA”), Texas Department of Agriculture (“TDA”), and Department of State Health Services (“DSHS”) prepared the 2016 State of Texas Consolidated Plan: One-Year Action Plan (“Plan”) in accordance with 24 CFR §91.320. TDHCA coordinates the preparation of the State of Texas Consolidated Plan documents. The Plan covers the State’s

administration of the Community Development Block Grant Program (“CDBG”) by TDA, the Housing Opportunities for Persons with AIDS Program (“HOPWA”) by DSHS, and the Emergency Solutions Grant (“ESG”) Program and the HOME Investment Partnerships (“HOME”) Program by TDHCA.

The Plan reflects the intended uses of funds received by the State of Texas from HUD for Program Year 2016. The Program Year began on February 1, 2016, and ends on January 31, 2017. The Plan also illustrates the State’s strategies in addressing the priority needs and specific goals and objectives identified in the 2015-2019 State of Texas Consolidated Plan.

The Plan was available for public comment from October 19, 2015, through November 19, 2015. Comment on the Plan was accepted in writing or directly at the public hearing held on Monday, November 16, 2015, in Austin. During this public comment period, TDHCA received four comments for which one change to the Plan was made. A list of the comments and staff responses is found in Attachment A of the Plan.

Additionally, in response to HUD’s Interim Final Rule on Changes to Accounting Requirements for CDBG, published in the *Federal Register* November 12, 2015, detail relating to CDBG program income retained by local subrecipients has been added to the Plan. This detail is provided as Attachment B and contains a description of each of these local subrecipient accounts, including the name of the local entity administering the funds, the amounts expected to be available during the program year, the eligible activity type(s) expected to be carried out with the program income, and the national objective(s) served with these funds.

Per 24 CFR §91.15(a)(1), the Plan should be submitted to HUD on December 15, 2015, which is at least 45 days before the start PY 2016. However, on August 13, 2015, the Department received written approval from HUD following a request to extend the submission date to January 15, 2016. That extension allowed the Department to incorporate new regulatory and reporting requirements into the Plan, while adhering to the State of Texas Citizen Participation Plan. With this extension, the final version of the Plan was to be submitted to HUD by January 15, 2016. However, on January 12, 2016, HUD instructed the Department to wait before submitting the 2016 OYAP until further guidance was released.

On January 28, 2016, HUD released Notice CPD-16-01, advising the Department to wait until after the FY 2016 formula allocations are released before submitting the 2016 OYAP. HUD estimates that “grantees can expect to learn their FY 2016 formula program allocation amounts no later than mid-February.” The 2016 OYAP will be due to HUD within 60 days after the FY 2016 formula allocations have been announced.

Staff will make available for 30 days of public comment the following amendments to the 2016 OYAP based on updated HUD guidance:

- Change allocations amounts for all programs from estimated to final 2016 allocations;
- Update the HOME Method of Distribution;
- Update the definition of Chronically Homeless for ESG; and
- Add contingency provision language to the Citizen Participation Plan for estimated and actual allocation amounts for future years.

Staff recommends board approval of the release of an Amended 2016 OYAP for public comment. Further, staff recommends that following the close of the public comment period that the final Amended 2016 OYAP be submitted directly to HUD staying within the 60 day period after the FY 2016 formula allocations have been announced, as required by Notice CPD-16-01.

1f

BOARD ACTION REQUEST

COMMUNITY AFFAIRS

FEBRUARY 25, 2016

Presentation, Discussion, and Possible Action on Approval of the Draft Federal Fiscal Year (“FFY”) 2016 Department of Energy (“DOE”) Weatherization Assistance Program (“WAP”) State Plan for Public Comment.

RECOMMENDED ACTION

WHEREAS, the Energy Conservation In Existing Buildings Act of 1976 (42 USC §6851), as amended in Title II, Part 2 of the National Energy Conservation Policy Act allows DOE WAP funds to be utilized to carry out a program of weatherization assistance for low-income persons, as well as 10% for planning and administration;

WHEREAS, the Department develops and submits a State Plan to the DOE each year to administer the WAP;

WHEREAS, the Department has received notice of Federal Fiscal Year (“FFY”) 2016 Department of Energy Weatherization Assistance Program (“DOE WAP”) funds in the amount of \$5,165,132;

WHEREAS, the DOE WAP funds are allocated based on the formula detailed in 10 TAC §5.503, Distribution of WAP Funds; and

WHEREAS, the attached Draft FFY 2016 DOE WAP State Plan is proposed for public comment;

NOW, therefore, it is hereby

RESOLVED, that the Draft FFY 2016 DOE WAP State Plan, in the form presented to this meeting, is hereby approved for public comment and public hearing and

FURTHER RESOLVED, that the final plan with consideration for public comment and technical corrections made by staff, along with award recommendations for Subgrantees as indicated in Section IV.1 of the State Plan will be presented to the Board no later than the April 28, 2016, meeting.

BACKGROUND

The Department has received notice of an award of \$5,165,132 for the 2016 DOE WAP but has not yet received a funding letter. The DOE WAP funding provides for the installation of weatherization measures to increase energy efficiency of a home including caulking; weather-stripping; adding ceiling, wall, and floor insulation; patching holes in the building envelope; duct work; and repair or replacement of energy inefficient heating and cooling systems. Additionally, the funds allow Subgrantees to complete financial audits, household energy audits, outreach and engagement activities, and program administration. Also, the funding provides for state administration and state training and technical assistance activities. The list of Subgrantees and the proposed award amounts are included in the State Plan in section IV.1, Subgrantees. This list of Subgrantees has not been through the Department's Previous Participation Review and the Board is not approving a list of awardees at this time. To the extent that the 2016 funds are greater or less than the amount in the draft plan, the proposed activities will be proportionally adjusted.

The draft plan will be posted on the Community Affairs Division's website on Friday, February 26, 2016. An announcement of the availability of the draft plan and details regarding a public hearing for the plan will be published in the *Texas Register* on Friday, March 11, 2016. The Department will conduct a public hearing for the draft plan on Monday, March 21, 2016, at Department headquarters.

DOE regulations require a Weatherization Policy Advisory Council be designated in the Plan in order to provide guidance and comment on the plan. The Policy Advisory Council is comprised of six individuals appointed by the Department. The Council meeting is scheduled to occur after the conclusion of the Public Hearing and after public comment has been received.

The full text of the 2016 Draft DOE State Plan may be viewed at the Department's website: <http://www.tdhca.state.tx.us/board/meetings.htm>. The public may also receive a copy of the 2016 Draft DOE State Plan by contacting Laura Saintey at laura.saintey@tdhca.state.tx.us or by phone at (512) 475-3854.

APPLICATION FOR FEDERAL ASSISTANCE SF-424

Version 02

1. Type of Submission: <input type="checkbox"/> Preapplication <input checked="" type="checkbox"/> Application <input type="checkbox"/> Changed/Corrected Application		2. Type of Application: <input type="checkbox"/> New <input checked="" type="checkbox"/> Continuation <input type="checkbox"/> Revision		If Revision, select appropriate letter(s) Other (specify):	
3. Date Received			4. Applicant Identifier:		
5a. Fed Entity Identifier:			5b. Federal Award Identifier: DE-EE0006186		
State Use Only:					
6. Date Received by State: 07/01/2016		7. State Application Identifier: TX-W-200			
8. APPLICANT INFORMATION:					
a. Legal Name: State of Texas					
b. Employer/Taxpayer Identification Number (EIN/TIN): 742610542			c. Organizational DUNS: 806781902		
d. Address:					
Street 1: P.O. BOX 13941					
Street 2:					
City: Austin					
County:					
State: TX					
Province:					
Country: U.S.A.					
Zip / Postal Code: 787113941					
e. Organizational Unit:					
Department Name: Texas Department of Housing and Community Affairs			Division Name: Community Affairs Division		
f. Name and contact information of person to be contacted on matters involving this application:					
Prefix: Mr First Name: Michael					
Middle Name:					
Last Name: DeYoung					
Suffix:					
Title: Community Affairs Division Director					
Organizational Affiliation: Texas Dept. of Housing and Community Affairs					
Telephone Number: 5124752125		Fax Number: 5124753935			
Email: michael.deyoung@tdhca.state.tx.us					

APPLICATION FOR FEDERAL ASSISTANCE SF-424

Version 02

9. Type of Applicant:

A State Government

10. Name of Federal Agency:

U. S. Department of Energy

11. Catalog of Federal Domestic Assistance Number:

81.042

CFDA Title:

Weatherization Assistance Program

12. Funding Opportunity Number:

DE-WAP-0002016

Title:

2016 Weatherization Assistance Funding Opportunity

13. Competition Identification Number:

Title:

14. Areas Affected by Project (Cities, Counties, States, etc.):

Statewide

15. Descriptive Title of Applicant's Project:

Provide Statewide Weatherization Assistance

BUDGET INFORMATION - Non-Construction Programs

1. Program/Project Identification No. EE0006186		2. Program/Project Title Weatherization Assistance Program	
3. Name and Address State of Texas P.O. BOX 13941 Austin, TX 787113941		4. Program/Project Start Date 07/01/2016	5. Completion Date 06/30/2017

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Federal Catalog No. (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1. 2016 WAP Formula Funds	81.042	\$ 0.00		\$ 5,165,132.00		\$ 5,165,132.00
2. STATE			\$ 0.00		\$ 0.00	\$ 0.00
3.						
4.						
5. TOTAL		\$ 0.00	\$ 0.00	\$ 5,165,132.00	\$ 0.00	\$ 5,165,132.00

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	Grant Program, Function or Activity				Total (5)
	(1) GRANTEE ADMINISTR ATION	(2) SUBGRANTE E ADMINISTR	(3) GRANTEE T&TA	(4) SUBGRANT EE T&TA	
a. Personnel	\$ 148,906.00	\$ 0.00	\$ 158,343.00	\$ 0.00	\$ 307,249.00
b. Benefits	\$ 37,227.00	\$ 0.00	\$ 39,586.00	\$ 0.00	\$ 76,813.00
c. Travel	\$ 0.00	\$ 0.00	\$ 27,720.00	\$ 0.00	\$ 27,720.00
d. Equipment	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
e. Supplies	\$ 2,000.00	\$ 0.00	\$ 2,004.00	\$ 0.00	\$ 4,004.00
f. Contract	\$ 0.00	\$ 391,851.00	\$ 0.00	\$ 528,576.00	\$ 4,607,970.00
g. Construction	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
h. Other	\$ 3,114.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 3,114.00
i. Total Direct Charges	\$ 191,247.00	\$ 391,851.00	\$ 227,653.00	\$ 528,576.00	\$ 5,026,870.00
j. Indirect	\$ 67,008.00	\$ 0.00	\$ 71,254.00	\$ 0.00	\$ 138,262.00
k. Totals	\$ 258,255.00	\$ 391,851.00	\$ 298,907.00	\$ 528,576.00	\$ 5,165,132.00
7. Program Income	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00

BUDGET INFORMATION - Non-Construction Programs

1. Program/Project Identification No. EE0006186		2. Program/Project Title Weatherization Assistance Program	
3. Name and Address State of Texas P.O. BOX 13941 Austin, TX 787113941	4. Program/Project Start Date 07/01/2016		
	5. Completion Date 06/30/2017		

SECTION A - BUDGET SUMMARY						
Grant Program Function or Activity (a)	Federal Catalog No. (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.						
2.						
3.						
4.						
5. TOTAL		\$ 0.00	\$ 0.00	\$ 5,165,132.00	\$ 0.00	\$ 5,165,132.00

SECTION B - BUDGET CATEGORIES						
6. Object Class Categories	Grant Program, Function or Activity				Total (5)	
	(1) PROGRAM OPERATION S	(2) HEALTH AND SAFETY	(3) LIABILITY INSURANCE	(4) FINANCIAL AUDITS		
a. Personnel	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 307,249.00	
b. Benefits	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 76,813.00	
c. Travel	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 27,720.00	
d. Equipment	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	
e. Supplies	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 4,004.00	
f. Contract	\$ 2,863,003.00	\$ 678,250.00	\$ 127,090.00	\$ 19,200.00	\$ 4,607,970.00	
g. Construction	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	
h. Other	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 3,114.00	
i. Total Direct Charges	\$ 2,863,003.00	\$ 678,250.00	\$ 127,090.00	\$ 19,200.00	\$ 5,026,870.00	
j. Indirect	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 138,262.00	
k. Totals	\$ 2,863,003.00	\$ 678,250.00	\$ 127,090.00	\$ 19,200.00	\$ 5,165,132.00	
7. Program Income	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	

**U.S. Department of Energy
WEATHERIZATION ASSISTANCE PROGRAM (WAP)
WEATHERIZATION ANNUAL FILE WORKSHEET**

(Grant Number: EE0006186, State: TX, Program Year: 2016)

IV.1 Subgrantees

Subgrantee (City)	Planned Funds/Units
Alamo Area Council of Governments (San Antonio)	\$362,050.00 34
Big Bend Community Action Committee (Marfa)	\$76,787.00 5
Brazos Valley Community Action Agency (College Station)	\$155,917.00 13
Combined Community Action, Inc. (Giddings)	\$108,520.00 9
Community Action Committee of Victoria Texas (Victoria)	\$142,788.00 12
Community Action Corporation of South Texas (Alice)	\$486,365.00 49
Community Council of South Central Texas, Inc (Seguin)	\$100,926.00 8
Community Services, Inc. (Corsicana)	\$259,276.00 23
Concho Valley Community Action Agency (San Angelo)	\$93,466.00 7
Dallas County Health & Human Services (Dallas)	\$349,500.00 39
Economic Opportunities Advancement Corporation (Waco)	\$97,900.00 7
El Paso Community Action Program, Project Bravo (El Paso)	\$207,040.00 18
Fort Worth, City of (Fort Worth)	\$221,181.00 20
Greater East Texas Community Action Program (Nacogdoches)	\$257,251.00 23
Hill Country Community Action Association, Inc. (San Saba)	\$129,959.00 11
Neighborhood Centers Inc. (Houston)	\$543,052.00 55
Nueces County Community Action Agency (Corpus Christi)	\$85,729.00 6
Panhandle Community Services (Amarillo)	\$132,037.00 11
Rolling Plains Management Corporation (Crowell)	\$173,215.00 15
South Plains Community Action Association, Inc. (Levelland)	\$121,434.00 10
TBD (East Texas)	\$88,059.00 6
Texoma Council of Governments (Sherman)	\$141,062.00 12
Travis County Health and Human Services and Veterans Services (Austin)	\$143,629.00 12
West Texas Opportunities (Lamesa)	\$130,827.00 11

**U.S. Department of Energy
WEATHERIZATION ASSISTANCE PROGRAM (WAP)
WEATHERIZATION ANNUAL FILE WORKSHEET**

(Grant Number: EE0006186, State: TX, Program Year: 2016)

Total:	\$4,607,970.00 416
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IV.2 WAP Production Schedule

Weatherization Plans	Units
Total Units (excluding reweatherized)	416
Reweatherized Units	0

Note: Planned units by quarter or category are no longer required, no information required for persons.

Average Unit Costs, Units subject to DOE Project Rules		
VEHICLE & EQUIPMENT AVERAGE COST PER DWELLING UNIT (DOE RULES)		
A	Total Vehicles & Equipment (\$5,000 or more) Budget	\$0.00
B	Total Units Weatherized	416
C	Total Units Reweatherized	00
D	Total Dwelling Units to be Weatherized and Reweatherized (B + C)	416
E	Average Vehicles & Equipment Acquisition Cost per Unit (A divided by D)	\$0.00
AVERAGE COST PER DWELLING UNIT (DOE RULES)		
F	Total Funds for Program Operations	\$2,863,003.00
G	Total Dwelling Units to be Weatherized and Reweatherized (from line D)	416
H	Average Program Operations Costs per Unit (F divided by G)	\$6,882.22
I	Average Vehicles & Equipment Acquisition Cost per Unit (from line E)	\$0.00
J	Total Average Cost per Dwelling (H plus I)	\$6,882.22

IV.3 Energy Savings

Method used to calculate savings: <input checked="" type="checkbox"/> WAP algorithm <input type="checkbox"/> Other (describe below)			
	Units	Savings Calculator (MBtus)	Energy Savings
This Year Estimate	416	29.3	12189
Prior Year Estimate	564	30.5	17202
Prior Year Actual	231	30.5	7046
Method used to calculate savings description:			

IV.4 DOE-Funded Leveraging Activities

N/A

IV.5 Policy Advisory Council Members

Check if an existing state council or commission serves in this category and add name below

Combined Community Action Inc.	Type of organization: Non-profit (not a financial institution) Contact Name: Kelly Franke Phone: (979)540-2985 Email: KJFranke@ccaction.com
Greater East Texas Community Action Program	Type of organization: Non-profit (not a financial institution) Contact Name: Karen Swenson, Executive Director Phone: (936)564-2491 Email: kswenson@sbcglobal.net

**U.S. Department of Energy
WEATHERIZATION ASSISTANCE PROGRAM (WAP)
WEATHERIZATION ANNUAL FILE WORKSHEET**

(Grant Number: EE0006186, State: TX, Program Year: 2016)

Texas Department of Aging and Disability Services	Type of organization: Unit of State Government Contact Name: Toni Packard Phone: (512)438-4290 Email: toni.packard@dads.state.tx.us
Ysleta del Sur Pueblo Housing Department	Type of organization: Indian Tribe Contact Name: Al Joseph Phone: 9158599196 Email: ajoseph@ydsp-nsn.gov

IV.6 State Plan Hearings (Note: attach notes and transcripts to the SF-424)

Date Held	Newspapers that publicized the hearings and the dates the notice ran
03/11/2016	Announcement of Public Hearing sent for publication in the Texas Register.
02/26/2016	Draft plan and Notice of Public Hearing posted on the Department's website; public listserve announcement sent announcing availability of the plan and public hearing details. (See Attachment to SF-424 for Notice of Public Hearing)
02/25/2016	The TDHCA Board of Directors authorized release of the draft plan for public comment.

IV.7 Miscellaneous

Recipient Business Officer

Michael De Young
Michael.deyoung@tdhca.state.tx.us
 221 East 11th Street
 Austin, Texas 78701
 (512) 475--2125

Recipient Principal Investigator

Michael De Young
Michael.deyoung@tdhca.state.tx.us
 221 East 11th Street
 Austin, Texas 78701
 (512) 475--2125

Policy Advisory Council

The Policy Advisory Council ("PAC") is broadly representative of organizations and agencies and provides balance, background, and sensitivity with respect to solving the problems of low-income persons, including weatherization and energy conservation problems. Historically, the PAC has met annually after the public hearing for the DOE plan.

The low-income elderly population is represented by the PAC members from Combined Community Action and the Greater East Texas Community Action Association. The low-income persons with disabilities population is represented by the PAC member from the Texas Department of Aging and Disability Services. The low-income Native American population is represented by the PAC member from the Ysleta del Sur Pueblo Housing Department.

Liability Insurance

The liability insurance separate line item includes pollution occurrence insurance in addition to the general liability insurance. Most regular liability insurance policies do not provide coverage for pollution occurrence. If Subgrantees require additional funding for liability insurance, they must first provide the Department with three price quotes. When approved, additional liability insurance costs may be paid from administrative or program support categories. The Department strongly recommends the Subgrantees require their contractors to carry pollution occurrence insurance to avoid liability for any mistakes the contractors may make. Each Subgrantee should get a legal opinion regarding the best course to take for implementing the pollution occurrence insurance coverage.

U.S. Department of Energy
WEATHERIZATION ASSISTANCE PROGRAM (WAP)
STATE PLAN/MASTER FILE WORKSHEET

(Grant Number: EE0006186, State: TX, Program Year: 2016)

This worksheet should be completed as specified in Section III of the Weatherization Assistance Program Application Package.

V.1 Eligibility

V.1.1 Approach to Determining Client Eligibility

Provide a description of the definition of income used to determine eligibility

Pursuant to Weatherization Program Notice ("WPN") 16-3, eligible households will have an income that is at or below 200% of the federal poverty level. Households that contain a member who has received cash assistance payments under Title IV (Temporary Assistance to Needy Families or "TANF") or XVI (Supplemental Security Income for the Aged, Blind, and Disabled or ("SSI") of the Social Security Act or applicable State or local law at any time during the 12-month period preceding the determination of eligibility for weatherization assistance shall be categorically eligible.

Describe what household Eligibility basis will be used in the Program

Subgrantees shall follow the Department's Texas Administrative Code rules, Title 10, Part 1, Chapter 5, when considering eligibility and income determination criteria. The Department will ensure that its Subgrantees have determined eligibility criteria based upon:

Defined terms as detailed in 10 TAC §5.2; and

Income eligibility guidelines as detailed in 10 TAC §5.19, as amended to comply with WPN 16-3.

Describe the process for ensuring qualified aliens are eligible for weatherization benefits

The Welfare Reform Act, officially referred to as the Personal Responsibility and Work Opportunity Act of 1996, H.R. 3734, placed specific restrictions on the eligibility of aliens for "Federal means-tested public benefits" for a period of five years. As defined in a Federal Register notice dated August 26, 1997 (62 FR 45256) the Department of Health and Human Services (HHS) is interpreting "Federal means-tested public benefits" to include only those benefits provided under Federal means-tested, mandatory spending programs. HHS Information Memorandum LIHEAP-IM-25 dated August 28, 1997, states that all qualified aliens, regardless of when they entered the U.S., continue to be eligible to receive assistance and services under the Low-Income Home Energy Assistance Program (LIHEAP) if they meet other program requirements.

To ensure program continuity between LIHEAP and DOE Weatherization for the many Subgrantees operating both programs, the DOE Weatherization Assistance Program will follow the interpretation as adopted by HHS. The primary area of confusion resides in the types of local agencies that are exempt/nonexempt from "status verification requirements." Local agencies that are both charitable and nonprofit would be exempt, which comprise about three-quarters of the local agency network. However, those agencies which are designated as local government agencies operating the Weatherization Assistance Program and do not subgrant eligibility determination to a qualified nonprofit organization would not be exempt and, therefore, must conduct "status verification." WAP Subgrantees that are not exempt shall use the Systematic Alien Verification for Entitlements (SAVE) system to verify the status of qualified aliens that apply for weatherization services.

The DOE and LIHEAP WAP are in compliance with **LIHEAP-IM-99-10 issued June 15, 1999 retracting any requirement that weatherization providers must do any type of certification of alien status in multifamily buildings.**

V.1.2 Approach to Determining Building Eligibility

Procedures to determine that units weatherized have eligibility documentation

Subgrantees maintain a client file for each unit weatherized, including documented proof that the dwelling unit is an eligible dwelling unit as defined in 10 CFR §440.22. The Department determines that weatherized units have eligibility documentation during monitoring reviews.

Describe Reweathering compliance

Texas limits reweatherization to 5% of all units weatherized. To ensure the cap is not exceeded, Subgrantees may not reweatherize a unit without prior approval

U.S. Department of Energy
WEATHERIZATION ASSISTANCE PROGRAM (WAP)
STATE PLAN/MASTER FILE WORKSHEET

(Grant Number: EE0006186, State: TX, Program Year: 2016)

from the Department.

Reweathering will be allowed on units that have received limited weatherization prior to September 30, 1994. A new energy audit must be conducted on each unit reweatherized.

Describe what structures are eligible for weatherization

10 TAC §5.2 includes the following definitions which describe structures eligible for weatherization:

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

Multifamily Dwelling Unit--A structure containing more than one Dwelling Unit.

Rental Unit--A Dwelling Unit occupied by a person who pays rent for the use of the Dwelling Unit.

Shelter--A Dwelling Unit or units whose principal purpose is to house on a temporary basis individuals who may or may not be related to one another and who are not living in nursing homes, prisons, or similar institutional care facilities.

Describe how Rental Units/Multifamily Buildings will be addressed

In accordance with 10 CFR §440.22(b)(3), the Department requires that Subgrantees keep on file procedures that address protection of renters' rights, to ensure:

- Written permission of the building owner or his agent before commencing work.
- Cash/in-kind contribution from building owner when feasible.
- Benefits of the services accrue primarily to the low-income tenants residing in such units.
- For a reasonable period of time after completion, the household will not be subjected to rent increases (unless those increases are demonstrably related to other matters other than the weatherization work performed).
 - There are adequate procedures whereby the Grantee can receive tenant complaints and owners can appeal, should rental increases occur.
- No undue or excessive enhancement shall occur to the value of the dwelling unit.
- To secure the federal investment and to address issues of eviction from and sale of property, per 10 CFR §440.22(c), Grantees may seek landlord agreement to placement of a lien (or other contractual restrictions) upon the property being weatherized.

The Department will abide by 10 CFR §440.22, ensuring that not less than 66% of the eligible building units (50% for duplexes and four-unit buildings, and certain eligible types of large multifamily buildings) are eligible units or will become eligible dwelling units within 180 days under a Federal, State or local government program for rehabilitating the building or making similar improvements. WPN 10-15 provides guidance on Department of Housing and Urban Development ("HUD") and Department of Agriculture ("USDA") multifamily buildings that have been pre-determined to meet income eligibility guidelines. WPN 11-09 provides guidance on the review and verification required for those buildings. Assessments and client file documentation for rental units and multifamily units are also detailed in the Multifamily Weatherization Best Practice posted on the Department's website at <http://www.tdhca.state.tx.us/community-affairs/wap/docs/WAP-BP-MFWeatherization.pdf>.

Because large multifamily buildings have different audit requirements, Subgrantees must obtain prior written approval through the Department to use the 50% eligibility, and DOE must approve the proposed activity. The Department will seek DOE approval.

Describe the deferral Process

A Dwelling Unit shall not be weatherized when there is a potentially harmful situation that may adversely affect the occupants or the Subrecipient's weatherization crew and staff, or when a Dwelling Unit is found to have structural concerns that render the Dwelling Unit unable to benefit from weatherization. The Subrecipient must declare their intent to defer weatherization on an eligible unit on the assessment form. The assessment form should include the client's name and address, dates of the assessment, and the date on which the client was informed of the issue in writing. The written notice to the client must include a clear description of the problem, conditions under which weatherization could continue, the responsibility of all parties involved, and any rights or options the client has. A copy of the notice must be given to the client, and a signed copy placed in the client application file. Only after the issue has been corrected to the satisfaction of the Subrecipient shall weatherization work begin.

If structural concerns or health and safety issues identified (which would be exacerbated by any weatherization work performed) on an individual unit cannot be abated within program rules or within the allowable WAP limits, the unit exceeds the scope of this program.

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Should a client request a second opinion on a deferral or walk-away, the Subgrantee is encouraged to contact the appropriate local government inspector to request an inspection of the site. Should the client refuse to have a local government inspector inspect the unit, the crew will note the refusal in the client file, and no work shall be performed on the unit. If the inspector deems that work pending deferral can or should be performed, crews/contractors and contractors are encouraged to work with the inspector's suggestions to make the improvements. However, the inspector does not make the final determination on the amount of work, cost of work, or measures applied to the unit. Should the Subgrantee deem the suggested measures to be financially or programmatically out of the scope of weatherization, the Subgrantee may defer the weatherization work on the unit. Documentation of this determination, whether the weatherization is completed or not, must be included in the client file.

Crewmembers or contractors who work on a unit that could or should be a deferral or walk-away do so at their own risk.

V.1.3 Definition of Children

Definition of children (below age): **6**

V.1.4 Approach to Tribal Organizations

Recommend tribal organization(s) be treated as local applicant?

If YES, Recommendation. If NO, Statement that assistance to low-income tribe members and other low-income persons is equal.

The 70th Texas Legislature created the Native American Restitutionary Program (Oil Overcharge Restitutionary Act, Texas Government Code, Chapter 2305) for the purposes of providing oil overcharge restitution to the Texas Native Americans. In the Texas WAP, the Native-American Indian population is treated and served in the same manner as other applicants.

V.2 Selection of Areas to Be Served

The Texas WAP is available to eligible low-income households in all 254 counties of the state. Subgrantees are held responsible for all intake, eligibility, and weatherization activities. If the Subgrantees' performance record is satisfactory according to both state and federal regulations, then the Department will offer to renew the contract if the Subgrantee so desires. The Department's award committee may decline to recommend an award or place additional conditions on an award based upon its previous participation review as outlined in 10 TAC §1.5.Chapter 1, Subchapter §1.302.

New or additional DOE subgrantees for counties that become unserved by the DOE WAP will be selected according to DOE regulations found in 10 CFR §440.15 and 10 TAC §1.302. A new or additional subgrantee is defined as a CAA or other public or nonprofit entity that is not currently operating a Department-funded Weatherization Assistance Program. At present, all but nine Texas counties are served with a network of 24 existing Subgrantees. This number is subject to change depending on the needs of the program throughout the year.

Tri-County Community Action (TCCA), the entity that served Harrison, Jasper, Newton, Panola, Sabine, San Augustine, Shelby, Tyler and Upshur counties has relinquished WAP. The Department has released an RFA for a new service provider in that area.

Formula Distribution

The Department updates the budget allocation proportion by county and Subgrantee based on poverty income, elderly poverty, median household income (from the 2010 U.S. Census data), and climate data (from the National Climatic Data Center, Climate Normals, 2010), as outlined in 10 TAC §5.504.

The Department allocates funds to Subgrantees by applying a formula based upon the DOE allocation for program year; or if the allocation amount is not known, based on an assumption of level funding from the previous program year. Once the allocation amount is known, the formula is re-run. The allocation formulas reflect the 2010 Census data. If any carryover funds are available, they will be distributed by allocation formula and used to increase the number of units to be weatherized. The Department will adjust guidance to reflect the adjusted average expenditure limit per unit for the program year.

If the Department determines it is necessary to permanently reassign a service area to a new subgrantee, the subgrantee will be chosen in accordance with 10 CFR §440.15. The fund allocations for individual service areas are determined by a 5-factor distribution formula as outlined in 10 TAC §5.504:

- (1) Number of non-elderly poverty households per county;
- (2) Number of elderly poverty households (601+) per county;
- (3) Median income variance per county;
- (4) Inverse poverty household density ratio per county; and

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(5) Heating/Cooling Degree days per county.

The Department may deobligate all or part of the funds provided under this contract as outlined in 10 TAC §5.614 . A Subgrantee’s failure to expend the funds provided under this contract in a timely manner may also result in the Subgrantee’s ineligibility to receive additional funding during the program year.

V.3 Priorities for Service Delivery

The Department will ensure by contract that its Subgrantees give priority to weatherizing dwellings owned or occupied by low-income persons who are particularly vulnerable such as the Elderly, Persons with Disabilities, Families with Young Children, Households with High Energy Burden, and Households with High Energy Consumption. Applicants from these groups must be placed at the top of a Subgrantee's waiting list. The Department ensures that Subgrantees give proper attention to these requirements through monitoring/evaluation of the Subgrantee.

V.4 Climatic Conditions

The climatic conditions for the State of Texas are imbedded in the algorithms of the Weatherization Assistant (WA 8.9) energy audit software toll engineered by the Oak Ridge National Laboratory for the Department of Energy. As part of the energy audit modeling, the Department requires the Subgrantee Network to select the nearest weather station to the dwelling units. The Weather files imbedded in the WA 8.9 contains 30 year data of Heating and Cooling degree days for each weather station.

As described in the report prepared by the Pacific Northwest National Laboratory & Oak Ridge National Laboratory for the Department of Energy, the state of Texas has several IECC climate zones. http://apps1.eere.energy.gov/buildings/publications/pdfs/building_america/ba_climateguide_7_1.pdf. These climate zones are used as an aid in helping Subgrantees to identify the appropriate climate designation for the counties in which they are providing WAP services. In addition to prescribing appropriate mechanical equipment (example of climate specific measures would be evaporative cooling which may be prescribed in the Hot Dry climate of Texas and not in the Mixed Humid part of Texas) the IRC prescriptive thermal envelope of measures are different. The climate zones found in Texas are as follows:

1. Hot-Humid

A hot-humid climate is defined as a region that receives more than 20 inches (50 cm) of annual precipitation and where one or both of the following occur:

- A 67°F (19.5°C) or higher wet bulb temperature for 3,000 or more hours during the warmest six consecutive months of the year; or
- A 73°F (23°C) or higher wet bulb temperature for 1,500 or more hours during the warmest six consecutive months of the year.

IRC Prescriptive Thermal Envelope Measures:

Zone 2A and 2B		Zone 3A
Ceiling	R 30	R30
Windows	U 0.65	U 0.50
Walls	R-13	R-13
Floors	R – 13	R 13
SHGC	0.30	0.30

2. Hot-Dry

A hot-dry climate is defined as a region that receives less than 20 inches (50 cm) of annual precipitation and where the monthly average outdoor temperature remains above 45°F (7°C) throughout the year.

IRC Prescriptive Thermal Envelope Measures:

Zone 3A and 3B	
Ceiling	R30
Windows	U0.50
Walls	R13

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Floors	R 13
SHGC	.030

3. Mixed-Humid

A mixed-humid climate is defined as a region that receives more than 20 inches (50 cm) of annual precipitation, has approximately 5,400 heating degree days (65°F basis) or fewer, and where the average monthly outdoor temperature drops below 45°F (7°C) during the winter months.

IRC Prescriptive Thermal Envelope Measures:

Zone 3A	
Ceiling	R30
Windows	U 0.50
Walls	R13
Floors	R 13
SHGC	.030

4. Mixed-Dry

A mixed-dry climate is defined as a region that receives less than 20 inches (50 cm) of annual precipitation, has approximately 5,400 heating degree days (50°F basis) or less, and where the average monthly outdoor temperature drops below 45°F (7°C) during the winter months.

IRC Prescriptive Thermal Envelope Measures:

Zone 4	
Ceiling	R38
Windows	U 0.35
Walls	R13
Floors	R 19

In addition to the 2009 IRC adopted by the State of Texas, several individual cities have adopted amendments to the code. The adoption and amendments to the 2009 IRC impact the WA 8.9 energy audits in that cities are required to evaluate user defined measures to meet the codes adopted by each individual City.

V.5 Type of Weatherization Work to Be Done

V.5.1 Technical Guides and Materials

Type of Work to be Done

A. Low Cost/No Cost: The Department will not require any low cost/no cost services.

B. Incidental Repair: If such repairs are necessary to make the installation or preservation of weatherization materials effective, the cost of incidental repair materials shall not exceed the cost of weatherization materials. The goal of the WAP remains energy conservation, not housing rehabilitation.

C. The purchase and installation of through the door water/ice units and stand alone freezers in not allowed.

D. Storm doors are not allowable weatherization measures in the State of Texas.

E. The Department will not require a minimum material expenditure ratio.

Shelters. Shelters may be weatherized if prior written approval is given by the Department. Living space (size) for purposes of determining expenditure level is to be calculated at 800 square feet per unit or each floor considered a unit.

Fuel Switching. Per WPN 13-5, Revised Energy Audit Approval Procedures and Other Related Audit Issues, dated September 23, 2013, the Department does not permit the general practice of fuel switching when replacing furnaces, water heaters, and other appliances. However, the Department may allow the changing or converting of a furnace/appliance using one fuel source to another on a limited, case-by-case basis. These approvals will only be

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granted when all related costs demonstrate the effectiveness of the fuel switch over the life of the measure.

Electric Base Load Measures (EBL). Approved EBL measures include replacement of refrigerators, electric water heaters, and compact fluorescent lights. EBL measures must be determined cost effective with an SIR of 1 or greater by either audit analysis or separate DOE approved analytical tools. Refrigerators must be metered for a minimum of two (2) hours. All dwelling units will be evaluated to determine the most cost effective measures to be installed in each unit weatherized and to determine the order in which measures will be installed. The evaluation of each unit must include building envelope measures, mechanical measures, and Electric Base Load measures.

Lead-Based Paint Safe Work Practices. Approved Lead Safe Work practices include but may not be limited to "Renovate Right" pamphlet given to clients, test kits, worker protection gear, materials for set-up, and camera(s) to document process.

Technical Guides and Materials

<http://www.tdhca.state.tx.us/community-affairs/wap/docs/SF-SWS-Guide.pdf> and

<http://www.tdhca.state.tx.us/community-affairs/wap/docs/MH-SWS-Guide.pdf>

<http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>

The following Technical Guides and Materials are available on the Department's website:
(<http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>):

Material Installation Standards Manual (September 28, 2012) (working on updates)

Weatherization Field Guide (May 21, 2010)

Mechanical Systems Field Guide (October 30, 2010)

NEAT Training Guide (revised November 9, 2015)

Updates are pending receipt of "Deck of Cards" guidance from Santa Fe Community College regarding MFH. Once the updates are completed and approved by DOE, the documents will be posted online and Subgrantees and their subcontractors required to attend one or more webinars for training on how to use the guides.

Further, the Department has several Weatherization Best Practices posted at:
<http://www.tdhca.state.tx.us/community-affairs/wap/wap-best-practices.htm>.

All Subgrantee agreements and vendor contracts active in PY 2015 and beyond contain language which clearly documents the SWS specifications for work quality outlined in WPN 15-4, Section 2. A signed contract shall confirm that the organization understands and agrees to these expectations. Each contract will include the following clause or exhibit:

Materials and Work Standards

A. Subrecipient shall weatherize eligible dwelling units using only weatherization materials which meet or exceed the standards prescribed by DOE in Appendix A of 10 CFR Part 440.

B. All weatherization measures installed shall meet or exceed the standards prescribed by DOE in Weatherization Program Notice (WPN) 15-4 regarding Standard Work Specifications, as detailed in the Department's Materials Installation Standards Manual.

D. All weatherization work must be performed in accordance to the DOE-approved energy audit procedures, 10 CFR Part 440 Appendix A, State of Texas adopted International Residential Code (or that of jurisdictions authorized by State law to adopt later editions).

E. Subgrantee will include the substance of this section in all subcontracts.

V.5.2 Energy Audit Procedures

Audit Procedures and Dates Most Recently Approved by DOE

Single-Family : NEAT- DOE approved March 28, 2011

Manufactured Housing : MHEA- DOE approved March 28, 2011

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Multi-Family : NEAT- under 24 units NEAT (which are individually heated or cooled)- DOE approved March 28, 2011

Comments

The Department submitted a request for re-approval of its energy audit programs. The Department requested a tier-one review, using an already-DOE-approved audit tool designed to calculate the required Savings-to- Investment ratios, particularly the National Energy Audit (NEAT) for single family and small multifamily (conditional) and the Manufactured Home Energy Audit (MHEA) for manufactured housing. To guide preparations for this request, the Department uses an Audit Approval Task Tracker (example attached to SF-424). The Department did not request the use of a Priority List.

Pursuant to WPN 13-5, since the Department will request to use an already-DOE-approved audit tool, our request did not include a description of the energy estimating methodology, measure interaction, or cost-effectiveness requirements listed in Attachment 1. Our request included the measures that are typically enabled and provide the input data, assumptions, and audit results (recommended measures) for at least ten sample dwelling units from a sampling of Subgrantees. These audits are typical of those weatherized by the Texas WAP representing climate zones throughout the state. All of the information on field procedures and administrative requirements described in Attachment 1 were provided with the request.

V.5.3 Final Inspection

The Department has provided the Subgrantee network with sufficient T&TA funding to complete the QCI certification process through an IREC certified training provider. The Department is tracking the progress of each Subgrantee to ensure full compliance with unit inspection requirements of WPN 15-4. The QCI certification for Subgrantee staff will continue through spring 2016 for new WAP staff replacements.

The Department currently has four certified QCI staff. When a certified QCI from the Department goes out to review a unit, they will sign a form stating that the audit for the unit was reviewed and that a state QCI inspected the unit. To ensure that work is completed according to program standards, the Department has posted SWS guidelines. The weatherization network has been notified. Language included in all WAP contracts will require use of the SWS on every unit.

Our goal is that every Subgrantee has at least one QCI on staff. The Department is requesting that Subgrantees with a QCI on staff use that staff member as an Independent QCI that is not involved with the weatherized unit prior to final inspection. The Department defines prior involvement as performing the audit, creating the work order, or performing any weatherization work on the weatherized unit. The Department has created a QCI Final Inspection Form for Subgrantees which will allow TDHCA to determine if a QCI employed by the Subgrantee had prior involvement with that unit.

Due to Subgrantee staffing levels, the Department understands that some Subgrantees may not have the ability to have a QCI that is independent of prior activity with the weatherized unit. To ensure compliance with DOE requirements regarding the minimum number of weatherized units to be inspected, the Department has decided to utilize the DOE Prescribed QCI Policy as described below:

- Independent QCI: In situations where a Subgrantee's QCI is an individual that has no involvement in the prior work on the home either as the auditor or as a member of the crew the following will apply: The Department will perform quality assurance reviews (Unit Inspections) of at least 5 percent of all completed units.
- Independent Auditor/QCI: In situations where a Subgrantee's QCI Auditor performs either the assessment, the audit, creates the work order and performs the final quality control inspection, the following will apply: The Department will perform quality assurance reviews of at least 10 percent of all completed units.

During Unit Inspections or desk reviews, specific data will be collected from Quality Control Inspection forms. The data collected will be reviewed by the Compliance Monitors and/or Community Affairs Division Training and Technical staff to ensure that the individual(s) functioning as both the auditor and the inspector are able to consistently perform both tasks. The Department will use its QCI staff to perform directed training and technical assistance in instances where the individual is found to be deficient. Where necessary, additional Subgrantee staff may be sent for Tier 1 Training at an IREC approved training site.

The Department uses a Building Weatherization Report ("BWR") to gather information about each weatherized unit and to get the Subgrantee's certification that the unit passed a final inspection. The Department has revised the BWR to include a certification from the Subgrantee's QCI that the audit for the unit was reviewed and that the unit passed final inspection by a certified QCI. The revised BWR is submitted as an attachment to the SF-424.

The Department will perform monitoring and verification measures to ensure that no dwelling units are reported as completed prior to the installation of all prescribed weatherization measures, final inspections, and certification of completion of work in a workmanlike manner and in accordance with the priorities determined by required audit procedures. In conducting the fiscal portion of the monitoring process, the State will verify that all files reviewed and all units inspected have appropriate documentation and supporting fiscal records that demonstrate the completion of the unit prior to reporting the unit as completed.

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The Subgrantee may not pay an independent third party for any work performed on a unit until the unit has been completed and approved during final inspection. Verification will be accomplished by review of fiscal records, including: purchase request/orders, invoices, general ledgers, check request, dates checks are issued and clearing dates.

V.6 Weatherization Analysis of Effectiveness

Pursuant to 10 TAC, Chapter 1, Subchapter C, §1.302, a review of a Subgrantee's compliance history in Department programs must be approved by the Department's Executive Award and Review Advisory Committee ("EARAC") and provided to the Department's Board of Directors in order that the Board may consider the compliance history and make and document its award decisions with full knowledge of these matters. Prior to the award of DOE funds to any Subgrantee, the EARAC is provided for review:

1. Summary information regarding findings identified during the last three years; and
2. If the Subgrantee is subject to the requirement of an annual single audit:
 - A. A report of any required single audit or single audit certification form that is currently past due; and
 - B. If such single audit has been submitted and the most recent single audit report contained findings, a copy of that single audit.

The Subrecipient Monitoring section, the section of the Compliance Division that monitors the WAP, submits information regarding its monitoring activity to the EARAC for review. If EARAC finds that a Subgrantee has outstanding issues related to any of the criterion listed above that the Subgrantee's review may not be approved by EARAC, or may be approved with conditions that will be written into the Subgrantee's WAP contract.

Issues identified during this review point to areas in a Subgrantee that require attention, both from a monitoring standpoint and a T&TA standpoint. The reviews not only hold the Subgrantee accountable, they also give the monitoring and T&TA sections guidance in planning future activities.

On a more direct level, the T&TA staff meets with monitoring staff every other week in order to keep an updated evaluation of each Subgrantee. In those meetings, monitoring staff relay issues they find related to individual Subgrantee's as well as overall trends they identify. The T&TA staff applies this information when determining the needs for agency-specific T&TA (for instance, if a Subgrantee has failed inspections) and to plan the curriculum for the regional trainings.

Further, Subgrantee performance is reviewed periodically and at the end of the program year. The Department tracks Subgrantee performance over time by reviewing their monthly production and expenditure reports. Each T&TA staff member reviews the reports submitted by a certain number of Subgrantees and plans activities and the provision of T&TA when necessary. Analysis of reports includes the following:

- Number of homes completed;
- Number of applications pending;
- Number of homes in progress;
- Contract amount;
- Total funds expended;
- Balance of funds; and
- Special comments

V.7 Health and Safety

Attached to SF-424

V.8 Program Management

V.8.1 Overview and Organization

The Department is the state's lead agency responsible for affordable housing and community assistance programs. The Department annually administers funds derived from mortgage revenue bond financing and refinancing, federal grants, and federal tax credits.

In 1991, the 72nd Texas Legislature created the Department. The Department's enabling legislation combined programs from the Texas Housing Agency, the Community Development Block Grant Program from the Texas Department of Commerce, and the Texas Department of Community Affairs.

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On September 1, 1992, two programs were transferred to the Department from the Texas Department of Human Services: the Low Income Home Energy Assistance Program and the Emergency Nutrition and Temporary Emergency Relief Program. Effective September 1, 1995, in accordance with House Bill 785, regulation of manufactured housing was transferred to the Department. In accordance with House Bill 7, effective September 1, 2002, the Community Development Block Grant and Local Government Services Programs were transferred to the newly created Office of Rural Community Affairs. Effective September 1, 2002, in accordance with Senate Bill 322, the Manufactured Housing Division became an independent entity administratively attached to TDHCA. As a state agency, the Department is under the authority of the Governor of the State of Texas.

The Department's services are offered through four program divisions: HOME Program, Single Family Operations, Multifamily Finance Production, Single Family Finance Production, and Community Affairs, which administers the WAP.

The Department subcontracts with a network of Subgrantees that provide the WAP services. The network is comprised of community action agencies (CAAs), regional Councils of Government (COGs), and organizations in the other public or private nonprofit entity category (PPNPs). All network Subgrantees are provided a draft copy of the yearly weatherization state plan, a notice of the state public hearing, and invited to participate in the public comment process.

Historically, the regular weatherization program year ran from April through March. Starting PY 2015, the weatherization program year has run from July through June.

The Department will continue to administer the program through Subgrantees in accordance with 10 CFR §440.15 provisions and State regulations. If existing Subgrantees are successfully administering the Program, the Department will offer to renew the contract if the Subgrantee so desires and if grant funds are available. When the Department determines that an organization is not administering the program satisfactorily, it may take the following action:

- Correction of the problem(s) with training or technical assistance;
- Re-assignment of the service area (or service area portion) to another Department existing Subgrantee; or,
- Solicitation or selection of a new or additional Subgrantee in accordance with 10 CFR §440.15 provisions.

A new or additional Subgrantee is defined as a CAA or other public or nonprofit entity that is not currently operating a DOE Weatherization Assistance Program.

Consolidation/downsizing: Any downsizing will occur through normal attrition, through a Subgrantee's determination that it can no longer administer the program efficiently/effectively, or through the Department's determination that a Subgrantee can no longer administer the program efficiently/effectively.

Reassignment of service areas for just cause: In the event that a service area can no longer be served by a Subgrantee, the Department reserves the right to reassign services areas. If it appears necessary to permanently reassign the service area, a new Subgrantee may be chosen in an open, competitive solicitation process in accordance with 10 CFR §440.15 or the reassignment may become permanent.

Client Education

The Department will continue to require WAP Subgrantees to provide client education to each WAP client. Subgrantees will be required to provide (at a minimum) educational materials in verbal and written format.

V.8.2 Administrative Expenditure Limits

The Department will use 5% of its grant funds for state administration. An additional 5% will be distributed for local WAP field operations under contract. Contract funds are intended for local administration, liability insurance coverage, local fiscal audit, materials, labor, program support and health and safety measures. To help ensure that Subgrantees comply with the full and proper use of all the contract funds, written definitions are to be provided to Subgrantees on budget categories as deemed necessary. The Department has elected to provide the maximum allowable funds for Subgrantee administration to Subgrantees receiving less than \$350,000, so it has not included procedures for deciding which Subgrantees will receive additional funds. This decision is based on the following factors:

- Subgrantees often have to rely on other programs for WAP outreach and other administrative support;
- Subgrantees have had to adjust budgeting to keep pace with cost-of-living increases -- staff salaries, fringe benefits, rent, postage, travel, etc.;
- The State of Texas is 877 miles from Northern to Southern tips, 834 miles from Eastern to Western tips, and is comprised of a total of 266,807 square miles. The extra geography that Subgrantees have to cover to serve all the area's clients equitably requires additional staff, staff time, postage and phone costs, and vehicle wear and maintenance. (Source of Mileage Data: Texas Department of Transportation);
- Salaries, space, utilities, telephone, and similar costs associated with program support personnel should be charged to program support; and
- The increasing cost of maintaining appropriate qualified staff is challenging.

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For Subgrantees receiving over \$350,000, the administrative allowance will be 5% of each subgrant. For Subgrantees receiving less than \$350,000, the administrative allowance will be 10% of each subgrant.

V.8.3 Monitoring Activities

The Department will monitor the Weatherization Assistance Program (“WAP”) with the Monitoring staff included in the budget. Subgrantee is defined as an organization with whom the Department contracts and provides WAP funds.

Names and credentials of Department staff dedicated to monitoring DOE activities follow. Monitoring staff are paid out of Grantee Administration budget category.

- Rosy Falcon – over 6 years of weatherization monitoring; BPI certified; has attended DOE sponsored conferences.
- Chad Turner; over 11 years of weatherization experience as a Texas WAP Subgrantee. QCI certified, RSNET certification, BPI Certified and Lead Certification
- Chris Shoopman- 5+ years of weatherization experience
- Kevin Glienke – over 6 years of weatherization monitoring experience; BPI Certified; has attended DOE sponsored conferences; QCI certified.

There is also staff in the T&TA section of the Department that are QCI certified. It is not anticipated, but possible, that some of those staff members could assist with the unit inspections of homes weatherized through funds provided through this State Plan.

The Department will monitor each of the DOE Subgrantees during the contract period which will be July 1, 2016 through June 30, 2017. Many of the DOE Subgrantees also receive funds through the Department of Health and Human Services Community Service Block Grant and Low Income Home Energy Assistance Program. Whenever possible, all three programs will be monitored during one visit to the Subgrantee.

Financial and Administrative monitoring will include, at minimum, a review the Subgrantee’s General Ledgers and policies and procedures (including procurement) as well as support documentation for reported expenditures. These documents will be reviewed to ensure compliance with DOE, Department and other applicable rules and regulations. Through client file monitoring, the Department will ensure that program beneficiaries are eligible low-income families. Through unit inspections, Department staff will ensure that installed measures are allowable and meet or exceed DOE requirements. The Department will review whether charged measures were installed properly and determine compliance with health and safety procedures, client eligibility, energy audit procedures, client education procedures and compliance with the SWS.

The Department will inspect 5% of all completed weatherized units. In order to achieve the 5% inspection rate, and comply with the requirements of WPN 15-4, the Department is requesting that Subgrantees with a QCI on staff do not have that staff member involved with the weatherized unit prior to final inspection. The Department defines prior involvement as performing the audit, creating the work order or performing any weatherization work on the weatherized unit. The Department has created a QCI Final Inspection Form, for Subgrantees which will allow TDHCA to determine if a QCI employed by the Subgrantee had prior involvement with that unit. The Department will review each QCI final inspection document to ensure compliance with the requirement to inspect 5% and will increase the required inspections if necessary.

The Department recognizes that there may be a need to perform additional unit inspections towards the end of the contract period to comply with the requirements of WPN 15-4 if there were not enough units available to sample during the full monitoring review.

Monitors will complete checklists to evaluate a Subgrantee’s compliance. The checklists cover Financial and Administrative requirements, health and safety procedures, client eligibility, energy audit procedures, client education procedures, and compliance with the SWS. Compliance Monitors also review the hard copy of NEAT audit which is required to be in the client file to assure that the scope of the work was directed by the audit.

Monitors typically scan documents as support if there will be findings noted. Upon completion of the review, monitors conduct an exit interview and explain findings noted, if any.

The following list provides additional monitoring details that may occur during the monitoring review.

- Monitors may request copies of fiscal records/support documentation and perform a desk review to gauge the fiscal condition of the Subgrantee prior to onsite monitoring.
- In addition, as needed, monitors may perform a desk review of records requested but not provided during the onsite review and records requested to clarify issues identified during the onsite monitoring visit. The Department recognizes the requirement to issue monitoring letter within 30 days of the review. The Department does not consider the review complete until receipt of information needed to ascertain compliance. Monitoring letters will be issued within 30 days of receipt of all necessary information.

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- On occasion, while onsite monitors overlook findings that are identified through a management or peer review of the report and working papers. In these instances, Department staff will strive to call the Subgrantee to discuss the matter prior to the report being issued.

The Department will issue monitoring reports within 30 days of completion of the review. Subgrantees are provided a 30 day corrective action period to respond and provide evidence of correction. On a case by case basis, the Department may grant an extension to respond to the report if there is good cause and the request is made during the corrective action period. The Department will review each response and determine if the Subgrantee has resolved the compliance issue. If the Department determines that the issue is not resolved, the Subgrantee will be notified and required to submit an additional response(s) until the compliance issue is resolved. In certain circumstances, the Department may "close" a compliance issue when there remain no additional actions that can be taken to resolve the issue. At the conclusion of this process, any unresolved compliance issues will be reported to DOE (instances of suspected fraud or serious program abuse will be reported immediately to DOE and the Texas State Auditors Office).

The Department will review the annual financial audits of each Subgrantee agency and will follow up as applicable through annual monitoring visits or desk monitoring. The Department requires each Subgrantee to complete an Audit Certification form within 60 days of the end of the entity's fiscal year. This is used to determine if a Single Audit is required. Upon receipt of the Single Audit, a review is completed to determine if the packet submitted is complete and all opinions are provided. If the audit contains findings, they are reviewed and discussed by the Director of Internal Audit, the Chief of Compliance and staff to determine the appropriate steps to ensure the entity corrects the issues identified in the audit report or management letter. The Department issues correspondence to the entity, identifying that corrective action measures must be performed and requiring that support documentation to be provided. The entity is provided a time frame to complete the corrective action and to respond to the correspondence. At a maximum, the entity must correct all identified issues within six (6) months of the Single Audit being submitted to the Federal Clearing House.

The Department's Compliance Monitor(s) keep abreast of the required timeframe for the entity to complete the corrective action and to provide the response. When the response is received, the Department reviews the documentation to determine if the corrective action requirements have been met. If the issues have not been corrected, the Compliance Monitor and/or Community Affairs Monitoring Manager will notify the Chief of Compliance. The Chief of Compliance may determine if the matter should be referred to the Department's Enforcement Committee in accordance with Department Rules and standard operating procedures. During the next monitoring visit to the entity, the Department will determine if the selection of expenditures or materials reviewed reflect compliance with the respective requirement.

The Texas WAP has a successful and compliant history. However, in the event that TDHCA identifies a Subgrantee with significant and unresolved noncompliance will be referred by the Compliance Division to the Training and Technical Assistance Team. Those Subgrantees will be required to meet assigned milestones. Failure to meet milestones may result in contract sanctions, up to and including administrative penalties, debarment, placement on a modified cost reimbursement method of payment, contract suspension, or contract termination.

1. Program Oriented Management Training – Prior to continuing any weatherization-related program activity, all Subgrantee staff that performs any action related to the WAP will be required to complete Program Oriented Management Training ("POM"). POM will include:

- A. Review of WAP statutes and rules
- B. Review of state program requirements
- C. Review of financial and administrative best practices
- D. Review of program best practices

2. Intensive Training and Technical Assistance – Once POM is completed, Subgrantee staff will receive training on critical program components. At each stage of Intensive T&TA, TDHCA team members will provide one-on-one guidance to Subgrantee staff to ensure the correct completion of each component. At the end of Intensive T&TA, Subgrantee staff will have completed another step toward completion a weatherized unit.

- A. Client file documentation
- B. Payment and reimbursement documentation
- C. Accompanied unit assessment
- D. Accompanied Audit completion
- E. Accompanied Interim construction walk-through
- F. Accompanied Final inspection

3. Staged Program Operation – When Subgrantee staff has completed Intensive T&TA, the Subgrantee will complete a pre-determined number of client intakes. Once the client intakes are completed, TDHCA team members will review the ensuing steps of the weatherization process in the following steps:

- A. Review of the client file documentation

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- B. Review of unit assessments
- C. Review of audit input and completion to work order
- D. Accompanied final inspection

Once the Subgrantee has completed the determined number of units and the units have passed TDHCA monitoring, the Subgrantee will resume normal operations for the remainder of the program year. The Subgrantee will be reviewed at the end of the program year for determination of continued funding.

If it is determined that the Subgrantee is not able to administer the weatherization program, the Department will follow the requirements in 10 TAC §2.202 Contract Closeout.

V.8.4 Training and Technical Assistance Approach and Activities

All training provided will include requirements for compliance with QWP specifications. The Department will conduct training and technical assistance throughout the program year. Department staff may determine that additional training is needed for a particular Subgrantee or the Subgrantee may request it. The Training staff consults with Monitoring staff to determine Subgrantees' additional training needs on an on-going basis. Training will include manufactured housing, management and production schedule, lead safe work practices, building envelope measures, energy audit, health and safety, all with a goal of increasing the efficiency, quality and effectiveness of our program.

In order to assist with the implementation of the QWP specifications, the Department will identify training needs through a four pronged approach:

- A) Review of Findings - The training team will provide training to address specific findings in order to correct identified deficiencies.
- B) Referral by the Monitoring staff - Training areas will focus on input from the referring Monitor.
- C) Online request produced by the Subgrantee - The Department has created an online training and technical assistance database to track training requested by the Subgrantee network. The requestor has a menu of WAP topics to select from. The online training request form can be found on the Department's website, <http://www.tdhca.state.tx.us/community-affairs/wap/index.htm>. The Department's training staff will contact the requestor and customize the training around their needs.
- D) Management Request - Management may make a specific request and dictate the type of training needed.

Tier 1 Training.

Tier 1 Training began in the spring of 2014 with five Department staff members becoming certified in QCI at an IREC-approved training center. The Department then started providing pre-assessment T&TA to assist Subgrantee staff in preparing for the QCI certification prior to a Subgrantee scheduling QCI training. The Department has a Certified BPI Online Proctor on staff who is able to proctor the written exam for those that do not pass it the first time, thereby reducing the time and travel costs for our network. The exam is proctored in collaboration with Santa Fe Community College. The Department has posted online resources for preparing Subgrantees for the written portion of the test.

Of the twenty-three Subgrantees, twenty-two have at least one staff member that is QCI certified. The twenty-third is utilizing a neighboring QCI. The QCI certification for Subgrantee staff will continue through spring 2016 with a goal of having all Subgrantee staff fully on board.

Added to the training plan is Tier 1 Training for subcontractors. In PY 2014, the Department's training plan focused on comprehensive training for all WAP agency staff workers that is aligned with the NREL Job Task Analysis for the position in which the worker is employed. In PY 2015 and beyond, the Department proposes to add to that focus JTA-aligned training for subcontractors. This addition reflects feedback from Department monitoring staff and DOE's plan for improvements in work quality.

Tier 1 training will be provided by Department training and technical assistance staff or its designee. Tier 1 Training will continue long-term with Department and Subgrantee staff gaining Energy Auditor certification in single family and multifamily, along with ongoing training to maintain those skills and certifications. Department and Subgrantee network staff will be required to obtain Energy Auditor (EA) certification by the beginning of program year 2016, and the Department will be requiring all Subgrantees to ensure their contractors also receive other Tier 1 trainings, including Renovation, Repair, and Painting and Occupational Safety and Health Administration (OSHA) 10. Each subcontractor for whom DOE funds are used to provide training for the certification will be required to enter into a retention agreement with the Subgrantee.

The Department has provided the Subgrantee network information for obtaining workforce credentials by providing on our website (<http://www.tdhca.state.tx.us/community-affairs/wap/quality-work-plan.htm>) a QWP section dedicated to agencies obtaining the QCI. As other Tier 1 training

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information becomes available we will be adding content to our website.

Tier 2 Training.

Tier 2 training will be provided by Department training and technical assistance staff or its designee. With experience as Program Officers and Trainers, the staff has experience in Subgrantee monitoring, unit assessments, audits, materials installation, inspections, and the training and technical assistance that support each. The staff consists of:

- Marco Cruz – 20+ years experience in the WAP. Certified QCI, Lead-Safe Renovator, OSHA-30
- Laura Saintey – 10+ years experience in the construction industry and 5+ years experience in the WAP. Certified QCI, Lead-Safe Renovator, OSHA-10, BPI Building Analyst Professional, BPI Certified Online Proctor
- Jason Gagne- new trainer currently preparing for Energy Auditor and QCI certifications.

The Department will provide the Lead Renovator certification and refresher and any OSHA courses through a certified third party vendor. These trainings will be required, and the Department will keep a running database of the certifications to assure each Subgrantee obtains the needed certifications to implement the Health and Safety requirements of the WAP program.

The Department will continue to provide training opportunities for staff and Subgrantees including online training, attendance at DOE and DOE-approved conferences, and other opportunities for education and training that might become available. Network wide trainings will primarily be conducted through webinars. At least every quarter the Department conducts teleconferences on DOE WAP initiatives and program notices. In PY2015 the Health and Safety Plan will be followed-up with a webinar to reiterate current standards and any changes made so that the network remains aware of program expectations. Attendance will be monitored to ensure at least one member of each subrecipient is in attendance during the webinar.

Evaluation of Training Activities

In order to evaluate compliance with the quality work specifications and the efficacy of its training activities, the training staff or its designee will review its training activities semi-annually and compare those to the Subgrantee monitoring reports. Additionally, Subgrantees will be given the opportunity to provide feedback through evaluation forms distributed at all training sessions. Training staff or its designee will conduct periodic surveys to solicit input from Subgrantees as to their training needs.

More specific training will be designed for each Agency based on the information prompting the request. TA will be documented by using the online training and technical assistance database. Additionally, for onsite T&TA visits, a report will be produced indicating Subgrantee staff present, materials and documents presented to the Subgrantee, and expected outcomes.

Should a Subgrantee hire a new weatherization coordinator, the Subgrantee will be required to notify the Department in writing within 30 days of the date of hiring the coordinator and request training. The Department will contact Subgrantees within 30 days of the date of notification to arrange for training.

Program Evaluation

Overall program evaluation remains an admitted struggle for the Department. The Department utilizes an online contract system to collect expenditure and performance data from Subgrantees. As designed, this system does not have the capability to capture unit-level data from our Subgrantees. Provision of a comparative snapshot of the current Subgrantees, would require a database that could capture retrofit activities for each unit completed to include air-leakage reduction, duct leakage, square footage of each unit, and pre- and post- retrofit energy consumption data. The system would have to account for the different climates found in a state as large as Texas (even within some individual service areas), weather anomalies and client family size variations over a multi-year period if comparing energy savings based on consumption alone. While the Department certainly sees the value of a system that could provide this information, the feasibility of doing such extensive data collection is difficult to conceive with existing resources.

Client Education

The Department will continue to require WAP Subgrantees to provide client education to each WAP client. Subgrantees will be required to provide (at a minimum) educational materials in verbal and written format. Client education may include temperature strips that indicate the temperature in the room and energy savings materials.

V.9 Energy Crisis and Disaster Plan

n/a

State of Texas

Weatherization Assistance Program

2016 HEALTH AND SAFETY PLAN

This plan will provide guidance to the Texas Weatherization Network. Health and Safety issues will be identified by Program Assessors during the initial assessment. Weatherization Crews (either subcontracted or in house) will perform the task(s) identified in the initial assessment and listed in the work order(s).

Budgeting (Check one):

The grantee is encouraged to budget health and safety costs as a separate category and, thereby, excludes such costs from the average per-unit cost calculation. This separate category also allows these costs to be isolated from energy efficiency costs in program evaluations. The grantee is reminded that, if health and safety costs are budgeted and reported under the program operations category rather than the health and safety category, the related health and safety costs must be included in the calculation of the average cost per home and cost-justified through the audit.

Separate Health & Safety Budget: Texas exercises the option to budget health and safety costs as a separate budget line item.

H&S budget is not contained in Program Operations. It is not included in the average unit cost or SIR.

Incidental Repairs (List repairs, if any, that will be removed as health and safety measures and implemented as incidental repairs.):

If the grantee chooses to identify any health and safety measures as incidental repairs, they must be implemented as such under the grantee's weatherization program in all cases – meaning, they can never be applied to the health and safety budget category. In order to be considered incidental repairs, the measure must fit the following definition and be cost justified along with the associated efficiency measure. Incidental Repairs means those repairs necessary for the effective performance or preservation of weatherization materials. Such repairs include, but are not limited to, framing or repairing windows and doors which could not otherwise be caulked or weather-stripped and providing protective materials, such as paint, used to seal materials installed under this program.

Minor issues related to drainage, electrical, structural, floor, roof repairs, and replacement of doors and windows that are unrepairable are considered to be an incidental repair in Texas, unless it is a contributory item necessary for the proper installation of an ECM. In instances where >32 sq ft of roof repair, or repair/replacement of doors or windows is recommended because the door/window could not otherwise be caulked or weather-stripped effectively this measure should not be billed as a Health and Safety cost; it must be categorized as an incidental repair. Providing protective materials such as primer or paint to seal and protect the weatherization materials installed shall be categorized as an incidental repair and shall be billed as such. Such materials shall only be allowed to protect weatherization materials installed. They shall not be allowable for cosmetic reasons alone. Reference: "Window Door Replacement Best Practice" (DOE-WAP) and "Window Door Repair Best

Practice" (LIHEAP-WAP)

Health and Safety Expenditure Limits (Provide a per-unit average percentage and justification relative to the amount. Low percentages should include a statement of what other funding is being used to support health and safety costs, while larger percentages will require greater justification and relevant historical support.):

The grantee must set health and safety expenditure limits for their Subgrantees, providing justification by explaining the basis for setting these limits and providing related historical experience. It is possible that

these limits may vary depending upon conditions found in different geographical areas. These limits must be expressed as a percentage of the average cost per dwelling unit. For example, if the average cost per dwelling is \$5000, then an expenditure of \$500 per dwelling would equal 10 percent expenditures for health and safety. 10 percent is not a limit on H&S expenditures but exceeding this amount will require ample justification. These funds are to be expended by Subgrantees in direct weatherization activities. While required as a percentage of the average unit cost, if budgeted separately, the health and safety costs are not calculated into the per-house limitation.

Texas exercises the option to budget health and safety costs separately. **NOTE:** DOE calculates Health and Safety for the State of Texas as 25% of the program operations budget. Texas calculates Health and Safety as a percentage of house dollars (materials+labor+program support+health and safety). The calculation (house dollars x 20%) yields a Health and Safety amount that meets the maximum of 20% for Texas Subgrantees.

For Subgrantees, Health and Safety expenditures may not exceed 20% of total unit expenditures (materials, labor, program support, and health and safety) at the end of the contract period. H&S expenditures exceeding this percentage will require justification by the Subgrantee.

The Department feels that the 20% H&S amount is justified based on several factors:

1. The Department anticipates more stringent H&S requirements outlined in WPN 11-6 and WPN 11-6A. It is expected that these additional and specific requirements will result in significant H&S costs. These requirements are historically more aggressive than the H&S agenda Texas has pursued in homes weatherized under the DOE WAP Program.
2. Until January 2011 non-incorporated (non-municipal) rural areas had no established codes and no code enforcement. The WAP ARRA experience has demonstrated that installation costs in these areas are frequently higher because any altered appliance in these areas must now be brought up to the IRC code.
3. ASHRAE 62.2 2013 has been adopted and implemented; accounting for an average of \$750/unit, or 15% of the H&S budget.
4. The Department has included Air Conditioning Units as a Health and Safety Measure.

Deferral Policy (Provide a detailed narrative of the grantees overall deferral policy):

Deferral may be necessary if health and safety issues cannot be adequately addressed according to WPN 11-6 guidance. The decision to defer work in a dwelling is difficult but necessary in some cases. This does not mean that assistance will never be available, but that work must be postponed until the problems can be resolved and/or alternative sources of help are found. In the judgment of the auditor, any conditions that exist, which may endanger the health and/or safety of the workers or occupants, should be deferred until the conditions are corrected. Deferral may also be necessary where occupants are uncooperative, abusive, or threatening. The grantee should be specific in their approach and provide the process for clients to be notified in writing of the deferral and what corrective actions are necessary for weatherization to continue. The grantee should also provide a process for the client to appeal to a higher level in the organization.

Per Texas's Health & Safety Plan, a dwelling unit should not be weatherized where there is a major code violation or where there is a potentially harmful situation that may adversely affect the occupants or agency's weatherization crew and/or other staff. When such issues are found to be present, the owner/occupant is notified verbally and in writing; and, only after the owner corrects the identified issues satisfactorily and to code shall any weatherization work begin. The crew must declare their intent to defer weatherization work on an eligible unit on the energy audit worksheet. The audit form shall include the client's name and address, dates of the audit/assessment, date the client was informed, a clear description of the issue(s), a clear description of the condition(s) under which weatherization work could begin/continue, a clear description of the responsibilities of

all parties involved, client's signature(s) indicating that they have been informed of their rights and options and that they understand the issues and their responsibilities. A copy shall be given to the client and a copy shall be placed in the client file.

See Best Practices addressing Client Denials and Referrals posted on the website <http://www.tdhca.state.tx.us/community-affairs/wap/wap-best-practices.htm>

Client Denials and Referrals

Denials/Deferrals--Beyond the Scope

Denials/Deferrals—Health & Safety

Denials/Deferrals—NEAT Audit

Texas has a standard template/sample deferral letter that weatherization agencies may use to create the deferral notice that is sent to the client when conditions so warrant.

Procedure for Identifying Occupant Health Concerns:

Procedures must be developed and explained on how information is solicited from clients to reveal known or suspected occupant health concerns as part of the initial application for weatherization, additional screening of occupants again during the audit, and what steps will be taken to ensure that weatherization work will not worsen the health concern.

Texas has developed a Health & Safety Questionnaire that will be used as part of the application process that will then be further verified by the assessor at the time of the initial assessment and when conducting the H&S Inspection Checklist. (See "Health & Safety Client Questionnaire and Inspection Checklist" under Client Field and Assessment Forms on Department website: <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>

Due to Texas' high humidity levels in much of the state, moisture and mold-like substances are an integral part of assessments. See Best Practices addressing moisture and mold-like substances posted on the website <http://www.tdhca.state.tx.us/community-affairs/wap/wap-best-practices.htm>:

Mold Best Practices: , Flow Chart - Remove

Mold-Like Substance Notification and Release Form for Texas Weatherization Programs

Identification of a Mold-Like Substance

In addition, if a Mold-Like Substance is detected clients are provided a copy of the Texas Department of State Health Services, "**CONSUMER MOLD INFORMATION SHEET* Regulation of Mold Assessment and Remediation in Texas.**"

Weatherization agencies and their representatives, including subcontractors, are required to take all reasonable precautions against performing work on homes that will subject the occupants or themselves to health and/or safety risks. In cases where an occupant's health is fragile, or an occupant has been identified to have a health condition, including allergies, and/or the crew work activities would themselves constitute a health and/or safety hazard, the occupant(s) at risk shall be required to leave during the performance of the work activities. In cases where an occupant is identified as having an allergy to a specific weatherization material, that material will not be installed. If comparable alternative materials are available and the occupant has no known allergies to the alternative materials and they meet DOE regulations, crews/contractors may substitute the alternative material(s). If no safe alternative material meeting DOE standards is available, the measure shall not be installed. This must be well documented in the client file.

Documentation Form(s) have been developed (Check Yes or No):

Documentation forms must be developed, include the client's name and address, dates of the audit/assessment and when the client was informed of a potential health and safety issue, a clear description of the problem, a statement indicating if, or when weatherization could continue, and the client(s) signature(s) indicating that they understand and have been informed of their rights and options

Yes X Texas has developed documentation forms and has a deferral notice in place; all will be used for the documentation of potential health and safety issues. These forms include all of the items listed in the gray box directly above.

No

Air Conditioning and Heating Systems

Concurrence or Alteration: Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. **Note:** Where an Action/Allowability or Testing is "required" or "not allowed" through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.

X-Concur with WPN 11-6

"Red tagged", inoperable, or nonexistent heating system replacement, repair, or installation is allowed where climate conditions warrant and in households that include at least one member who is 5 years of age and under, elderly, or disabled.

Because Texas is a predominantly hot weather state, air conditioning system replacement, repair, or installation is allowed in households that include at least one member who is 5 years of age and under, elderly, or disabled.

Funding: State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.

DOE funds may be used.

Beyond Scope of DOE WAP: Describe how the issue will be treated if beyond the scope of DOE WAP.

If the heating/cooling system issue is determined to be beyond the scope of DOE WAP, weatherization agencies will defer the work and refer the client to other resource agencies who may be able to address the problem. Texas's deferral policy and protocols shall always be strictly adhered to when deferring weatherization work. If client is completely without cooling and the weather warrants, the weatherization agencies shall make a referral to an agency with funding that can provide at-risk clients with a portable air conditioner. In the case where the heating system issue is determined to be beyond the scope of DOE WAP; and the client is completely without heat and the weather warrants, the weatherization agencies shall make a referral to an agency with funding that can provide client with a temporary means of heat, such as a portable heat pump or blankets.

Standards for Remedy: Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. **Note:** Some health and safety categories, like combustion gases, require testing.

The Department will initially attempt to qualify existing Air Conditioning units and Heating systems as an ECM. If the AC unit or Heating system does not rank and if the client qualifies under the at risk criteria, then the Subgrantee may repair, replace, or provide a new AC unit or furnace as a Health and Safety Measure.

The goal of all testing shall be to make sure Heating/cooling systems are present, operable, and performing safely. Additionally, we want to determine the presence of at-risk occupants.

Standards for Deferral: Describe when deferral should take place for the specific health and safety category.

Deferral should be exercised when existing code violations are present and correcting them would result in a whole-house SIR below a 1, or when there are problems affecting the heat system/furnace that are beyond the

scope of the DOE WAP, such as certain electrical problems. For additional deferral criteria, see deferral policy above.
Standards for Referral: Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.
Referrals should be made when problems are identified that are beyond the scope of the DOE WAP, such as electrical or other code violations. Examples of referral agencies include, but are not limited to, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.
Training Provision: Discuss how training will be provided for the specific health and safety category. Note: Some health and safety categories, like OSHA, require training.
The Department provided CAZ Testing training across the state. The course covered worst case depressurization testing, with a focus on when to replace systems for high CO levels, when to shut off the system, open window, and when notify the client and gas company. Best Practices addressing worst case depressurization testing are posted on the website. http://www.tdhca.state.tx.us/community-affairs/wap/wap-best-practices.htm
The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department’s website under Webinars and Workshops at http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm
In addition the Texas Mechanical Systems Field Guides have been distributed to all Subgrantees and posted on the Department’s website under Weatherization Tools and Guides. http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm
Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.
Client Education: Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. Note: Some health and safety categories, like mold and moisture, require client education.
Clients shall be given all pertinent information on the appropriate use and maintenance of heating units as well as information regarding the proper disposal of bulk fuel tanks when not removed, if applicable.
Disposal Procedures: Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.
Weatherization agencies shall require licensed HVAC subcontractors to dispose of old Heating/cooling systems as part of the repair/installation job. All weatherization agencies and subcontractors must follow local and state regulations when disposing of old Heating/cooling systems components and /or fuels.
Air Conditioning Installation (as specific to installation as a health and safety measure): Provide a narrative on implementation protocols of air conditioning repair, replacement, and installation including justification for allowability that includes climate justification with degree days and how to define at-risk occupants
Air conditioning installation is an allowable health and safety measure in Texas. Texas’ weather and geography directly affects energy consumption in homes. Cooling degree days is a climatic statistic that can be used to reflect the severity and length of the cooling season. Basically, cooling degree days represent the number of hours over the course of a year that the outside air temperature is above 78 degrees Fahrenheit.
Texas is a diverse state with a myriad of climatic conditions. As noted in the following historic average temperatures per larger cities, most areas rarely drop below the heating degree day outside temperature of 65 degrees Fahrenheit. In many areas, heating is needed on a limited basis. However, throughout Texas, cooling is often a necessity.
Texas has several climate zones and the degree of heating necessary varies depending on the area. Combustion Safety is always a prime concern regarding heating systems. Texas is primarily a cooling climate. When conducting energy audits, cooling is a more significant factor than heating in determining energy conservation measures and the health of “vulnerable populations” (i.e.- elderly, children under the age of 5, and those who

have medical needs). In every instance, the cooling loads require more comprehensive measures than heating loads; such as low-e windows, solar screens, reducing humidity, and air conditioners. Therefore, air conditioning installation is an allowable measure in Texas.

Heating/cooling systems Installation (as specific to installation as a health and safety measure): Provide a narrative on implementation protocols of Heating/cooling systems repair, replacement, and installation including justification for allowability that includes climate justification with degree days

See above under air conditioning installation for climate justification for Heating/cooling systems installation. Texas is primarily a cooling climate with occasional severe cold weather conditions. Heat loss emergencies in Texas can put clients at severe health and safety risk that could potentially be life-threatening. Thus, Heating/cooling systems installation as a health and safety measure is allowable. Texas requires heat system installation to follow local and state code and it must be performed by a licensed HVAC professional. Weatherization agencies may subcontract licensed HVAC companies/individuals to perform Heating/cooling systems installations and repairs if they follow proper state procurement procedures.

Appliances and Water Heaters

Concurrence or Alteration: Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. **Note:** Where an Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.

X-Concur with WPN 11-6	Replacement or repair of water heaters is allowed on a case by case basis. Replacement and installation of other appliances are not allowable health and safety costs. Repair and cleaning are allowed.
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Funding: State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.

DOE funds may be used for repair and cleaning. Replacement of cook stoves may be done with unrestricted funds from a funding source other than DOE.

Beyond Scope of DOE WAP: Describe how the issue will be treated if beyond the scope of DOE WAP.

If the water heater or appliance issue is determined to be beyond the scope of DOE WAP, the agency will defer the work and refer the client to other resource agencies who may be able to address the problem. Texas’s deferral policy and protocols shall always be strictly adhered to when deferring weatherization work.

Standards for Remedy: Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. **Note:** Some health and safety categories, like combustion gases, require testing.

TDHCA Subgrantee Guidance: The goal of all testing is to verify appliances are present, operable, and performing safely. Testing is outlined in the Weatherization and Mechanical Field Guide posted on the Department’s website under Weatherization Tools and Guides.
<http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

TDHCA Subgrantee Guidance for Stoves

Stove replacement is Not allowed:

Cook Stoves with high CO:

- Clean or repair
- If still has high CO levels, then see if another funding source is able to pay for the stove replacement.
- If no other source, the house must be deferred until the occupant can address the stove.
- Document all steps.
- CO deferral levels for Stoves that cannot be remedied

25 ppm for stove top burners
150 ppm for oven.

The Subgrantees must initially attempt to qualify existing Water Heater as an ECM. If the Water Heater does not rank, Subgrantees may repair or replace the existing unit as a Health and Safety Measure. Testing is outlined in the Weatherization and Mechanical Field Guide.

- CO deferral Levels for Gas water heaters that cannot be remedied
100 ppm tested at the flue.

Standards for Deferral: Describe when deferral should take place for the specific health and safety category.

Deferral may be exercised when the estimated H&S cost of exceeds the total cost of all Weatherization Measures.

Standards for Referral: Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.

Referrals should be made when problems are identified that are beyond the scope of the DOE WAP, such as electrical or other code violations. Examples of referral agencies include, but are not limited to, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.

Training Provision: Discuss how training will be provided for the specific health and safety category. **Note:** Some health and safety categories, like OSHA, require training.

On-going Health & Safety training will continue via regional training, webinars, Q&As, and postings of FAQs to Department Website. <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department’s website under Webinars and Workshops at <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.

Client Education: Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. **Note:** Some health and safety categories, like mold and moisture, require client education.

Clients shall be given all manufacturers information on the appropriate use and maintenance of water heating units.

Disposal Procedures: Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.

All weatherization agencies and subcontractors must follow local and state regulations when disposing of old water heating system components. Go to: <http://www.epa.gov/osw/> for current rules and regulations; along with EPA approved disposal sites.

Asbestos - in siding, walls, ceilings, etc.

Concurrence or Alteration: Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. **Note:** Where an Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.

X-Concur with WPN 11-6

Removal of siding is allowed to perform energy conservation measures. All precautions must be taken not to damage siding. Asbestos siding should never be cut or drilled. Recommended, where possible, to insulate through home interior.

Funding: State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.

DOE funds may be used.

Beyond Scope of DOE WAP: Describe how the issue will be treated if beyond the scope of DOE WAP.

If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.

Standards for Remedy: Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. **Note:** Some health and safety categories, like combustion gases, require testing.

Crews/contractors will never cut or drill through asbestos siding. Where asbestos siding exists, they must determine if it can be removed and rehung to work from the outside; and use (LSW) practices. Work will be performed from the inside of the unit, whenever possible.

Definition: Asbestos is the name given to a number of naturally occurring fibrous minerals with high tensile strength, the ability to be woven, and resistance to heat and most chemicals. Because of these properties, asbestos fibers have been used in a wide range of manufactured goods, including roofing shingles, ceiling and floor tiles, paper and cement products, textiles, coatings, and friction products such as automobile clutch, brake and transmission parts. The Toxic Substances Control Act defines asbestos as the asbestiform varieties of: chrysotile (serpentine); crocidolite (riebeckite); amosite (cumingtonite/grunerite); anthophyllite; tremolite; and actinolite.

The three most common varieties of asbestos are: chrysotile, amosite, and crocidolite. Chrysotile fibers are pliable and cylindrical, and often arranged in bundles. Amosite and crocidolite fibers are like tiny needles. Unlike most minerals, which turn into dust particles when crushed, asbestos breaks up into fine fibers that are too small to be seen by the human eye.

It is difficult to tell whether a material contains asbestos simply by looking at it, unless it is labeled. If in doubt, treat the material as if it contains asbestos. Testing is allowed by a certified AHERA tester.

Inspect exterior wall surfaces and sub-surfaces for asbestos siding prior to drilling or cutting. Typically, asbestos appears as a whitish, fibrous material which may release fibers that range in texture from coarse to silky.

Check state and local codes prior to the temporary removal and replacement of asbestos siding. It may only be allowable if local and state codes allow temporary removal and replacement of asbestos siding.

Keep activities to a minimum in any areas having damaged material that may contain asbestos. Document and inform the client regarding the damaged material and suspected asbestos. Do not further disturb the material. If necessary, weatherization work to that area may have to be deferred.

In Texas, allow for the temporary removal of asbestos siding so that insulation materials may be installed, provided:

- Technicians wear personal protective equipment;
- The ground in the work area is covered with plastic sheeting to capture broken fragments;
- The pieces of siding to be removed are first sprayed with water;
- Breakage is kept to an absolute minimum;
- The siding is replaced; and
- The cost to benefit ratio is justified.

Do not dust, sweep, or vacuum debris that may contain asbestos.

Never saw, sand, scrape, or drill holes in asbestos materials.

Do not track material that could contain asbestos through the house.

All precautions must be taken not to damage the siding during removal. Asbestos siding should never be cut or drilled.

It is recommended that insulation be installed through interior wall surfaces if possible to completely avoid disturbing or removing the asbestos siding on the exterior of the home.

Follow EPA and OSHA regulations regarding the safe handling of asbestos to ensure worker and client safety. OSHA Fact Sheet No. 92-06 "Better Protection Against Asbestos in the Workplace" is posted on the Department's website under Health and Safety. Follow State and Local codes pertaining to asbestos.

For additional information and guidance regarding asbestos, reference:

REFERENCE: Texas Asbestos Health Protection Rules (TAHPR)

REFERENCE: ADMINISTRATIVE CODE - TITLE 25 - PART 1

[CHAPTER 295.31 - CHAPTER 295.73](#)

'Texas (TX) Asbestos Removal & Abatement Resources' Sources:

- "Texas Administrative Code." Health Services, Texas Asbestos Health Protection. 23 May 2006. 27 Jan 2008. <http://www.dshs.state.tx.us/asbestos/rules.shtm>
- "Asbestos Program." Texas Department of State Health Services. 12 Dec 2005. 9 Feb 2008. <http://www.dshs.state.tx.us/asbestos/about.shtm>.

Standards for Deferral: Describe when deferral should take place for the specific health and safety category.

Deferral should be exercised when local and/or state code does not allow the removal of asbestos siding as part of general contracting work, or when the asbestos siding cannot be removed without disturbing the asbestos. Deferral and appropriate referral should also be exercised when the asbestos siding is already in such a damaged state that it is releasing asbestos fibers and insulation cannot be installed via interior wall surfaces.

Standards for Referral: Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.

Referral shall be made at the State level at:
Environmental and Sanitation Licensing Group MC 2835
Texas Department of State Health Services
<http://www.dshs.state.tx.us/asbestos/default.shtm>

MAILING ADDRESS

P. O. Box 149347
Austin, Texas 78714-9347

PHYSICAL ADDRESS

The Exchange Building
8407 Wall Street
Austin, Texas 78754

MAIN PHONE:

(512) 834-6787 Ext. 2198 or (800) 572-5548 Ext. 2198

MAIN FAX:

(512) 834-6707

Asbestos Program Coordinator
Phone: (512) 834-6787, Extension 2198

Training Provision: Discuss how training will be provided for the specific health and safety category. **Note:** Some health and safety categories, like OSHA, require training.

OSHA Fact Sheet No. 92-06 “Better Protection Against Asbestos in the Workplace” is available on the Department’s website under Health and Safety for all Subgrantees’ use: <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>

On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department’s website under Webinars and Workshops at <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.

Client Education: Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. **Note:** Some health and safety categories, like mold and moisture, require client education.

In every instance, clients shall be informed both verbally and in writing that suspected asbestos siding is present. Clients shall also be informed as to the precautions that will be taken. Client written materials shall include information about the potential health risks associated with asbestos.

Disposal Procedures: Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.

Proper disposal procedures are available at Texas Commission on Environmental Quality: Special Waste Disposal: http://www.tceq.texas.gov/permitting/waste_permits/msw_permits/msw_specialwaste.html

Texas Natural Resource Conservation Commission

Technical Assistance Team, Permits Section/MC 124

Municipal Solid Waste Division/ TNRCC

PO Box 13087, Austin , TX 78711-3087

Phone 512-239-6781 Fax 512-239-6717

Asbestos - in vermiculite

Concurrence or Alteration: Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. **Note:** Where an Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.

X-Concur with WPN 11-6	When vermiculite is present, unless testing determines otherwise, take precautionary measures as if it contains asbestos, such as not using blower door tests and utilizing personal air monitoring while in attics. Where blower door tests are performed, it is a best practice to perform pressurization instead of depressurization. Encapsulation by an appropriately trained asbestos control professional shall be allowed. <u>Removal shall not be allowed.</u>
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Funding: State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.

DOE funds may be used.

Beyond Scope of DOE WAP: Describe how the issue will be treated if beyond the scope of DOE WAP.

If determined to be beyond the scope of the DOE WAP, follow all appropriate Deferral and Referral policies and protocols.

Standards for Remedy: Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. **Note:** Some health and safety categories, like combustion gases, require testing.

Minimal standards for remedy include, but are not limited to the following:

If a home contains vermiculite insulation, assume that this material is contaminated with asbestos and do not disturb it.

To determine if the insulation is made from vermiculite refer to the photographs posted at http://www.epa.gov/asbestos/pubs/verm_questions.html. Compare the photos on the website to the undisturbed insulation in the home. Vermiculite insulation is a pebble-like, pour-in product and is usually gray-brown or silver-gold in color.

Asbestos Hazard Emergency Response Act of 1986 (AHERA) certified prescriptive sampling is allowed by a certified tester. However, it is recommended to assume that vermiculite insulation contains asbestos and proceed accordingly.

Do not open any walls to check for vermiculite. Only check for vermiculite in the attic, and if found, leave it undisturbed, when possible.

If it is absolutely necessary to go into the attic containing vermiculite insulation, limit the number of trips and the shorten the length of those trips in order to limit any potential exposure and to avoid disturbing the product as any disturbance could potentially release asbestos fibers into the air.

Wear protective equipment when entering an attic area that may contain vermiculite insulation.

Do not track vermiculite insulation or associated dust into the living spaces of the home.

Follow EPA and OSHA regulations regarding the safe handling of asbestos to ensure worker and client safety. OSHA Fact Sheet No. 92-06 "Better Protection Against Asbestos in the Workplace" is posted on the Department's website under Health and Safety. Follow State and Local codes pertaining to asbestos.

For additional information and guidance regarding asbestos, reference:

Texas Asbestos Health Protection Rules (TAHPR)

TEXAS ADMINISTRATIVE CODE - TITLE 25 - PART 1

[CHAPTER 295.31 - CHAPTER 295.73](#)

'Texas (TX) Asbestos Removal & Abatement Resources' Sources:

- "Texas Administrative Code." Health Services, Texas Asbestos Health Protection. 23 May 2006. 27 Jan 2008. <http://www.dshs.state.tx.us/asbestos/rules.shtm>

"Asbestos Program." Texas Department of State Health Services. 12 Dec 2005. 9 Feb 2008.

<http://www.dshs.state.tx.us/asbestos/about.shtm>.

Standards for Deferral: Describe when deferral should take place for the specific health and safety category.

Deferral may be exercised if it is determined that the vermiculite insulation material and/or associated dust is seeping into the home living spaces to an extent that cannot be resolved with typical weatherization sealing measures. Deferral of attic portion of the work may be exercised if it is determined that the attic already contains vermiculite insulation and it would be best to leave it undisturbed and encapsulated in its original form. Encapsulation of vermiculite should be performed by an AHERA asbestos control professional only.

Standards for Referral: Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.

Referral shall be made at the State level at:
Environmental and Sanitation Licensing Group MC 2835
Texas Department of State Health Services
<http://www.dshs.state.tx.us/asbestos/default.shtm>

MAILING ADDRESS

P. O. Box 149347
Austin, Texas 78714-9347

PHYSICAL ADDRESS

The Exchange Building
8407 Wall Street
Austin, Texas 78754

MAIN PHONE:

(512) 834-6787 Ext. 2198 or (800) 572-5548 Ext. 2198

MAIN FAX:

(512) 834-6707

Asbestos Program Coordinator

Phone: (512) 834-6787, Extension 2198

Another source of vermiculite insulation information may be found at:

http://www.epa.gov/asbestos/pubs/vermiculite_message_to_the_public.pdf

Training Provision: Discuss how training will be provided for the specific health and safety category. **Note:** Some health and safety categories, like OSHA, require training.

OSHA Fact Sheet No. 92-06 "Better Protection Against Asbestos in the Workplace" is posted on the Department's website under Health and Safety.

On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department's website under Webinars and Workshops at <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.

Client Education: Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. **Note:** Some health and safety categories, like mold and moisture, require client education.

In every instance, clients shall be informed both verbally and in writing that suspected asbestos is present. Clients shall also be informed as to the precautions that will be taken. Client written materials shall include information about the potential health risks associated with asbestos. When it is determined that vermiculite insulation is present in a client's home, the EPA Fact Sheet, "Protect Your Family from Asbestos-Contaminated Vermiculite Insulation" shall be provided to the client. It can be found at http://www.epa.gov/asbestos/pubs/vermiculite_message_to_the_public.pdf

Disposal Procedures: Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.

Removal and/or disposal are not allowed for vermiculite insulation.

Referral shall be made at the State level at:

Environmental and Sanitation Licensing Group MC 2835

Texas Department of State Health Services

<http://www.dshs.state.tx.us/asbestos/default.shtm>

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(512) 834-6707

Asbestos Program Coordinator

Phone: (512) 834-6787, Extension 2198
DOE guidance does not allow for the removal of asbestos, unless on small covered surfaces. This guidance must always be followed.

Asbestos - on pipes, furnaces, other small covered surfaces

Concurrence or Alteration: Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. **Note:** Where an Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.

X-Concur with WPN 11-6	Assume asbestos is present in covering materials. Encapsulation is allowed by an AHERA asbestos control professional and should be conducted prior to any blower door testing. Removal may also be allowed by an AHERA asbestos control professional based on the situation as determined by the inspector or Agency Representative.
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Funding: State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.

DOE funds may be used.

Beyond Scope of DOE WAP: Describe how the issue will be treated if beyond the scope of DOE WAP.

If determined to be beyond the scope of the DOE WAP, follow all appropriate Deferral and Referral policies and protocols.

Standards for Remedy: Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. **Note:** Some health and safety categories, like combustion gases, require testing.

Inspect pipe and other coverings for asbestos. Testing is allowed only by a certified Tester. Check local codes prior to removal and replacement of asbestos containing materials. Removal and replacement of asbestos containing materials may be allowable by an AHERA asbestos control professional if local codes allow.

Keep activities to a minimum in any areas having damaged material that may contain asbestos. Document and inform the client regarding the damaged material and suspected asbestos. Do not further disturb the material.

Do not dust, sweep, or vacuum debris that may contain asbestos.

Never saw, sand, scrape, or drill holes in asbestos materials.

Do not track material that could contain asbestos through the house.

Follow EPA and OSHA regulations regarding the safe handling of asbestos to ensure worker and client safety. Follow State and Local codes pertaining to asbestos.

Texas Asbestos Health Protection Rules (TAHPR)

TEXAS ADMINISTRATIVE CODE - TITLE 25 - PART 1

CHAPTER 295.31 - CHAPTER 295.73

'Texas (TX) Asbestos Removal & Abatement Resources' Sources:

- "Texas Administrative Code." Health Services, Texas Asbestos Health Protection. 23 May 2006. 27 Jan 2008. <http://www.dshs.state.tx.us/asbestos/rules.shtm>
- "Asbestos Program." Texas Department of State Health Services. 12 Dec 2005. 9 Feb 2008. <http://www.dshs.state.tx.us/asbestos/about.shtm>.

Standards for Deferral: Describe when deferral should take place for the specific health and safety category.

Deferral should be exercised when the cost of an AHERA asbestos control professional to remove the asbestos, exceeds the total cost of all Weatherization Measures. For additional deferral criteria, see deferral section above.

Standards for Referral: Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.

Referral shall be made at the State level at:
Environmental and Sanitation Licensing Group MC 2835
Texas Department of State Health Services
<http://www.dshs.state.tx.us/asbestos/default.shtm>

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(512) 834-6707

Asbestos Program Coordinator

Phone: (512) 834-6787, Extension 2198

Training Provision: Discuss how training will be provided for the specific health and safety category. **Note:** Some health and safety categories, like OSHA, require training.

OSHA Fact Sheet No. 92-06 "Better Protection Against Asbestos in the Workplace" is posted on the Department's website under Health and Safety.

On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.

Client Education: Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. **Note:** Some health and safety categories, like mold and moisture, require client education.

In every instance, clients shall be informed both verbally and in writing that suspected asbestos is present. Clients shall also be informed as to the precautions that will be taken. Client written materials shall include information about the potential health risks associated with asbestos.

Disposal Procedures: Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.

All local, state and federal requirements and regulations shall be followed by Texas Subgrantees. At the State level, asbestos related referral and/or disposal questions, as well as other asbestos related questions/issues, may be referred to DOE guidance does not allow for the removal of asbestos, unless on small covered surfaces. This guidance must always be followed.

Biologicals and Unsanitary Conditions - odors, mustiness, bacteria, viruses, raw sewage, rotting wood, etc.

Concurrence or Alteration: Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. **Note:** Where an Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.

X-Concur with WPN 11-6	Remediation of conditions that may lead to or promote biological concerns and unsanitary conditions is allowed. Addressing bacteria and viruses is not an allowable cost. Deferral may be necessary in cases where a known agent is present in the home that may create a serious risk to occupants or weatherization workers. More information is available under the Mold and Moisture guidance below.
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Funding: State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.

DOE funds may be used.

Beyond Scope of DOE WAP: Describe how the issue will be treated if beyond the scope of DOE WAP.

If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.

Standards for Remedy: Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. **Note:** Some health and safety categories, like combustion gases, require testing.

This health and safety category shall require sensory inspection for the purpose of detection.

Types of health and safety hazards that may be included under this category include, but are not limited to:

- Odors;
- Mustiness;
- Bacteria;
- Viruses;
- Raw sewage;
- Rotting wood;
- Garbage;
- Etc.

Addressing bacteria and viruses shall not be allowed. Deferral may be necessary in cases where a known agent is present in the home that may create a serious risk to occupants or weatherization crews/contractors.

The use of personal protective equipment shall be strictly enforced. Respirators, protective eyewear, and protective clothing will be worn when there is suspicion or knowledge that biological agents may be present in order to eliminate or minimize crew exposure.

In the past, remediation of conditions listed under this health and safety category was not allowed. It is allowable under WPN 11-6, except for the removal of known bacteria and viruses. Texas will assess the cost-

effectiveness and necessity of remediation of these conditions on a case by case basis.

See Mold and Moisture guidance below for additional standards for remedy.

Standards for Deferral: Describe when deferral should take place for the specific health and safety category.

Visual and sensory inspection must be performed for the purpose of detection of health and safety hazards such as, but are not limited to:

- Odors;
- Mustiness;
- Bacteria;
- Viruses;
- Raw sewage;
- Rotting wood;
- Garbage;
- Etc.

The use of personal protective equipment (Respirators, protective eyewear), and protective clothing will be worn when there is suspicion or knowledge that biological agents may be present in order to eliminate or minimize crew exposure.

Deferral may be necessary in cases where a known agent is present in the home that may create a serious risk to occupants or weatherization crews/contractors. For additional deferral criteria, see deferral section above.

Standards for Referral: Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.

Referral should be made when problems are identified that are beyond the scope of the DOE WAP, such as the presence of raw sewage or other known agents. Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources. When biological or virus agents are suspected, referral to the Texas Health and Human Services Commission may be warranted. Information is available at <http://www.hhsc.state.tx.us>

In addition, when warranted, referrals may be made to Child or Adult Protective Services at: <http://www.dfps.state.tx.us>

Training Provision: Discuss how training will be provided for the specific health and safety category. **Note:** Some health and safety categories, like OSHA, require training.

On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department's website under Webinars and Workshops at <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.

Client Education: Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. **Note:** Some health and safety categories, like mold and moisture, require client education.

Clients shall be given information on the appropriate clean-up and removal of biological identified during the initial inspection performed by the Assessor.

Disposal Procedures: Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.

All Federal, State, and local regulations shall be followed regarding the disposal procedures as they pertain to this health and safety category.

Building Structure and Roofing

Concurrence or Alteration: Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. **Note:** Where an Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.

X-Concur with WPN 11-6	Building rehabilitation is beyond the scope of the WAP. Homes with conditions that require more than incidental repair should be deferred. More information is available under the Mold and Moisture guidance below.
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Funding: State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.

DOE funds may not be used for building rehabilitation work that goes beyond the scope of the WAP and requires more than incidental repairs.

Beyond Scope of DOE WAP: Describe how the issue will be treated if beyond the scope of DOE WAP.

Structurally compromised areas requiring more than incidental repairs shall be deemed beyond the scope of the WAP and shall be deferred.

Standards for Remedy: Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. **Note:** Some health and safety categories, like combustion gases, require testing.

Minimal standards for remedy include, but are not limited to the following:

Visual inspection.

Ensure that access to areas necessary for weatherization is safe for entry and performance of assessment, work, and inspection.

Notify client of structurally compromised areas; defer weatherization work to those areas.

Basic guidance for WAP crews/contractors:

While conducting the initial audit, the building structure shall be inspected for structural integrity. Minor repairs to protect the DOE materials installed may be performed to protect the energy saving investment. However, building rehabilitation is beyond the scope of the WAP. Dwellings whose structural integrity is in question should be referred to agencies that deliver HUD funds or other appropriate local and state agencies. Weatherization services may need to be delayed or deferred until the dwelling can be made safe for crews/contractors and occupants. Incidental (minor) repairs necessary to effectively perform or preserve weatherization materials/measures are allowed. Examples of these include sealing minor roof leaks to preserve new attic insulation and repairing water-damaged flooring as part of replacing a water heater. Incidental structural repairs shall not include cosmetic applications, such as replacing a floor covering such as a carpet or linoleum. Only the structural part shall be replaced/repared.

Standards for Deferral: Describe when deferral should take place for the specific health and safety category.

Homes that require more than incidental (minor) repair should be deferred.

Standards for Referral: Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.

Dwellings whose structural integrity is in question should be referred to HUD or other appropriate local and state

agencies, such as local building departments.

Resources for dwellings whose structural integrity is in question:

HUD has 5 field offices in Texas (Dallas, Fort Worth, Houston, Lubbock, and San Antonio). Here is contact info for Dallas. Others are listed at <http://www.hud.gov/local/index.cfm?state=tx&topic=offices>.

Department of Housing and Urban Development

Dallas Field Office

A. Maceo Smith Federal Office Building

525 Griffin Street, Suite 860

Dallas, TX 75202-5007

Phone: (214) 767-8300

Email: [Customer Service](#)

Fax: (214) 767-8973

Further, HUD lists all Texas Public Housing Authorities on their website at:

<http://www.hud.gov/offices/pih/pha/contacts/states/tx.cfm>

Examples of referral agencies include, but are not limited to Habitat for Humanity, United Way, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.

Training Provision: Discuss how training will be provided for the specific health and safety category. **Note:** Some health and safety categories, like OSHA, require training.

On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department’s website under Webinars and Workshops at <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.

Client Education: Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. **Note:** Some health and safety categories, like mold and moisture, require client education.

Clients shall be notified verbally and in writing regarding any structurally compromised areas. Appropriate referral resources shall also be provided to the client.

Disposal Procedures: Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.

All Federal, state and local regulations regarding disposal of construction waste shall be followed.

Code Compliance

Concurrence or Alteration: Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. **Note:** Where an Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.

X-Concur with WPN 11-6

Correction of pre-existing code compliance issues is not an allowable cost other than where weatherization measures are being conducted. State and local (or jurisdiction having authority) codes **must** be followed while installing weatherization measures.

	Condemned properties and properties where “red tagged” health and safety conditions exist that cannot be corrected under this guidance should be deferred.
Funding:	State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.
	DOE funds may be used when weatherization measures are being conducted. They may not be used simply to correct pre-existing code compliance issues.
Beyond Scope of DOE WAP:	Describe how the issue will be treated if beyond the scope of DOE WAP.
	If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.
Standards for Remedy:	Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. Note: Some health and safety categories, like combustion gases, require testing.
	Minimal standards for remedy include, but are not limited to the following: Visual inspection as well as local code enforcement inspections shall be necessary to comply with WPN 11-6 guidance. Follow all State and Local codes when installing weatherization measures. Acquire all required permits and licenses pertinent to installing weatherization measures. These vary by jurisdiction and it is the responsibility of each Subgrantee agency to know what the codes are in each of the areas they work, as well as what permits and licenses are required in each of the areas they work.
Standards for Deferral:	Describe when deferral should take place for the specific health and safety category.
	Condemned properties shall be deferred. Properties where “red-tagged” health and safety conditions exist that cannot be addressed with DOE H&S funding, should be deferred.
Standards for Referral:	Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.
	Where code compliance issues are identified and cannot be corrected under WPN 11-6 guidance, or program guidance, appropriate referrals should be made. Examples of referral agencies include, but are not limited to Habitat for Humanity, United Way, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.
Training Provision:	Discuss how training will be provided for the specific health and safety category. Note: Some health and safety categories, like OSHA, require training.
	The Department is working with the State Energy Conservation Office (DOE State Energy Program Subgrantee and the State Authority to adopt code) on a Collaborative effort to address code compliance issues. The Collaborative will address code education throughout the state of Texas. Classes will be available to all Subgrantees to attend at a nominal fee set by the Collaborative to cover costs.
Client Education:	Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. Note: Some health and safety categories, like mold and moisture, require client education.
	Inform client of observed code compliance issues. Make appropriate referrals as necessary.
Disposal Procedures:	Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.
	All Federal, state and local regulations regarding disposal of construction waste shall be followed.

Combustion Gases
Concurrence or Alteration: Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. Note: Where an

Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.

X-Concur with WPN 11-6	Proper venting to the outside for combustion appliances, including gas dryers, is required. Correction of venting is allowed when testing indicates a problem.
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Funding: State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.

DOE funds may be used in accordance with guidance in WPN 11-6.

Beyond Scope of DOE WAP: Describe how the issue will be treated if beyond the scope of DOE WAP.

If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.

Standards for Remedy: Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. **Note:** Some health and safety categories, like combustion gases, require testing.

A complete mechanical systems assessment is required to be completed on every home. All relevant information must be recorded on the Heating/cooling systems and Appliance Worksheet. The procedure includes collecting general information; collecting and recording mechanical systems information; visual and diagnostic inspection of the venting and distribution system; and, combustion analysis and diagnostic testing of gas/propane fired equipment, and post-installation safety tests for CO.

Combustion safety testing is required when combustion appliances are present. Combustion appliances include any appliance using combustible fuels, including gas water heaters, wood stoves, gas or oil fueled furnace/heat system, including free standing space heaters fueled by kerosene, natural gas, or propane.

The combustion appliance safety inspection includes all of the following: carbon monoxide testing, draft measurement, spillage evaluation, and worst case depressurization of the combustion appliance zone (CAZ). Combustion safety test results must be acted upon appropriately according to the combustion safety tables. Testing protocols can be found in Chapter 2 and 3 of the Texas Mechanical Systems Field Guide which has been distributed to the entire weatherization network and is located on the Department’s website <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>

As applicable, every combustion appliance will be checked for a safe flue pipe, chimney or vent, adequate combustion air, and gas leakage. DOE will not permit any DOE-funded weatherization work where the dwelling unit is heated with an unvented gas- and/or liquid-fueled space heater as the primary heat source. In such cases the primary space heater must be removed and a vented, code compliant heat source must be installed prior to the installation of weatherization measures. DOE will allow unvented gas- or liquid-fueled space heaters to remain as secondary heat sources provided they comply with ANSI Z21.11.2 ,the IRC, and the IFGC. LIHEAP-WAP may replace non-compliant secondary unvented gas- or liquid-fueled space heaters.

Weatherization Assessors and Final Inspectors must test naturally drafting appliances for draft and spillage under worst case conditions before and after air tightening is performed.

Weatherization Assessors and Final Inspectors must also test cooking burners for operability, and flame quality.

Subgrantees must test for high carbon monoxide (CO) levels and bring CO levels to acceptable levels before weatherization work can start. The Department has defined maximum acceptable CO readings as follows: (1) 25 parts per million for cook stove burners and unvented space heaters; (2) 100 parts per million for vented combustion appliance; and (3) 150 parts per million for cook stove ovens.

Investigate and correct a steady state CO reading >100 ppm in the following appliances: water heater, furnace or

space heater.

CO detectors should be installed in all homes when fuel-fired (combustion) appliances exist. This includes: cook stoves, furnaces, water heaters, wood and coal burning stoves.

Combustion appliances must be installed to the IRC or local code regulations.

TDHCA Subgrantee Guidance:

Oven replacements are Not allowed. If CO readings are above the limits above follow these steps:

1. Clean or repair
2. If still has high CO levels, then see if another funding source is able to pay for the stove replacement.
3. If no other source, the house must be deferred until the occupant can address the stove.
4. Document all steps.

REFERENCE: "Combustion Safety & Efficiency Testing" in the Texas Mechanical Systems Field Guide

Standards for Deferral: Describe when deferral should take place for the specific health and safety category.

Deferral should be exercised when existing code violations are present and correcting them would be beyond the scope of the DOE WAP, and/or when there are problems affecting the combustion appliance that are beyond the scope of the DOE WAP, such as certain electrical problems. For additional deferral criteria, see deferral section above.

Standards for Referral: Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.

Referrals should be made when problems are identified that are beyond the scope of the DOE WAP, such as electrical or other code violations. Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.

Training Provision: Discuss how training will be provided for the specific health and safety category. **Note:** Some health and safety categories, like OSHA, require training.

On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department's website under Webinars and Workshops at <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

The Department implemented ASHRAE 62.2-2013 in its 2014 program year. Training for Subgrantees was provided via webinar on October 29, 2014 and included a refresher on ventilation requirements and instruction on changes from ASHRAE 2010 to 2013, including but not limited to:

1. Local exhaust exceptions
2. Flow measurement
3. Different air flow calculation: The Department will use the updated calculator provided by Residential Energy Dynamics at <http://www.residentialenergydynamics.com/REDCalcFree/Tools/ASHRAE6222013.aspx> . This tool has been updated to apply the changes in the air flow calculation from 2010 to 2013.
4. Infiltration credit
5. Newly added carbon monoxide alarm and pressure drop requirements
6. Use with Multifamily units

In addition, the new ASHRAE standards are incorporated into the Standard Work Specifications published by NREL, which the Department is currently incorporating. Additional training for Subgrantees will be handled on an

ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees, etc. Training for program monitors so that they can monitor for compliance with all requirements will be handled via the webinar and in-house on an as-needed basis. Training and Technical Assistance staff will ensure compliance with ASHRAE 62.2-2013 during technical assistance visits to Subgrantees, and Monitors will ensure compliance with ASHRAE 62.2-2013 when they review completed units.
Client Education: Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. Note: Some health and safety categories, like mold and moisture, require client education.
Client shall be provided with combustion safety and hazards information, including the importance of using exhaust ventilation when cooking and the importance of keeping burners clean to limit the production of CO.
Disposal Procedures: Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.
Weatherization agencies shall require subcontractors to dispose of old Heating/cooling systems as part of the repair/installation job. All weatherization agencies and subcontractors must follow local and state regulations when disposing of old Heating/cooling systems components and /or fuels.
Combustion Gas Problem Discovery: Provide a narrative describing the process to be followed when combustion gas testing reveals health and safety concerns.
All homes with combustion appliances shall be tested to determine if carbon monoxide levels exceed those recommended by the Texas Weatherization Technical Standards, EPA, OSHA, and gas utilities. The existing primary standards for Ambient Air Quality, per EPA, are 9 parts per million (ppm) measured over 8 hours, and 35 ppm measured over 1 hour. OSHA standards for CO exposure: The OSHA PEL is 50 ppm. OSHA standards prohibit worker exposure to more than 50 parts of the gas per million part of air averaged during an 8-hour time period.
The Texas TAC requires that crews/contractors investigate and correct steady state CO readings > 150 ppm from gas ovens and >25ppm for cook-top burners. Crews/contractors must also investigate and correct steady-state CO readings > 100 ppm for gas water heaters, and furnaces/space heaters. Combustion air requirements and availability must be calculated for all combustion appliances. When combustion gas testing reveals health and safety concerns, clients shall be notified of the health and safety concern, and the concern shall be remedied to remove the health and safety risk if it can be remedied within the scope of the DOE WAP. If it cannot be satisfactorily remedied within the scope of the DOE WAP, the work may have to be deferred. Clients shall be notified both in writing and verbally, and crews/contractors shall make every reasonable effort to refer the client to other resources.
Should crew members or occupants show any signs of CO poisoning, proper first aid protocols should be followed, including getting them to fresh air right away and seeking immediate medical attention. Common symptoms of CO exposure include: headaches, dizziness and drowsiness. More severe symptoms include: nausea, vomiting, tightness across the chest. Severe carbon monoxide poisoning can cause neurological damage, illness, coma and death.

**Drainage - gutters, down spouts, extensions,
flashing, sump pumps, landscape, etc.**

Concurrence or Alteration: Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. Note: Where an Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.
X-Concur with WPN 11-6 Major drainage issues are beyond the scope of the WAP. Homes with conditions

	that may create a serious health concern that requires more than incidental repairs should be deferred. See Mold and Moisture guidance below.
Funding:	State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.
	DOE funds may not be used to address major drainage issues. The cost to address the drainage issues must not exceed the total cost of all weatherization measures.
Beyond Scope of DOE WAP:	Describe how the issue will be treated if beyond the scope of DOE WAP.
	If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.
Standards for Remedy:	Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. Note: Some health and safety categories, like combustion gases, require testing.
	Major drainage issues are beyond the scope of the WAP. Homes with conditions that may create a serious health concern that require more than incidental repair shall be deferred. Visual inspection and observation shall be the primary mechanism for detecting drainage issues.
Standards for Deferral:	Describe when deferral should take place for the specific health and safety category.
	Deferral should be exercised when major drainage issues are present and could present a serious health risk and correcting them would be beyond the scope of the DOE WAP. For additional deferral criteria, see deferral section above.
Standards for Referral:	Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.
	Referral should be made when problems are identified that are beyond the scope of the DOE WAP, such as code violations, structural issues or serious drainage issues. Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.
Training Provision:	Discuss how training will be provided for the specific health and safety category. Note: Some health and safety categories, like OSHA, require training.
	On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm .
	The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department's website under Webinars and Workshops at http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm .
	Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.
Client Education:	Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. Note: Some health and safety categories, like mold and moisture, require client education.
	Client education shall include, but not be limited to, the importance of cleaning and maintaining drainage systems.
Disposal Procedures:	Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.
	State and local codes and regulations shall always be adhered to for proper disposal procedures.

Electrical, other than Knob-and-Tube Wiring

Concurrence or Alteration:	Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. Note: Where an Action/Allowability or Testing is "required" or "not allowed" through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room
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for determining if the issue or testing will be addressed and in what circumstances.	
X-Concur with WPN 11-6	Minor electrical repairs are allowed where health or safety of the occupant(s) may be at risk. Upgrades and repairs are allowed when necessary to perform specific weatherization measures.
Funding: State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.	
DOE funds may be used.	
Beyond Scope of DOE WAP: Describe how the issue will be treated if beyond the scope of DOE WAP.	
If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.	
Standards for Remedy: Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. Note: Some health and safety categories, like combustion gases, require testing.	
Aluminum wiring should be thoroughly inspected before any insulation work is done. If aluminum wiring is found to be active and in the areas to be insulated, no insulation should be added.	
When electrical repairs within the scope of the DOE WAP are required, the typical standard of remedy shall be to sub-contract the repair work to a licensed electrician. All appropriate procurement procedures shall be followed when sub-contracting.	
Testing shall include visual inspection, as well as voltage drop and voltage detection testing.	
Standards for Deferral: Describe when deferral should take place for the specific health and safety category.	
Deferral should be exercised when existing code violations are present and correcting them would be beyond the scope of the DOE WAP, and/or when there are problems affecting the Heating/cooling systems are beyond the scope of the DOE WAP, such as certain electrical problems which fall outside of the scope of the DOE WAP because they require more than incidental minor repair. For additional deferral criteria, see deferral section above. If electrical wiring and circuitry is found to be in such a condition as to be a serious safety risk, work should be deferred until the electrical safety issue has been satisfactorily corrected. Client and/or building owner must be informed of the safety risk.	
Standards for Referral: Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.	
Referral should be made when problems are identified that go beyond the scope of the DOE WAP, such as electrical or other code violations. Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.	
Training Provision: Discuss how training will be provided for the specific health and safety category. Note: Some health and safety categories, like OSHA, require training.	
On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm .	
The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department's website under Webinars and Workshops at http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm .	
Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.	
Client Education: Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. Note: Some health and safety categories, like mold and moisture, require client education.	
Provide information on overloading circuits and electrical safety and risks.	

Disposal Procedures: Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.

State and local codes and regulations shall always be adhered to for proper disposal procedures and protocols.

Electrical, Knob-and-Tube Wiring

Concurrence or Alteration: Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. **Note:** Where an Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.

X-Concur with WPN 11-6	Minor upgrades and repairs necessary for weatherization measures and where the health or safety of the occupant(s) is at risk may be allowed.
TDHCA concurs with refined guidance	However, TDHCA prohibits installing insulation over knob-and-tube wiring. Thus, insulating over knob-and-tube wiring is not allowable under Texas WAP field standards.

Funding: State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.

DOE funds may be used except to install insulation over knob-and-tube wiring which is not allowable. Funds may be used only for minor repairs and upgrades as stipulated above.

Beyond Scope of DOE WAP: Describe how the issue will be treated if beyond the scope of DOE WAP.

If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.

Standards for Remedy: Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. **Note:** Some health and safety categories, like combustion gases, require testing.

Prior to insulating around Knob and Tube wiring, barriers must be installed to keep insulation at least three inches from the K&T. Subgrantees must follow the Best Practice on K&T wiring as well as the Weatherization Field Guides <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>

Standards for Deferral: Describe when deferral should take place for the specific health and safety category.

Deferral should be exercised when existing code violations are present and correcting them would be beyond the scope of the DOE WAP, such as certain electrical problems. In the specific instance where active knob-and-tube wiring is present and it presents a safety risk, weatherization work may have to be deferred until the electrical safety issue has been adequately addressed.

Standards for Referral: Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.

Referral should be made when problems are identified that are beyond the scope of the DOE WAP, such as electrical or other code violations. Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.

Training Provision: Discuss how training will be provided for the specific health and safety category. **Note:** Some health and safety categories, like OSHA, require training.

On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department’s website under

Webinars and Workshops at <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.

Client Education: Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. **Note:** Some health and safety categories, like mold and moisture, require client education.

Provide information to client on over-current protection, overloading circuits, and basic electrical safety/risks.

Disposal Procedures: Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.

State and local codes shall be adhered to for proper disposal procedures and protocols.

Fire Hazards

Concurrence or Alteration: Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. **Note:** Where an Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.

X-Concur with WPN 11-6	Correction of fire hazards is allowed when necessary to safely perform weatherization.
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Funding: State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.

DOE funds may be used.

Beyond Scope of DOE WAP: Describe how the issue will be treated if beyond the scope of DOE WAP.

If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.

Standards for Remedy: Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. **Note:** Some health and safety categories, like combustion gases, require testing.

At all times, crews/contractors are to look for potential fire hazards.

Crews/contractors and auditors shall check for potential fire hazards in the home during the audit and while performing the weatherization work.

Fire hazards must be remedied. If the remedy falls within the scope of the DOE WAP, the crew shall remedy the situation to eliminate the fire hazard they identified.

If the remedy required to remove the fire hazard goes beyond the scope of the DOE WAP, weatherization work may have to be deferred until the fire hazard has been eliminated. Proper referral and deferral protocols shall be followed.

Clients must be notified of any identified fire hazards and noted in client file.

Standards for Deferral: Describe when deferral should take place for the specific health and safety category.

When the crew or a sub-contractor working within the scope of the DOE WAP is unable to rectify the fire hazard, deferral protocols should be exercised.

Standards for Referral: Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.

<p>A referral should be made when problems are identified that are beyond the scope of the DOE WAP, such as electrical or other code violations. Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources. In some instances, it is recommended to have the local fire authority inspect the home to ensure that the fire hazard has been fully remedied. If there are elderly persons, persons with disabilities, or small children in the home and the fire hazard that was identified poses a serious risk to their safety, the agency might consider contacting the local fire marshal.</p>
<p>Training Provision: Discuss how training will be provided for the specific health and safety category. Note: Some health and safety categories, like OSHA, require training.</p>
<p>State-wide training specific to OSHA 10 & 30 were conducted during the ARRA WAP.</p>
<p>“Potential Fire Hazards in a Home” is posted on the Department Website under Health and Safety: http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</p>
<p>Subgrantees are encouraged to have local fire department conduct trainings for staff.</p>
<p>Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.</p>
<p>Client Education: Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this [issue of fire hazards] is not explained elsewhere in the State Plan. Note: Some health and safety categories, like mold and moisture, require client education.</p>
<p>Clients, occupants, and building owners/landlords will be notified in writing of potential fire hazards identified during the initial inspection performed by the Assessor. “Potential Fire Hazards in a Home” is posted on the Department Website under Health and Safety: http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</p>
<p>Disposal Procedures: Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.</p>
<p>State and local codes shall always be adhered to for proper disposal procedures and protocols.</p>

Formaldehyde, Volatile Organic Compounds (VOCs), and other Air Pollutants	
<p>Concurrence or Alteration: Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. Note: Where an Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.</p>	
<p>Concur with WPN 11-6</p>	<p>Removal of pollutants is NOT allowed by WAP workers. Removal of pollutants must be done by the client or a contracted professional, prior to weatherization work being performed. If pollutants pose a risk to workers and removal cannot be performed by a professional or the client refuses to remove the pollutants, the unit must be deferred.</p>
<p>X-Non-Concurrence: TDHCA guidance</p>	
<p>Funding: State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.</p>	
<p>DOE funds may not be used to remove pollutants without Department approval.</p>	
<p>Beyond Scope of DOE WAP: Describe how the issue will be treated if beyond the scope of DOE WAP.</p>	
<p>If the identified pollutants pose a risk to workers and removal cannot be performed because it goes beyond the scope of the DOE WAP, or if the client will not allow the removal of the pollutants, the unit will be deferred.</p>	
<p>Standards for Remedy: Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. Note: Some health and safety</p>	

categories, like combustion gases, require testing.

Sensory inspection shall be the primary detection method.

Formaldehyde is a naturally occurring substance in the environment and is made of carbon, hydrogen and oxygen. Formaldehyde is also a by-product of combustion: cars and trucks emit formaldehyde, as does burning wood. Formaldehyde does not accumulate in the environment because it is broken down within a few hours by sunlight or by bacteria present in soil or water. Neither does it accumulate in the body, as humans metabolize formaldehyde quickly.

One of the most important uses of formaldehyde is in adhesives, which are used in the production of wood composite products that are extensively used in furniture, kitchen cabinets, counters and flooring. While small quantities of formaldehyde gas can be emitted from various wood composite products, very little formaldehyde is present in a form that can be released. These low-level emissions diminish over time.

Formaldehyde is an extensively regulated material. Mandatory government regulations set standards to protect human health and the environment. The U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) has standards for workplace exposures to formaldehyde. Texas WAP agencies shall follow the OSHA standards regarding workplace exposures to formaldehyde to ensure worker safety.

Volatile organic compounds (VOCs) are organic chemical compounds that have high enough vapor pressures under normal conditions to significantly vaporize and enter the earth's atmosphere. VOCs include a variety of chemicals, some of which may have short- and long-term adverse health effects. Concentrations of many VOCs are consistently higher indoors (up to ten times higher) than outdoors. VOCs are emitted by a wide array of products numbering in the thousands. Examples include: paints and lacquers, paint strippers, cleaning supplies, pesticides, building materials and furnishings, office equipment such as copiers and printers, correction fluids and carbonless copy paper, graphics and craft materials including glues and adhesives, permanent markers, and photographic solutions.

Organic chemicals are widely used as ingredients in household products. Paints, varnishes, and wax all contain organic solvents, as do many cleaning, disinfecting, cosmetic, degreasing, and hobby products. Fuels are made up of organic chemicals. All of these products can release organic compounds while you are using them, and, to some degree, when they are stored.

EPA's Office of Research and Development's "Total Exposure Assessment Methodology (TEAM) Study" found levels of about a dozen common organic pollutants to be 2 to 5 times higher inside homes than outside, regardless of whether the homes were located in rural or highly industrial areas. Some of the more common household sources of VOCs include: paints, paint strippers, and other solvents; wood preservatives; aerosol sprays; cleansers and disinfectants; moth repellants and air fresheners; stored fuels and automotive products; hobby supplies; dry-cleaned clothing.

Health effects of exposure to VOCs include: eye, nose, and throat irritation; headaches, loss of coordination, nausea; damage to liver, kidney, and central nervous system. Key signs or symptoms associated with exposure to VOCs include conjunctival irritation, nose and throat discomfort, headache, allergic skin reaction, dyspnea, declines in serum cholinesterase levels, nausea, emesis, epistaxis, fatigue, dizziness.

The ability of organic chemicals to cause health effects varies greatly from those that are highly toxic, to those with no known health effect. As with other pollutants, the extent and nature of the health effect will depend on many factors including level of exposure and length of time exposed. Eye and respiratory tract irritation, headaches, dizziness, visual disorders, and memory impairment are among the immediate symptoms that some people have experienced soon after exposure to some organics. At present, not much is known about what

health effects occur from the levels of organics usually found in homes.

All reasonable steps shall be taken to limit worker exposure to VOCs. When using products known to emit VOCs, increase ventilation. Meet or exceed any label precautions. Identify, and if possible, remove the source. If not possible to remove, reduce exposure by using a sealant on all exposed surfaces of paneling and other furnishings. Educate clients regarding the use of integrated pest management techniques to reduce the need for continued use of pesticides. Properly dispose of partially full containers of old or unneeded chemicals. Because gases can leak even from closed containers, this single step could help lower concentrations of organic chemicals in the home and/or workplace. Do not simply toss these unwanted products in the garbage can. State and local codes and regulations regarding disposal of toxic household wastes must be followed.

There are certain specific VOCs that require limited exposure guidelines:

Keep exposure to emissions from products containing **methylene chloride** to a minimum. Consumer products that contain methylene chloride include paint strippers, adhesive removers, and aerosol spray paints. Methylene chloride is converted to carbon monoxide in the body and can cause symptoms associated with exposure to carbon monoxide. Carefully read the labels containing health hazard information and cautions on the proper use of these products. Use products that contain methylene chloride outdoors when possible; use indoors only if the area is well ventilated.

Keep exposure to **benzene** to a minimum. Benzene is a known human carcinogen. The main indoor sources of this chemical are environmental tobacco smoke, stored fuels and paint supplies, and automobile emissions in attached garages. Actions that will reduce benzene exposure include eliminating smoking within the home/workplace, providing for maximum ventilation during painting, and discarding paint supplies and special fuels that will not be used immediately.

Keep exposure to **perchloroethylene** emissions from newly dry-cleaned materials to a minimum. Perchloroethylene is the chemical most widely used in dry cleaning. Recent studies indicate that people breathe low levels of this chemical both in homes where dry-cleaned goods are stored and as they wear dry-cleaned clothing. Taking steps to minimize exposure to this chemical is prudent.

No standards have been set for VOCs in non-industrial settings. OSHA regulates formaldehyde, a specific VOC, as a carcinogen. OSHA has adopted a Permissible Exposure Level (PEL) of .75 ppm, and an action level of 0.5 ppm. HUD has established a level of .4 ppm for mobile homes. Based on current information, it is advisable to mitigate formaldehyde that is present at levels higher than 0.1 ppm.

TEXAS WAP crews/contractors shall take every precaution necessary to minimize exposure to air pollutants. When using chemicals and products that may contain any of the pollutants within this category, strict adherence to label instructions and precautions shall be required. Known pollutants must be removed by the client or a contracted professional prior to performance of weatherization work.

For additional information regarding indoor air pollutants, the EPA booklet, "Indoor Air Pollution: An Introduction for Health Professionals," is available at: <http://www.epa.gov/iaq/pubs/hpguide.html> . Additional resources are available at <http://www.epa.gov/iaq/index.html>

Standards for Deferral: Describe when deferral should take place for the specific health and safety category.

If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols. If the pollutant cannot be removed because the client is unwilling to remove it, or exposure cannot be safely and adequately minimized, weatherization work may have to be deferred to ensure the safety of the crew. Clients must always be informed of potential pollutant hazards.

Standards for Referral: Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.
A referral should be made when problems are identified that are beyond the scope of the DOE WAP, such as electrical or other code violations, or the presence of hazards that may pose a health risk to workers and occupants. Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.
Training Provision: Discuss how training will be provided for the specific health and safety category. Note: Some health and safety categories, like OSHA, require training.
Guidance on how to recognize potential hazards and when removal is necessary is posted to the Department Website: http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm
On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm .
The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department’s website under Webinars and Workshops at http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm .
Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.
Client Education: Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. Note: Some health and safety categories, like mold and moisture, require client education.
Always inform the client/occupant/building owner of observed condition and associated health risks. Provide written materials on safety and proper disposal of household pollutants. Such material is often located on the product label. There are additional written materials at the EPA website listed above.
Disposal Procedures: Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.
State and local codes and regulations must always be adhered to when disposing of toxic household wastes.

Injury Prevention of Occupants and Weatherization Workers – Measures such as repairing stairs and replacing handrails.	
Concurrence or Alteration: Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. Note: Where an Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.	
Concur with WPN11-6 X-TDHCA refined guidance	Workers must take all reasonable precautions against performing work on homes that will subject workers or occupants to health and safety risks. Porch or stair repairs that would be required to make a home safe for weatherization workers are not an allowable measure in the program. Such situations are considered to be beyond the scope of Texas WAP.
Funding: State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.	
DOE funds may not be used, as stipulated above.	
Beyond Scope of DOE WAP: Describe how the issue will be treated if beyond the scope of DOE WAP.	
If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.	
Standards for Remedy: Describe the standards for remedy of the health and safety category, including testing	

protocols. Also include when partial weatherization would be appropriate. Note: Some health and safety categories, like combustion gases, require testing.
If the crew encounters a situation where a stair case or porch is deemed unsafe and the stair case or porch is necessary to reach the area where the crews/contractors need to perform the weatherization work, and no other access is available, then weatherization work shall be deferred until the home owner has satisfactorily installed the required repair(s).
As part of the safety for crew and assessors will indentify health and safety hazards according the OSHA method "Focus Four" which includes, electrical, fall protection, caught in and between, and stuck-by hazards. The client will be informed in writing of any hazards and the associated risks that may have been observed.
Standards for Deferral: Describe when deferral should take place for the specific health and safety category.
See above.
Standards for Referral: Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.
Referral should be made when problems are identified that are beyond the scope of the DOE WAP, such code violations or safety issues requiring repairs that go beyond the scope of the DOE WAP. Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.
Training Provision: Discuss how training will be provided for the specific health and safety category. Note: Some health and safety categories, like OSHA, require training.
During the ARRA WAP, OSHA Training was provided by AEHS Inc. of San Antonio Texas. AEHS holds OSHA Construction Outreach Trainer Certificates, issued US Department of Labor. AEHS is authorized to conduct OSHA 10 and 30 Curricula. The Department required all weatherization crew members to obtain OSHA 10 certificates and supervisors to obtain OSHA 30 certificates. The training included the OSHA method of "Focus Four," which includes Electrical, Fall Protection, Struck By, and Caught In and Between. The Curricula and attendance sheets are available upon request. The regional training plan includes certification training for new staff.
On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm .
The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department's website under Webinars and Workshops at http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm .
Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.
Client Education: Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. Note: Some health and safety categories, like mold and moisture, require client education.
Inform client/building owner of observed hazards and their associated risks.
Disposal Procedures: Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.
State and local codes and regulations shall always be followed regarding the proper disposal procedures and protocols.

Lead Based Paint

Concurrence or Alteration: Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. Note: Where an Action/Allowability or Testing is "required" or "not allowed" through WPN 11-6, the grantee must concur or
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choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.

X-Concur with WPN 11-6	Follow EPA's Lead; Renovation, Repair and Painting Program (RRP) rule which was implemented April 21, 2010. In addition to RRP, Weatherization requires all weatherization crews/contractors working in pre-1978 housing to be trained in Lead Safe Weatherization (LSW). Deferral is required when the extent and condition of lead-based paint in the house would potentially create further health and safety hazards.
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Funding: State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.

DOE funds may be used.

Beyond Scope of DOE WAP: Describe how the issue will be treated if beyond the scope of DOE WAP.

If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.

Standards for Remedy: Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. **Note:** Some health and safety categories, like combustion gases, require testing.

In April 2008, EPA published the "Lead; Renovation, Repair, and Painting Program" (LRRPP) final rule. This rule specifically cites Weatherization activities (in the context of "renovation") in several places and has a direct impact on how the WAP proceeds in implementing LSW. **Note: the EPA Final Rule with an effective date of April 21, 2010, requires Certified Renovators to be onboard with Subgrantee crews/contractors or contractors, and performing all the EPA required functions on all pre-1978 housing that has not been determined as exempt by approved protocols.**

DOE further requires all Grantee Monitors/Inspectors be Certified Renovators in order to effectively monitor against the EPA requirements and trained in LSW in order to effectively monitor against LSW minimum requirements. These requirements are outlined in WPN 11-1. Texas is currently in compliance with the Final RRP rule with most crew members having achieved Certified Renovator status. The Texas WAP training staff members are Certified Renovators. This certification will expire in 2015, and the regional training plan includes recertification.

Texas recommends assuming that lead paint may be present in any house built prior to 1978 and to follow the proper DOE LSW protocols, OSHA regulations and EPA regulations in all pre-1978 homes. Unless they were remodeled and paint and varnish added to mobile homes prior to 1978, mobile homes are exempt because lead was not used in the original manufacture of mobile homes. However, crews/contractors must be alert to any remodels that could have contained lead-based paint or varnish when addressing mobile homes. Subgrantees must not assume that all mobile homes are categorically exempt. Any home built before 1978, or any mobile home remodeled using paints and varnishes prior to 1978, may contain lead-based paint. These paints should be considered "guilty until proven innocent" by way of testing.

Texas has fully implemented the EPA final RRP rule and most crew members are Certified Renovators.

In all pre-1978 homes, crews/contractors must assess the physical condition of the home prior to conducting an audit. Why is this necessary? Air movement from a blower door or duct blaster may disturb and circulate lead dust throughout the home. If the home has noticeable paint damage (flaking) or there is an appreciable amount of dust, the blower door and/or duct blaster tests must not be run until after lead testing per EPA RRP rules has shown that no lead is present in the painted surfaces of the home. If the paint is confirmed to have lead, the blower door test should not be conducted to avoid further distribution of lead dust throughout the home.

Testing is allowed per RRP requirements. Job site set up and cleaning verification is required by a Certified

Renovator.

Texas WAP crews/contractors will use LSW work practices that decrease the amount of dust generated. For example:

- Working dry will generate a lot of dust.
- Containing dust with plastic and using wet methods will generate less dust.
- Containing dust with plastic and using wet methods along with HEPA-attached equipment will generate even less dust.

Texas WAP crews/contractors shall avoid creating and spreading dust by following all DOE LSW guidance and training and by following the RRP guidelines and practices. At minimum, Texas crews/contractors will:

- Use low-dust work practices (using shrouds on power tools such as drills, misting down surfaces with water before drilling, etc.)
- Contain the work area per the RRP rules and regulations (6 mil or greater plastic is recommended)
- Keep dust contained to the immediate work area. Do not track dust out of the prepared and contained work area.
- Thoroughly clean the area after the work is completed per the RRP rules and standards. Pre- and Post-digital pictures are required as part of the LSW compliance documentation.
- All occupants must be kept away from the work areas. Warning signs as per the RRP standards must be posted.
- Workers must wear proper respiratory protection for lead dust when working in a leaded work area.

At all times, Texas WAP workers shall:

- Follow LSW and RRP and other EPA requirements
- Adhere to OSHA standards for worker safety
- Follow state and local requirements

As a minimum guideline, the following weatherization activities require lead-safe practices. (Note that this is not a complete list of weatherization activities that may create lead hazards, so it is important to train all workers to follow LSW measures whenever they disturb or could potentially disturb painted surfaces on buildings built prior to 1978.)

- Drilling holes in interior walls
- Drilling holes in and removing siding from exterior walls
- Cutting attic access into ceilings
- Removing caulk or window putty (interior)
- Removing caulk or window putty (exterior)
- Removing weatherstripping
- Modifying doors
- Planing doors in place
- Installing door shoes
- Replacing door jambs and thresholds
- Replacing windows
- Replacing thermostats
- Replacing furnace filters
- Replacing furnaces
- Replacing HEPA filters and cleaning HEPA vacuums at a weatherization facility
- Replacing HEPA filters and cleaning HEPA vacuums at the work site

Crews/contractors must follow all client notification requirements:

- Homes weatherized before December 22, 2008 – “Protect Your Family From Lead in Your Home” EPA

pamphlet;

- Homes weatherized after December 22, 2008 – “Renovate Right: Important Lead Hazard Information for Families, Child care Providers, and Schools” EPA pamphlet.
- The client file must include signed documentation that the client received the Renovate Right pamphlet. No exceptions.

All Texas WAP Subgrantees shall be monitored for compliance with LSW Minimum Standards and EPA RRP requirements. When a Subgrantee is found to be out of compliance, the Subgrantee shall be given a corrective action plan that will require training crews/contractors to ensure that all requirements are being met and to ensure compliance. TDHCA provides additional guidance through Best Practices, FAQs, forms and flowcharts at: <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>

Digital photo documentation must also be included. Even when a home tests negative for lead, the test form must be completed and placed in the client file.

Standards for Deferral: Describe when deferral should take place for the specific health and safety category.

When it is determined that the level of lead present in the home is so high that it presents a hazard to workers, the weatherization work should be deferred until a licensed lead abatement professional has eliminated the health hazard. Clients will always be notified regarding lead-based paint and its potential health hazards. If the lead dust is so wide spread in the home that it would be impossible to contain, the weatherization work should be deferred until a lead abatement professional has removed the health hazard. Deferral is required when the extent and condition of lead-based paint in the house would potentially create further health and safety hazards.

Standards for Referral: Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.

Referral should be made when problems are identified that are beyond the scope of the DOE WAP, high levels or extensive lead content or other code violations. Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources. In severe lead contamination situations, it may be necessary to make a referral to a lead paint risk assessment and abatement professional through Texas Department of State Health Services at: <http://www.dshs.state.tx.us/elp>

Training Provision: Discuss how training will be provided for the specific health and safety category. **Note:** Some health and safety categories, like OSHA, require training.

Texas has trained and certified 719 crew members/staff as Lead Safe Renovators during ARRA. Texas is in compliance with the RRP stipulation that crews/contractors working on pre-1978 homes be accompanied by an EPA certified renovator. The Texas WAP training staff are all Certified Renovators. The State monitors are also certified renovators as required by the EPA RRP Rule. Each Subgrantee will have one RRP certified person and all contractors doing WAP work will have LSR available to the worksite as per RRP rules. Texas is currently in compliance with the Final RRP rule with most crew members having achieved Certified Renovator status. Recertification was offered at the state association annual conference.

In addition, WxTV videos on Lead Safe Practices are available to all crew members and WAP staff at: <http://www.tdhca.state.tx.us/community-affairs/wap/wap-training-videos.htm>

On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department’s website under Webinars and Workshops at <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.

Client Education: Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. **Note:** Some health and safety categories, like

mold and moisture, require client education.
Texas WAP crews/contractors will follow all RRP requirements for client education.
Disposal Procedures: Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.
Texas WAP crews/contractors will follow all EPA RRP requirements for disposal as well as state and local code requirements.
Lead Based Paint Compliance: Provide a narrative describing how RRP and LSW implementation will be conducted and how the grantee will verify compliance. The explanation should clearly show an understanding that LSW and RRP are separate requirements and both are required to be met.
All Texas WAP Subgrantees shall be monitored for compliance with LSW Minimum Standards and EPA RRP requirements. When a Subgrantee is found to be out of compliance, the Subgrantee shall be given a corrective action plan that will require training crews/contractors to ensure that all requirements are being met and to ensure compliance. Texas created the following Lead Safe Flowchart for the purpose of ensuring that crews/contractors follow all important protocol steps.
REFERENCE: Lead Safe Best Practice is available at: http://www.tdhca.state.tx.us/community-affairs/wap/wap-best-practices.htm
Lead Safe Work resources are available under Lead Safe Work at: http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm
The completion of all required forms and documentation for the client file are posted on-line. A Quality Control Blitz was conducted with agencies to detail all necessary positive and negative documentation required to meet EPA RRP requirements.
Compliance with LSW and RRP requirements are monitored as part of grantee monitoring of the Subgrantees. Texas has already implemented both LSW and RRP requirements. Additionally, Texas monitors compliance by requiring pre- and post- digital photos. It is required that photos be taken of all aspects of LSW and RRP protocols. This best practice provides back up evidence that a test was conducted and shows the result of the test, etc.

Mold and Moisture

Concurrence or Alteration: Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. Note: Where an Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.	
X-Concur with WPN 11-6	Limited water damage repairs can be addressed by weatherization workers and correction of moisture and mold creating conditions are allowed when necessary in order to weatherize the home and to ensure the long term stability and durability of the measures. Where severe mold-like substance and moisture issues cannot be addressed, deferral is required.
Funding: State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.	
DOE funds may be used as stipulated above.	
Beyond Scope of DOE WAP: Describe how the issue will be treated if beyond the scope of DOE WAP.	
If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.	

<p>Standards for Remedy: Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. Note: Some health and safety categories, like combustion gases, require testing.</p>
<p>Visual assessment is required and diagnostics such as moisture meters are recommended pre and prior to final inspection. Per Texas Technical Standards, all units must be inspected for problems associated with excess moisture. Identification of potential moisture problems shall be documented in the client file. Moisture can be addressed as prescribed in the Texas Weatherization Field Guides: http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</p>
<p>Standards for Deferral: Describe when deferral should take place for the specific health and safety category.</p>
<p>When mold or mold like substances are identified deferral is required.</p>
<p>Standards for Referral: Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.</p>
<p>Referral should be made when problems are identified that are beyond the scope of the DOE WAP, health and safety issues such as severe mold which cannot be adequately addressed within the scope of the DOE WAP. Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.</p>
<p>Training Provision: Discuss how training will be provided for the specific health and safety category. Note: Some health and safety categories, like OSHA, require training.</p>
<p>The DOE power-point presentation training on Mold and Moisture given by Michael Vogel of MSU Weatherization Training Center is available to all Subgrantees through TDHCA's website: http://www.tdhca.state.tx.us/community-affairs/wap/wap-training-videos.htm . Other resources available: www.healthyindoorair.org , www.affordablecomfort.org , www.buildingscience.com , www.homemoisture.org</p> <p>On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm.</p> <p>The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department's website under Webinars and Workshops at http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm.</p> <p>Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.</p>
<p>Client Education: Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. Note: Some health and safety categories, like mold and moisture, require client education.</p>
<p>Provide client notification and disclaimer on mold-like substances and moisture awareness. The unified weatherization form that identifies if there are mold-like substances, must be included in the client files, regardless of whether there is mold-like substance in the home or not. A <i>Mold -Like Substance Notification and Release Form for Texas Weatherization Programs</i> must be filled out if mold or mold-like substances are found in the home. Texas Department of State Health Services, <i>Consumer Mold Information Sheet</i> is required to be given to clients who have moisture problems or mold-like substances, as part of client education.</p>
<p>Disposal Procedures: Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.</p>
<p>State and local codes and regulations must always be followed to ensure proper disposal procedures and protocols.</p>
<p>Mold Protocols: Provide a narrative describing protocols for addressing mold found in the client's homes. The protocol should include a method of identifying the presence of mold during the initial audit or assessment, notification to the client, and crew training on how to alleviate mold and moisture conditions in homes.</p>
<p>The primary method of detecting mold and moisture issues shall be visual assessment and diagnostics such as moisture meters, infrared imaging, etc. Visual inspection of moisture creating conditions shall be conducted as</p>

part of the whole house energy audit.

The assessment shall assure existing mold-like conditions are noted, documented and disclosed to the client; and, shall assure existing building envelope conditions do not contribute to mold-like growth when weatherization measures are applied. Mold-like substance assessment means a visual assessment combined with certain allowable diagnostics. It does not mean testing for mold. **DOE funds may not be used to test for mold-like substances.**

Texas WAP crews/contractors shall follow the Mold/Moisture Assessment Checklist when conducting the mold-like substances assessment at the time of the audit.

Assessment shall include a general examination of the building, to include:

- Examine structure, maintenance activities, occupancy patterns
- Visually look for mold-like substances and water staining
- Look for evidence of standing water
- Look for evidence of condensation
- Check basement or crawl space and attic for proper venting and exhaust

Outdoors:

- Soil grade or drainage toward foundation
- Standing water adjacent to foundation
- Wall and roof damage allowing water intrusion
- Missing or blocked rain gutters
- No downspout extensions
- Firewood stacked adjacent to house
- Excessive shrubbery around foundation

Heating/cooling systems:

- Air intakes: debris (organic) vs. clean air
- Filters: dirty, damp, poor type
- Heat exchangers: dirty & damp coils, condensate pans, drainage, stagnant water
- Ducts: contamination, moisture

Occupied Space:

- Plumbing leaks
- Water stains on walls, ceilings and around windows
- Musty odor
- Surface Condensation (especially during mild weather)
- Mold-like substances on carpeting
- Humidifiers
- Window air conditioners
- Lack of bathroom, kitchen exhaust
- Clothes dryer not vented to outside
- Firewood stored indoors
- Wet clothes drying indoors

Occupant Preexisting or Potential Health Conditions

Concurrence or Alteration: Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. **Note:** Where an Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.

<p>Concur with WPN 11-6</p> <p>X-TDHCA refined guidance</p>	<p>When a person’s health may be at risk and/or the work activities could constitute a health or safety hazard, the occupant at risk will be required to take appropriate action based on severity of risk. When relocation of a client is needed the client shall make all reasonable attempts to relocate; if the client is unable to make such arrangements, then the agency should request authorization from the Department for relocation. Failure or the inability to take appropriate actions must result in a deferral.</p>
<p>Funding: State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.</p>	
<p>DOE funds may not be used as stipulated above.</p>	
<p>Beyond Scope of DOE WAP: Describe how the issue will be treated if beyond the scope of DOE WAP.</p>	
<p>If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.</p>	
<p>Standards for Remedy: Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. Note: Some health and safety categories, like combustion gases, require testing.</p>	
<p>Texas WAP is incorporating a brief client health survey to be taken during the application process (this may be done in person, mail, or by phone) and verified during the energy audit. That survey information shall be given to the auditor prior to the audit visit. The auditor will at the time of audit interview the client in more depth regarding any occupant pre-existing or potential health conditions or concerns (such as allergies).</p>	
<p>Occupant pre-existing or potential health conditions shall be documented in the client file. Crews/contractors will advise client of the above policy and take the appropriate actions. If client refuses relocation, proper referral and deferral protocols shall be followed and documented.</p>	
<p>Standards for Deferral: Describe when deferral should take place for the specific health and safety category.</p>	
<p>The failure or inability of at-risk occupants to take appropriate actions must result in deferral.</p>	
<p>Standards for Referral: Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.</p>	
<p>Referral should be made when problems are identified that are beyond the scope of the DOE WAP, such health risks to workers, or high CO levels or exposure to VOCs or mold-like substances. Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.</p>	
<p>Training Provision: Discuss how training will be provided for the specific health and safety category. Note: Some health and safety categories, like OSHA, require training.</p>	
<p>A Health & Safety Questionnaire/ Checklist for use by Subgrantees can be found under Client and Field Assessment Forms on the Department Website: http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</p>	
<p>On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm.</p>	
<p>The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department’s website under Webinars and Workshops at http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm.</p>	
<p>Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.</p>	
<p>Client Education: Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. Note: Some health and safety categories, like mold and moisture, require client education.</p>	

Provide client information of any known risks. Provide worker contact information so client can inform of any issues.

Disposal Procedures: Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.

State and local codes and regulations shall be followed to ensure proper disposal procedures and protocols.

Occupational Safety and Health Administration (OSHA) and Crew Safety

Concurrence or Alteration: Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. **Note:** Where an Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.

X-Concur with WPN 11-6	Workers must follow OSHA standards and Material Safety Data Sheets (MSDS) and take precautions to ensure the health and safety of themselves and other workers. MSDS must be posted wherever workers may be exposed to hazardous materials.
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Funding: State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.

DOE funds may be used.

Beyond Scope of DOE WAP: Describe how the issue will be treated if beyond the scope of DOE WAP.

If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.

Standards for Remedy: Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. **Note:** Some health and safety categories, like combustion gases, require testing.

OSHA 10-hour training for all crew level WAP employees
OSHA 30-hour training for all crew leaders
All OSHA training shall be updated as required and kept current. MSDS must be present at the work sites.

Standards for Deferral: Describe when deferral should take place for the specific health and safety category.

Weatherization work may be deferred if doing the work would put crews/contractors at undue health and safety risk.

Standards for Referral: Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.

Referral should be made when problems are identified that are beyond the scope of the DOE WAP, such as electrical or other code violations, or conditions that pose a health or safety risk to crews/contractors and/or clients. Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.

Training Provision: Discuss how training will be provided for the specific health and safety category. **Note:** Some health and safety categories, like OSHA, require training.

On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department’s website under Webinars and Workshops at <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.

Client Education: Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. Note: Some health and safety categories, like mold and moisture, require client education.
N/A
Disposal Procedures: Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.
Follow MSDS guidelines and all state and local codes.
OSHA and MSDS Compliance: Provide a narrative describing procedures for implementation of OSHA and MSDS requirements related to crew and worker safety, how the 10 and 30 hour training requirements will be met, and what the process is for determining if crews/contractors are utilizing good safe work practices according to all requirements (EPA, OSHA, etc.).
<p>OSHA 10-hour training for all crew level WAP employees</p> <p>OSHA 30-hour training for all crew leaders</p> <p>All OSHA training shall be updated as required and kept current</p> <p>Consistent posting of MSDS wherever crews/contractors may be exposed to hazardous materials</p> <p>Webinars will be explored as an additional training opportunity</p> <p>The process for determining whether crews/contractors are utilizing good safe work practices relies on visual assessment when monitoring crews/contractors on the job site. Lack of injury and incident reports is also a valuable indicator that crews/contractors are following safe work practices. Ask to see MSDS when monitoring at the job site if hazardous materials are being used. Check for posting of MSDS in WAP facilities when monitoring.</p>

Pests	
Concurrence or Alteration: Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. Note: Where an Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.	
Concur with WPN 11-6	Pest removal is allowed only where infestation would prevent weatherization or poses a health and safety concern for workers. Infestation of pests may be cause for deferral where it cannot be reasonably removed or poses health and safety concern for workers.
X-TDHCA refined guidance	
Funding: State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.	
DOE funds may be used as stipulated above.	
Beyond Scope of DOE WAP: Describe how the issue will be treated if beyond the scope of DOE WAP.	
If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.	
Standards for Remedy: Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. Note: Some health and safety categories, like combustion gases, require testing.	
Initial assessment of presence and degree of infestation and risk to workers.	
Determine whether the pest infestation would prevent or hamper the weatherization work. If yes, and removal is a viable and cost-effective option, take the necessary steps to remove the pest infestation problem so that the weatherization work can proceed. If yes, and removal is not a viable and cost-effective option or significant health and safety risks exist, defer the weatherization work and provide client with appropriate referral information. If no, proceed as usual.	

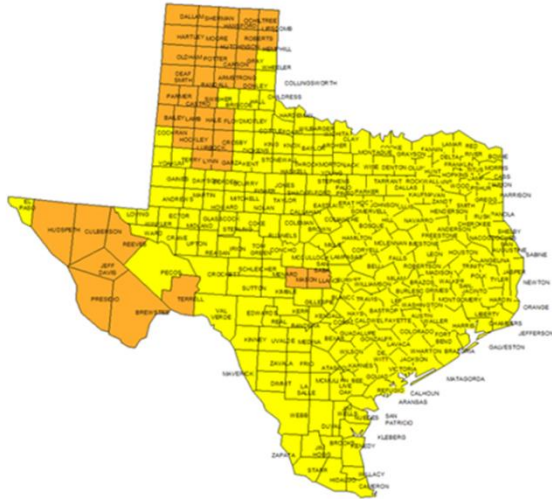
Inform client of observed pest condition and associated risks. Document in client file.
Standards for Deferral: Describe when deferral should take place for the specific health and safety category.
Infestation of pests may be cause for deferral where it cannot be reasonably removed or poses health and safety risks for workers.
Standards for Referral: Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.
Referral should be made when problems are identified that are beyond the scope of the DOE WAP, such as infestations or hazardous pests (Texas has many poisonous snakes). Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.
Training Provision: Discuss how training will be provided for the specific health and safety category. Note: Some health and safety categories, like OSHA, require training.
See “Pests” Best Practice posted to Department Website: http://www.tdhca.state.tx.us/community-affairs/wap/wap-best-practices.htm
On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm .
The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department’s website under Webinars and Workshops at http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm .
Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.
Client Education: Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. Note: Some health and safety categories, like mold and moisture, require client education.
Inform client of observed condition and associated risks.
Disposal Procedures: Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.
State and local codes and regulations shall be followed to ensure proper disposal procedure and protocols.

Radon	
Concurrence or Alteration: Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. Note: Where an Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.	
X-Concur with WPN 11-6	Whenever site conditions permit, exposed dirt must be covered with a vapor barrier except for mobile homes. In homes where radon may be present, precautions should be taken to reduce the likeliness of making radon issues worse.
Funding: State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.	
DOE funds may be used.	
Beyond Scope of DOE WAP: Describe how the issue will be treated if beyond the scope of DOE WAP.	
If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.	
Standards for Remedy: Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. Note: Some health and safety	

categories, like combustion gases, require testing.

Testing may be allowed in locations with high radon potential. Texas does NOT have any “high radon potential” areas. SEE map of Radon Zones for Texas below. This information may be located at: <http://www.epa.gov/radon/states/texas.html>

The purpose of this map is to assist National, State and local organizations to target their resources and to implement radon-resistant building codes.



What do the colors mean?

Red = zone 1 = highest potential = counties have a predicted average indoor radon screening level greater than 4pCi/L (picocuries per liter). A curie is a unit quantity of any radioactive nuclide in which 3.7×10^{10} disintegrations occur per second. A Pico equals one trillionth (10^{-12}) part of; very small. Thus a picocurie is one trillionth of a curie. A picogram is one trillionth of a gram.

Orange = zone 2 = moderate potential = counties have a predicted average indoor radon screening level between 2 and 4 pCi/L.

Yellow = zone 3 = low potential = counties have a predicted average indoor radon screening level

Texas will ensure that all Subgrantee crews/contractors are trained regarding radon. The following remedies shall be followed:

In all instances where site conditions permit, exposed dirt must be covered with 6 mil plastic sheeting with seams well-taped and sealed to act as a vapor barrier against radon gases. This should not be done under mobile homes, however.

Precautions should always be taken to reduce the likeliness of making radon issues worse.

Seal cracks and other openings in the foundation. This limits the flow of radon into the home and can make other radon reduction techniques more effective and cost-efficient. This type of sealing can be done in all types of homes.

Further remedies may be added as additional guidance is provided by DOE.

Discounted test kits are available from the National Radon Program Services at Kansas State University. Go to: <http://sosradon.org/test-kits>

Some home improvement stores sell radon test kits. Follow directions on packaging for the proper placement of the device and where to send the device after the test to get the reading.

Standards for Deferral: Describe when deferral should take place for the specific health and safety category.

Deferral should be exercised when existing code violations are present and correcting them would be beyond the scope of the DOE WAP. For additional deferral criteria, see deferral policy.

Standards for Referral: Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.

The EPA recommends fixing homes if the radon level is confirmed to be 4 pCi/L or higher. This is considered the action level. Radon levels less than 4 pCi/L still pose a risk, and in many cases may be reduced. Provide the EPA Consumers Guide to Radon Reduction booklet to clients living in homes with confirmed radon levels of 4 pCi/L or higher. This guide can be found at: <http://www.epa.gov/radon/pubs/consguid.html>

Texas State Radon Officer:

Kay Soper
Texas Department of State Health Services
P.O. Box 149347, Mail Code 1987
Austin TX, 78714
(800) 293-0753
(512) 834-6787
kay.soper@dshs.state.tx.us

Additional referral resources: <http://www.epa.gov/radon/states/texas.html> or www.epa.gov/region8
Radon publications in print can be downloaded, most are in HTML and as PDF files. Go to:
www.epa.gov/radon/pubs

Radon Hotlines:

- National Radon Hotline at 1-800-SOS-RADON* (can purchase test kits by phone);
- National Radon Helpline 1-800-55RADON (1-800-557-2366)*;
- National Radon Fix-It Line 1-800-644-6999* (general information on fixing or reducing the radon level in a home);
- Safe Drinking Water Hotline 1-800-426-4791 (operated under contract with EPA).

Visit www.epa.gov/iaqtribal for information specifically presented for Tribal Partners.

* = Operated by Kansas State University in partnership with EPA.

Training Provision: Discuss how training will be provided for the specific health and safety category. **Note:** Some health and safety categories, like OSHA, require training.

On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department's website under Webinars and Workshops at <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.

Client Education: Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. **Note:** Some health and safety categories, like mold and moisture, require client education.

Provide client with EPA consumer's guide to radon, at minimum.

Disposal Procedures: Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.

State and local codes and regulations shall be followed to ensure proper disposal procedures and protocols.

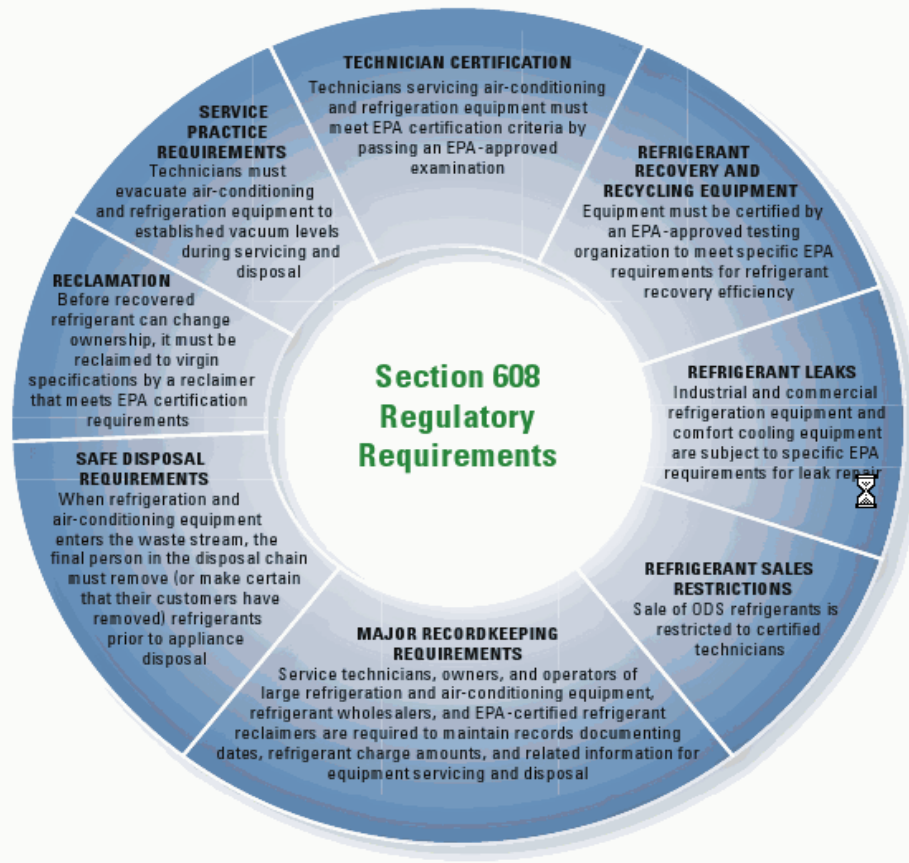
Refrigerant

Concurrence or Alteration: Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. **Note:** Where an Action/Allowability or Testing is "required" or "not allowed" through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.

X-Concur with WPN 11-6	Reclaim refrigerant per Clean Air Act of 1990, section 608, as amended by 40 CFR 82, 5/14/93
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<p>Funding: State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.</p>
<p>DOE funds may be used.</p>
<p>Beyond Scope of DOE WAP: Describe how the issue will be treated if beyond the scope of DOE WAP.</p>
<p>If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.</p>
<p>Standards for Remedy: Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. Note: Some health and safety categories, like combustion gases, require testing.</p>
<p>Texas WAP Subgrantees shall ensure that sub-contractors who would be charged with refrigerant reclamation (e.g. removal of old refrigerators or air conditioning units) follow all EPA testing protocols; in accordance with the Clean Air Act of 1990, section 608, as amended by 10 CFR 21. Refrigerants shall be pumped into a recovery tank and disposed at an EPA approved site. Go to www.epa.gov for details.</p>
<p>Clients should not disturb refrigerant.</p>
<p>Standards for Deferral: Describe when deferral should take place for the specific health and safety category.</p>
<p>N/A</p>
<p>Standards for Referral: Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.</p>
<p>www.epa.gov Clean Air Act of 1990, section 608, as amended by 40 CFR 82.</p>
<p>Training Provision: Discuss how training will be provided for the specific health and safety category. Note: Some health and safety categories, like OSHA, require training.</p>
<p>On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm.</p>
<p>The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department's website under Webinars and Workshops at http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm.</p>
<p>Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.</p>
<p>Client Education: Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. Note: Some health and safety categories, like mold and moisture, require client education.</p>
<p>Clients should not disturb refrigerant.</p>
<p>Disposal Procedures: Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.</p>
<p>Follow all EPA, state and local regulations. Clean Air Act of 1990 section 608.</p>

Section 608 Regulatory Requirements: Stationary Refrigeration and Air Conditioning



Smoke, Carbon Monoxide Detectors, and Fire Extinguishers

Concurrence or Alteration: Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. **Note:** Where an Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.

X-Concur with WPN 11-6	Installation of smoke/CO detectors is allowed where detectors are not present or are inoperable. Replacement of operable smoke/CO detectors is not an allowable cost. Providing fire extinguishers is allowed only when solid fuel (such as wood) is present
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Funding: State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.

DOE funds may be used as stipulated above.

Beyond Scope of DOE WAP: Describe how the issue will be treated if beyond the scope of DOE WAP.

If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.

Standards for Remedy: Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. **Note:** Some health and safety categories, like combustion gases, require testing.

Check any existing smoke/CO detectors for functional/accurate operation.

Install smoke/CO detectors when accurately operating units do not already exist. Must follow all local codes

when installing smoke/CO detectors.

At minimum, all homes should have at least one smoke alarm on each level, including one near the combustion zone and at least one near the bedrooms. Ceiling-mounted smoke alarms must be mounted at least 6 inches from any wall. Wall-mounted smoke alarms must be installed at least 6 but less than 18 inches from the ceilings. They should always be installed according to applicable local codes or ordinances.

Don't install smoke alarms in these cases:

- In a home that already has a functioning smoke alarm
- Within 12 inches of exterior doors and windows
- With an electrical connection to a switched circuit
- With a connection to a ground-fault interrupter circuit (GFCI)

A CO alarm should also be installed in accordance with SWS. CO alarms should be installed in all homes with unvented space heaters (all unvented space heaters must comply with ANSI Z21.11.2) and in all homes where backdrafting could occur in a furnace, space heater, wood stove, fireplace, or water heater. Always install CO alarms according to the manufacturer's instructions. Don't install CO alarms in these cases:

- In a room that may get too hot or cold for alarm to function properly
- Within 5 feet of a combustion appliance, vent, or chimney
- Within 5 feet of a storage area for vapor-producing chemicals
- Within 12 inches of exterior doors and windows
- Within a furnace closet or room
- With an electrical connection to a switched circuit
- With a connection to a ground-fault interrupter circuit (GFCI)

A fire extinguisher may be provided in homes whose primary heat source is wood. The fire extinguisher must be installed according to manufactures standards and local code in vicinity of the primary heating source.

Standards for Deferral: Describe when deferral should take place for the specific health and safety category.

Deferral should be exercised when existing code violations are present and correcting them would be beyond the scope of the DOE WAP, and/or when there are problems affecting the heat system/furnace that are beyond the scope of the DOE WAP, such as certain electrical problems. For additional deferral criteria, see deferral section above.

Standards for Referral: Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.

Referrals should be made when problems are identified that are beyond the scope of the DOE WAP, such as electrical or other code violations. Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.

Training Provision: Discuss how training will be provided for the specific health and safety category. **Note:** Some health and safety categories, like OSHA, require training.

On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department's website under Webinars and Workshops at <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.

Client Education: Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. **Note:** Some health and safety categories, like mold and moisture, require client education.

The client will be provided with the manufacturer's information sheet on use of smoke/CO detectors.

Disposal Procedures: Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.

State and local codes and regulations shall be followed to ensure proper disposal procedures and protocols.

Smoke/CO Detector Installation: Provide a narrative describing smoke/CO Detector installation parameters and procedures.

Check any existing smoke/CO detectors for functional/accurate operation.

Install smoke/CO detectors when accurately operating units do not already exist.

All homes should have at least one smoke alarm on each level, including one near the combustion zone and at least one near the bedrooms. Ceiling-mounted smoke alarms must be mounted at least 6 inches from any wall. Wall-mounted smoke alarms must be installed at least 6 but less than 18 inches from the ceilings. They should always be installed according to applicable local codes or ordinances.

Don't install smoke alarms in these cases:

- In a home that already has a functioning smoke alarm
- Within 12 inches of exterior doors and windows
- With an electrical connection to a switched circuit
- With a connection to a ground-fault interrupter circuit (GFCI)

A CO alarm should also be installed in accordance with SWS. CO alarms should be installed in all homes with unvented space heaters and in all homes where backdrafting could occur in a furnace, space heater, wood stove, fireplace, or water heater. Always install CO alarms according to the manufacturer's instructions. Don't install CO alarms in these cases:

- In a room that may get too hot or cold for alarm to function properly
- Within 5 feet of a combustion appliance, vent, or chimney
- Within 5 feet of a storage area for vapor-producing chemicals
- Within 12 inches of exterior doors and windows
- Within a furnace closet or room
- With an electrical connection to a switched circuit
- With a connection to a ground-fault interrupter circuit (GFCI)

Crews/contractors are required to provide the client with the manufacturer instructions.

CO detectors must be installed in all homes when fuel-fired equipment or an attached garage exists (if functional CO detectors do not already exist). This includes: cook stoves, furnaces, water heaters, wood and coal burning stoves. Crew members must demonstrate to the client how the CO detectors work and what actions to take if the CO detector alarm sounds. The CO detector must be installed per manufacturers recommendation and be compliant with local codes.

Solid Fuel Heating (Wood Stoves, etc.)

Concurrence or Alteration: Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. **Note:** Where an Action/Allowability or Testing is "required" or "not allowed" through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.

X-Concur with WPN 11-6	Maintenance, repair, and replacement of primary indoor heating units is allowed where occupant health and safety is a concern. Maintenance and repair of secondary heating units is allowed.
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Funding: State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.

DOE funds may be used as stipulated above.

Beyond Scope of DOE WAP: Describe how the issue will be treated if beyond the scope of DOE WAP.

If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.

Standards for Remedy: Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. **Note:** Some health and safety categories, like combustion gases, require testing.

When a fireplace inspection is required, Texas WAP crews/contractors shall in most instances, sub-contract chimney inspection, repair and/or replacement work to a qualified solid fuel heating system vendor. Crews/contractors may conduct minor maintenance activities where warranted as allowed.

Any judgments should be performed by a licensed professional. A cursory visual inspection by an assessor should be able to determine if a professional is needed. If a formal assessment is warranted, this would be a health and safety issue requiring photo documentation and receipt of services by the professional with a description of what services were performed.

If there is a traditional open masonry fireplace in the unit verify that it is operating safely. If so, then assess if a cleaning would increase efficiency. If it is not operating safely (as evidenced by backdrafting of smoke or complaints of itchy eyes or respiratory issues by the client) it should be first assessed for repair before considering replacement with a vented code-compliant heating system. An assessment by a licensed professional may be billed under *Health and Safety*, since it is being inspected for Health and Safety concerns. If maintenance or repair is determined then the maintenance or repair measures would fall under *Repairs*. If a replacement is determined then this would fall under *Health and Safety* reasons. Unless a wood burning stove/pellet stove has been maintained on a regular basis, along with annual chimney cleanings, it is unlikely that it is efficient and safety must be evaluated.

An unsafe, unrepairable open masonry fireplace would be treated similarly to that of an unvented space heater if it is the primary source of heat. The fireplace must be rendered inoperable and replaced with a vented heating unit. The type of existing fuel will dictate the replacement. If the client has a combustion fuel source (i.e. - gas, propane, etc) than seal up the fireplace and add a vented gas heater. Assess if an electric furnace would rank as a replacement for the wood burning stove by entering all the information and seeing if it ranks in MHEA/NEAT. If the furnace does not rank and the client only has electric, this may be a deferral situation since we cannot install electric space heaters as a replacement for the existing fireplace/stove. A vented stove would be handled the same as an unsafely operating furnace—you would need to assess for CO or replace, if it ranks, as an energy efficiency measure.

When replacing a wood stove in a mobile/manufactured home the new unit must be listed for use with manufactured homes and must be installed in accordance with their listings. Units that are not manufacturer approved, discovered during an initial assessment, should be replaced with an approved manufactured home appliance, under H&S.

All state and local codes must be followed.

Standards for Deferral: Describe when deferral should take place for the specific health and safety category.

Deferral should be exercised when existing code violations are present and correcting them would be beyond the scope of the DOE WAP, and/or when there are problems affecting the Heating/cooling systems that are beyond the scope of the DOE WAP, such as certain electrical problems. For additional deferral criteria, see deferral section above.

Standards for Referral: Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.
Referrals should be made when problems are identified that are beyond the scope of the DOE WAP, such as electrical or other code violations. Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.
Training Provision: Discuss how training will be provided for the specific health and safety category. Note: Some health and safety categories, like OSHA, require training.
<hr/> <p>The Texas Mechanical Systems Field Guides have been distributed to all Subgrantees and posted on the Department's website.</p> <p>Best Practices addressing worst case depressurization testing are posted on the website. http://www.tdhca.state.tx.us/community-affairs/wap/wap-best-practices.htm</p> <p>On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm.</p> <p>The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department's website under Webinars and Workshops at http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm.</p> <p>Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.</p>
Client Education: Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. Note: Some health and safety categories, like mold and moisture, require client education.
Provide safety information including how to recognize depressurization.
Disposal Procedures: Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.
State and local codes and regulations shall be followed to ensure proper disposal procedures and protocols.

Space Heaters, Stand Alone Electric

Concurrence or Alteration: Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. Note: Where an Action/Allowability or Testing is "required" or "not allowed" through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.
X-Concur with WPN 11-6 Repair, replacement, or installation is not allowed. Removal is recommended.
Funding: State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.
DOE funds may not be used for repair, replacement or installation of these types of space heaters.
Beyond Scope of DOE WAP: Describe how the issue will be treated if beyond the scope of DOE WAP.
If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.
Standards for Remedy: Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. Note: Some health and safety

categories, like combustion gases, require testing.
Removal is strongly recommended.
Inform client of hazards and collect a signed waiver if removal is not allowed.
Standards for Deferral: Describe when deferral should take place for the specific health and safety category.
Deferral should be exercised when existing code violations are present and correcting them would be beyond the scope of the DOE WAP, and/or when there are problems affecting the heating systems that are beyond the scope of the DOE WAP, such as certain electrical problems. For additional deferral criteria, see deferral section above.
Standards for Referral: Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.
Referrals should be made when problems are identified that are beyond the scope of the DOE WAP, such as electrical or other code violations. Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.
Training Provision: Discuss how training will be provided for the specific health and safety category. Note: Some health and safety categories, like OSHA, require training.
Testing will be required to assure adequate supply of electricity is available for existing stand alone electric space heaters. This will be accomplished through the use of 3 wire circuit testers, GFI electrical outlet testers, and line voltage testers.
On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm .
The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department's website under Webinars and Workshops at http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm .
Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.
Client Education: Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. Note: Some health and safety categories, like mold and moisture, require client education.
Inform client of hazards and collect a signed waiver if removal is not allowed.
Disposal Procedures: Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.
State and local codes and regulations shall be followed to ensure proper disposal procedures and protocols.

Space Heaters, Unvented Combustion

Concurrence or Alteration: Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. Note: Where an Action/Allowability or Testing is "required" or "not allowed" through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.	
X-Concur with WPN 11-6	Removal is required, except as secondary heat where the unit conforms to ANSI Z21.11.2. Units that do not meet ANSI Z21.11.2 must be removed prior to weatherization but may remain until a replacement heating system is in place.
Funding: State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.	
DOE funds may be used for vented units.	
Beyond Scope of DOE WAP: Describe how the issue will be treated if beyond the scope of DOE WAP.	

<p>If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.</p>
<p>Standards for Remedy: Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. Note: Some health and safety categories, like combustion gases, require testing.</p>
<p>Check units for ANSI Z21.11.2 label</p> <p>Inform client of dangers of unvented space heaters – CO, moisture, NO², CO can be dangerous even if the CO detection alarm does not sound.</p> <p>Removal is required if unit does not meet ANSI Z21.11.2. This must be done prior to weatherization work or in conjunction with weatherization work, however the old unit may be left in place until a replacement heating system has been installed.</p> <p>If client will not allow removal, provide client education, document client refusal, and defer the weatherization work to the home.</p>
<p>Standards for Deferral: Describe when deferral should take place for the specific health and safety category.</p>
<p>If client will not allow removal Subgrantee must defer the weatherization work to the home.</p>
<p>Standards for Referral: Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.</p>
<p>Referrals should be made when problems are identified that are beyond the scope of the DOE WAP, such as electrical or other code violations. Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.</p>
<p>Training Provision: Discuss how training will be provided for the specific health and safety category. Note: Some health and safety categories, like OSHA, require training.</p>
<p>Units that do not meet ANSI Z21.11.2 must be removed prior to weatherization but may remain until a replacement heating system is in place. Testing for air-free carbon monoxide (CO) is to be performed. All units must have an ANSI Z21.11.1 label, and meet IRC and IFGC codes. The client must be informed of the dangers of unvented space heaters – CO, Moisture, NO₂, CO can be dangerous even if CO alarm does not sound.</p> <p>Assessors must calibrate the CO tester outside the home and test the ambient air in the home; following the standards in the Texas Mechanical Systems Field Guide:</p> <p>Perform an inspection of the heater. Any of the following conditions are grounds for repair or replacement.</p> <ul style="list-style-type: none"> • Carbon monoxide (CO) test indicates CO levels above 25 PPM • Bad burners (missing, broken, or otherwise un-repair-able) • Crossfueled (between NG and LPG) and the orifices and/or pressure regulator have not been changed • Missing radiants • Open flame burners • Rubber supply lines • Charring or scorching <p>If cause cannot be determined, calibrate equipment and re-test. If still indeterminable, refer to local gas company.</p> <p>Any time replacement is deemed necessary, first consider performing the replacement as an EMC (energy saving measure) before replacing as a Health & Safety measure.</p> <p>On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm.</p>

The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department's website under Webinars and Workshops at <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.

Client Education: Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. **Note:** Some health and safety categories, like mold and moisture, require client education.

Inform client of removal requirement prior to completing any weatherization work.

Disposal Procedures: Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.

State and local codes and regulations shall be followed to ensure proper disposal procedures and protocols.

Space Heaters, Vented Combustion

Concurrence or Alteration: Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. **Note:** Where an Action/Allowability or Testing is "required" or "not allowed" through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.

X-Concur with WPN 11-6 | Shall be treated as furnaces.

Funding: State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.

DOE funds may be used.

Beyond Scope of DOE WAP: Describe how the issue will be treated if beyond the scope of DOE WAP.

If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.

Standards for Remedy: Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. **Note:** Some health and safety categories, like combustion gases, require testing.

A complete mechanical systems audit is required to be completed on every home. All relevant information must be recorded on the Heating/cooling systems and Appliance Worksheet. The procedure includes collecting general information; collecting and recording mechanical systems information; visual and diagnostic inspection of the venting and distribution system; and, combustion analysis and diagnostic testing of gas/propane fired equipment, and post-installation safety tests for CO.

Combustion safety testing is required when combustion appliances are present. The combustion appliance safety inspection includes all of the following: carbon monoxide testing, draft measurement, spillage evaluation, and worst case depressurization of the combustion appliance zone (CAZ) if applicable. Combustion safety test results must be acted upon appropriately according to the combustion safety tables. Testing protocols can be found in Chapter 2 and 3 of the Texas Mechanical Systems Field Guide which has been distributed to the entire weatherization network and is located on the Department's website <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>

As applicable, every combustion appliance will be checked for a safe flue pipe, chimney or vent, adequate combustion air, and gas leakage.

Weatherization Assessors and Final Inspectors must test naturally drafting appliances for draft and spillage under

worst case conditions before and after air tightening is performed.

Weatherization Assessors and Final Inspectors must conduct CO testing and check flame quality.

Subgrantees must test for high carbon monoxide (CO) levels and bring CO levels to acceptable levels before weatherization work can start. The Department has defined maximum acceptable CO readings as 100 parts per million for vented combustion appliance

Investigate and correct a steady state CO reading >100 ppm in the following appliances: vented space heater.

CO detectors should be installed in all homes when fuel-fired (combustion) appliances exist.

REFERENCE: "Combustion Safety & Efficiency Testing" in the Texas Mechanical Systems Field Guide

Standards for Deferral: Describe when deferral should take place for the specific health and safety category.

Deferral should be exercised when existing code violations are present and correcting them would be beyond the scope of the DOE WAP, and/or when there are problems affecting the furnace system that are beyond the scope of the DOE WAP, such as certain electrical problems. For additional deferral criteria, see deferral section above.

Standards for Referral: Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.

Referrals should be made when problems are identified that are beyond the scope of the DOE WAP, such as electrical or other code violations. Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.

Training Provision: Discuss how training will be provided for the specific health and safety category. **Note:** Some health and safety categories, like OSHA, require training.

On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

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Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.

Client Education: Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. **Note:** Some health and safety categories, like mold and moisture, require client education.

N/A

Disposal Procedures: Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.

State and local codes and regulations shall be followed to ensure proper disposal procedures and protocols.

Spray Polyurethane Foam (SPF)

Concurrence or Alteration: Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. **Note:** Where an Action/Allowability or Testing is "required" or "not allowed" through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.

X-Concur with WPN 11-6	Use EPA recommendations available online at: http://www.epa.gov/dfe/pubs/projects/spf/spray_polyurethane_foam.html when working within the conditioned space or when SPF fumes become evident within conditioned space. When working outside the building envelope, isolate the area where foam will be applied, take precautions so that fumes will not transfer to inside conditioned space, and exhaust fumes outside the home.
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Funding: State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.

DOE funds may be used.

Beyond Scope of DOE WAP: Describe how the issue will be treated if beyond the scope of DOE WAP.

If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.

Standards for Remedy: Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. **Note:** Some health and safety categories, like combustion gases, require testing.

Check for penetrations in the building envelope.

Sensory inspection inside the home for fumes during foam application.

Follow guidelines on MSDS and post MSDS during use.

Spray polyurethane foam (SPF) is a highly-effective and widely used insulation and air sealant material. However, exposures to its key ingredient, isocyanates, and other SPF chemicals in vapors, aerosols, and dust during and after installation can cause:

- Asthma, a potentially life-threatening disease
- Sensitization, which can lead to asthma attacks if exposed again
- Lung damage
- Other respiratory and breathing problems
- Skin and eye irritation

Whether an applicator, helper, or building occupant where this product is applied, the following tips should be followed:

- Review label and product information for ingredients, hazards, directions, safe work practices, and precautions
- Ensure health and safety training is completed and safe work practices are followed to prevent eye, skin, and inhalation exposures during and after SPF installation
- Exercise caution when determining a safe re-entry time for unprotected occupants and workers based on the manufacturer recommendation

If a crew member experiences breathing problems or other adverse health effects from weatherizing with SPF, seek immediate medical attention.

Use the appropriate protection and best practices suited for each type of SPF product.

Only workers wearing appropriate personal protective equipment should be present during SPF application.

SPF is made by mixing and reacting chemicals to create foam. The mixing and reacting materials react very quickly, expanding on contact to create foam that insulates air seals and provides a moisture barrier. SPF insulation is known to resist heat transfer extremely well, and it offers a highly effective solution in reducing unwanted air infiltration through cracks, seams, and joints. There are different types of SPF. The two main types

that are typically installed by professional contractors, such as weatherization workers, include either high pressure foam and/or low pressure foam.

Refer to the MSDS for both the "A" and "B" side chemicals used in SPF. These should be posted whenever working with this product.

SPF is Temperature sensitive. Cold temperatures affect the chemistry that causes the foaming action. It's critical to keep spray foam cans or (with two-part foam) canisters within a specific temperature range for successful application. Review the manufacturer's directions for storage.

Wear appropriate protective equipment.

Discuss project scope and safety measures with occupants. A checklist is available at <http://www.spraypolyurethane.org/checklist>

Provide notification to the client of plans to use two-part foam and the precautions that may be necessary.

Consult with the product manufacturer to determine appropriate re-occupancy times for the particular job and SPF in use.

Employ EPA recommendations when working within the conditioned space or when SPF fumes become evident within conditioned space. When working outside the building envelope, isolate the area where foam will be applied, take precautions so that fumes will not transfer to inside conditioned space, and exhaust fumes outside the home.

The Department conducted 17 workshops across the state of Texas.

Review and understanding of how to read MSDS was provided by AEHS Inc. of San Antonio Texas License # 000068 issued by the Texas Department of State Health Service. The course covered the following MSDS information :

1. Chemical Product and Company Information
2. Composition and Information on Ingredients
3. Hazard Identification
4. First Aid Measures
5. Fire Fighting Measures
6. Accidental Release Measures
7. Exposure Controls and Personal Protection
8. Physical and Chemical Properties
9. Stability and Reactivity Data
10. Toxicological Information
11. Ecological Information
12. Disposal Considerations
13. Transport Information
14. Other Regularity Information and Pictograms

Standards for Deferral: Describe when deferral should take place for the specific health and safety category.

Deferral should be exercised when existing code violations are present and correcting them would be beyond the scope of the DOE WAP, and/or when there are problems affecting the Heating/cooling systems that are beyond the scope of the DOE WAP, such as cost prohibitive electrical problems. For additional deferral criteria, see deferral section above.

Standards for Referral: Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.
Referrals should be made when problems are identified that are beyond the scope of the DOE WAP, such as electrical or other code violations. Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.
Training Provision: Discuss how training will be provided for the specific health and safety category. Note: Some health and safety categories, like OSHA, require training.
On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm .
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Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.
Client Education: Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. Note: Some health and safety categories, like mold and moisture, require client education.
Provide notification to the client of plans to use two-part foam and the precautions that may be necessary.
Disposal Procedures: Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.
State and local codes as well as manufacturer and EPA guidelines shall be followed.

Ventilation

Concurrence or Alteration: Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. Note: Where an Action/Allowability or Testing is "required" or "not allowed" through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.	
Concur with WPN11-6	ASHRAE 62.2-2013 is required to be met to the fullest extent possible, when performing weatherization activity. Implementing ASHRAE 62.2-2013 is not required where acceptable indoor air quality already exists as defined by ASHRAE 62.2-2013. Existing fans and blower systems should be updated if not adequate.
TDHCA refined guidance	
Funding: State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.	
DOE funds may be used.	
Beyond Scope of DOE WAP: Describe how the issue will be treated if beyond the scope of DOE WAP.	
If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.	
Standards for Remedy: Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. Note: Some health and safety categories, like combustion gases, require testing.	
The Department will implement ASHRAE 62.2-2013 for Program Year 2014. As of November 1, 2014 the State of Texas adopted WAP Memorandum 007, where additional mechanical ventilation is not required for existing buildings that require 15 CFM or less per the mechanical ventilation rate.	
Subgrantees are required to use the Alternative Compliance Path for Existing homes and obtaining and	

infiltration credit using the blower door. Subgrantees must use the blower door data captured on the Department's Blower Door data sheet item number 11 to perform an ASHRAE calculation through certified software such as RedCalc. Both the output of the software and a copy of the blower door data sheet must be placed in the client file. The Blower Door Data sheet is posted on the Department's website under Client and Field Assessment Forms at <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>

The protocol for Measuring Ventilation Performance is as follows:

1. Identify the local inventory of existing exhaust fans (measure flow using a Exhaust fan flow meter device and a pressure gauge)
 - a. Requirement for local fans
 - i. Bathrooms (50 CFM on-demand, or 20 CFM continuous).
 - ii. Kitchen (100 CFM on-demand, or 5 ACH, based on kitchen volume).
2. Determine the maximum ventilation amount required
 - a. From simple equation or corresponding chart, plus
 - b. Alternative Compliance Supplement based on post-weatherization conditions.
3. Conduct as-is blower door test to find CFM₅₀ of dwelling.
4. Post-weatherization modeling
 - a. Estimate post-weatherization CFM₅₀.
 - i. 10% of volume is ~ 6 ACH₅₀.
 - ii. 15% of volume is ~ 10 ACH₅₀.
 - b. Estimate post-weatherization depressurization.
 - i. Are existing combustion appliances affected under continuous operation? Intermittent operation? (Depressurization will be greater under intermittent operation.)
5. After weatherization is completed, measure actual CFM₅₀ and set required CFM of whole-building ventilation fan with variable-speed control to meet ASHRAE 62.2-2013.
6. Perform combustion safety testing.
7. Verify proper operation of all local and whole building ventilation equipment and controls (commissioning).
8. Job completed.
9. Measure airflows for all installed ventilation equipment.

Selection of Equipment

1. Select equipment with performance certified by AMCA or HVI

Very quiet: 1 sone or less

Standards for Deferral: Describe when deferral should take place for the specific health and safety category.

Deferral should be exercised when existing code violations are present and correcting them would be beyond the scope of the DOE WAP, and/or when there are problems affecting the heating and cooling systems that are beyond the scope of the DOE WAP, such as certain cost prohibitive electrical problems. For additional deferral criteria, see deferral section above.

Standards for Referral: Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.

Referrals should be made when problems are identified that are beyond the scope of the DOE WAP, such as electrical or other code violations. Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.

Training Provision: Discuss how training will be provided for the specific health and safety category. **Note:** Some health and safety categories, like OSHA, require training.

On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department’s website under Webinars and Workshops at <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

The Department will implement ASHRAE 62.2-2013 in its 2014 program year. Training for Subgrantees was provided via webinar on October 29, 2014 and included a refresher on ventilation requirements and instruction on changes from ASHRAE 2010 to 2013, including but not limited to:

1. Local exhaust exceptions
2. Flow measurement
3. Different air flow calculation: The Department will use the updated calculator provided by Residential Energy Dynamics at <http://www.residentialenergydynamics.com/REDCalcFree/Tools/ASHRAE6222013.aspx> . This tool has been updated to apply the changes in the air flow calculation from 2010 to 2013.
4. Infiltration credit
5. Newly added carbon monoxide alarm and pressure drop requirements
6. Use with Multifamily units

In addition, the new ASHRAE standards are incorporated into the Standard Work Specifications published by NREL, which the Department is currently incorporating. Additional training for Subgrantees will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc. Training for program monitors so that they can monitor for compliance with all requirements will be handled via the webinar and in-house on an as-needed basis. Training and Technical Assistance staff will ensure compliance with ASHRAE 62.2-2013 during technical assistance visits to Subgrantees, and Monitors will ensure compliance with ASHRAE 62.2-2013 when they review completed units.

Client Education: Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. **Note:** Some health and safety categories, like mold and moisture, require client education.

Subgrantees who install ventilation must educate the clients on effective use of the exhaust ventilation equipment by:

1. Leaving owner’s manual with client
2. Demonstrating how to use the exhaust fans.
3. Providing client education information on ventilation systems installed.
4. Providing client education on proper operation and maintenance.

Disposal Procedures: Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.

State and local codes and regulations shall be followed to ensure proper disposal procedures and protocols.

ASHRAE 62.2 Compliance: Provide a narrative describing implementation of ASHRAE 62.2, which will be required during the 2014 program year. Grantees must provide justification if making changes to ASHRAE 62.2 specific to their housing stock and local considerations.

Texas will update technical standards to meet ASHRAE 62.2-2013 requirements.

Window and Door Replacement, Window Guards

Concurrence or Alteration: Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. **Note:** Where an Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.

X Concur with WPN 11-6	Replacement, repair, or installation is not an allowable health and safety cost but may be allowed as an incidental repair or an efficiency measure if cost justified.
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<p>Funding: State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.</p>
<p>DOE funds may be used per the above stipulations.</p>
<p>Beyond Scope of DOE WAP: Describe how the issue will be treated if beyond the scope of DOE WAP.</p>
<p>If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.</p>
<p>Standards for Remedy: Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. Note: Some health and safety categories, like combustion gases, require testing.</p>
<p>Windows may only be performed as an incidental repair or ECM. When working on windows follow LSW requirements for pre-1978 homes.</p>
<p>Standards for Deferral: Describe when deferral should take place for the specific health and safety category.</p>
<p>Deferral should be exercised when existing code violations are present and correcting them would be beyond the scope of the DOE WAP. For additional deferral criteria, see deferral section above.</p>
<p>Standards for Referral: Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.</p>
<p>Referral should be made when problems are identified that are beyond the scope of the DOE WAP, such as code violations. Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.</p>
<p>Training Provision: Discuss how training will be provided for the specific health and safety category. Note: Some health and safety categories, like OSHA, require training.</p>
<p>On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm.</p> <p>The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department's website under Webinars and Workshops at http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm.</p> <p>Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.</p>
<p>Client Education: Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. Note: Some health and safety categories, like mold and moisture, require client education.</p>
<p>Provide information on lead risks.</p>
<p>Disposal Procedures: Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.</p>
<p>State and local codes and regulations shall be followed to ensure proper disposal procedures and protocols.</p>

1g

BOARD ACTION REQUEST

COMMUNITY AFFAIRS DIVISION

FEBRUARY 26, 2016

Presentation, Discussion, and Possible Action on the Reprogramming of Certain Program Year ("PY") 2015 Emergency Solutions Grant Funds from the Coalition for the Homeless Houston/Harris County to Harris County Domestic Violence Coordinating Council

RECOMMENDED ACTION

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

WHEREAS, on July 16, 2015, the Board authorized the Executive Director or his designee to make an award to the Coalition for the Homeless Houston/Harris County ("CFTH") of \$130,000 out of PY 2015 ESG funds;

WHEREAS, CFTH subgranted approximately \$75,000 of these funds to the Harris County Domestic Violence Coordinating Council ("HCDVCC") for the creation of a "comparable" database;

WHEREAS, HUD has informed the Department that the use of funds for a comparable database is only an eligible activity for subrecipients that are victim services providers or legal services providers and CFTH is neither;

WHEREAS, the Department has asked HUD for a waiver to 24 CFR §576.107(a)(3) to allow CFTH to oversee the comparable database contract or to waive the definition of Subrecipient in 24 CFR §576.2 to include CFTH's subrecipient HCDVCC; and

WHEREAS, staff at CFTH have verbally requested that in order for the Houston Continuum of Care ("CoC") to continue work on the comparable database, the Department split the 2015 ESG award into two contracts and directly award a portion of funding to HCDVCC;

NOW, therefore, it is hereby

RESOLVED that conditioned on receipt of a request in writing from CFTH for a

2015 ESG contract reduction and on the satisfactory approval of HCDVCC by EARAC, the Board authorizes the Executive Director or his designee to make a 2015 ESG award to the HCDVCC in amount not to exceed \$78,000, with any additional conditions imposed by EARAC.

BACKGROUND

The ESG Program is funded by HUD. The ESG's focus is to assist people to regain stability in permanent housing quickly after experiencing a housing crisis and/or homelessness. ESG funds can be utilized for the rehabilitation or conversion of buildings for use as emergency shelter for the homeless; the payment of certain expenses related to operating emergency shelters; essential services related to emergency shelters and street outreach for the homeless; and, homelessness prevention and rapid re-housing assistance.

As a condition of the ESG, Subrecipients are required to ensure that data on all persons served and all activities provided under ESG are entered into the community-wide Homeless Management Information System ("HMIS") designated by the CoC for the area in which those persons and activities are located, or a comparable database, in accordance with HUD's standards on participation, data collection, and reporting under a local HMIS. Subrecipients are required to enter into an agreement with the local HMIS Administrator for reporting.

If the Subrecipient is a victim service provider or a legal services provider, it may use a comparable database that collects client-level data over time (i.e. longitudinal data) and generates unduplicated aggregate reports based on the data. Information entered into a comparable database must not be entered directly into HMIS or provided to an HMIS administrator.

The comparable database must comply with all current HMIS standards including data information, security, data quality, and processing standards, as established by HUD in its latest HMIS Data Standards guide. Victim Service Providers or Legal Services Providers that are awarded ESG funds must consult with the CoC and the HMIS administrator for the CoC area to ensure that the comparable database uses all the HMIS standards.

On July 16, 2015, the Board authorized the Executive Director or his designee to make an award to CFTH of \$130,000, of which \$75,000 was for HMIS funds intended to be spent for a comparable database for domestic violence victims.

All subrecipients are required by HUD to participate in a Coordinated Access System, which is access to services or housing no matter where the client presents for services. Houston's Coordinated Access System is administered through HMIS, but there does not yet exist a comparable client-level database to allow those accessing victim service providers the same real time access to resources to exit homelessness. CFTH and its Victim Services counterpart, the HCDVCC,

proposed to jointly lead a workgroup of victim services providers to define the budget and specific activities related to a pilot project to create a CoC wide victim services comparable database that will work closely with the area's Coordinated Access System.

The Department is currently contracted directly with the CFTH for 2015 ESG funds. Quite recently HUD informed the Department that the comparable database is only an eligible activity for subrecipients that are victim services providers or legal services providers. While CFTH is not a domestic violence nor legal provider, they had been uniquely positioned to upgrade the HMIS-comparable database by working closely with multiple victim service providers and being the HMIS lead. The Department has asked HUD for a waiver to 24 CFR 576.107(a)(3) to allow the CFTH to complete the work on the comparable database.

While waiting on the status of the waiver request with HUD, staff had verbal conversations with CFTH about the status of this activity. In that dialogue their staff requested that the Department separate the unspent funds in CFTH's 2015 ESG contract into two contracts: one contract with CFTH for the HMIS activities and administrative costs not related to the comparable database, and one contract with the HCDVCC for the comparable database and possibly a portion of administrative expenses. This would be done so that this important work could continue without waiting on the waiver from HUD.

Staff is still working out the details of the exact dollar amount of the two contracts, and pursuing EARAC approval. If Houston/Harris County agrees in writing to a 2015 ESG contract reduction, this action would authorize the Executive Director or his designee to make a 2015 ESG award to the HCDVCC in an amount not to exceed \$78,000 with any conditions imposed by EARAC.

1h

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
FEBRUARY 25, 2016

Presentation, Discussion, and Possible Action on Determination Notices for Housing Tax Credits with another Issuer (#15423 Austin Colorado Creek Apartments, Austin)

RECOMMENDED ACTION

WHEREAS, a 4% Housing Tax Credit application for Austin Colorado Creek Apartments was submitted to the Department on November 12, 2015;

WHEREAS, the Certification of Reservation from the Texas Bond Review Board (“BRB”) was issued on November 12, 2015, and will expire on April 10, 2016;

WHEREAS, the proposed issuer of the bonds is the Austin Housing Finance Corporation;
and

WHEREAS, in accordance with 10 TAC §1.301(d)(1), the compliance history was designated as a Large Portfolio Category 4 because payment of a fee was outstanding but has since been paid and therefore deemed acceptable by the Executive Award and Review Advisory Committee (“EARAC”) after review and discussion;

NOW, therefore, it is hereby

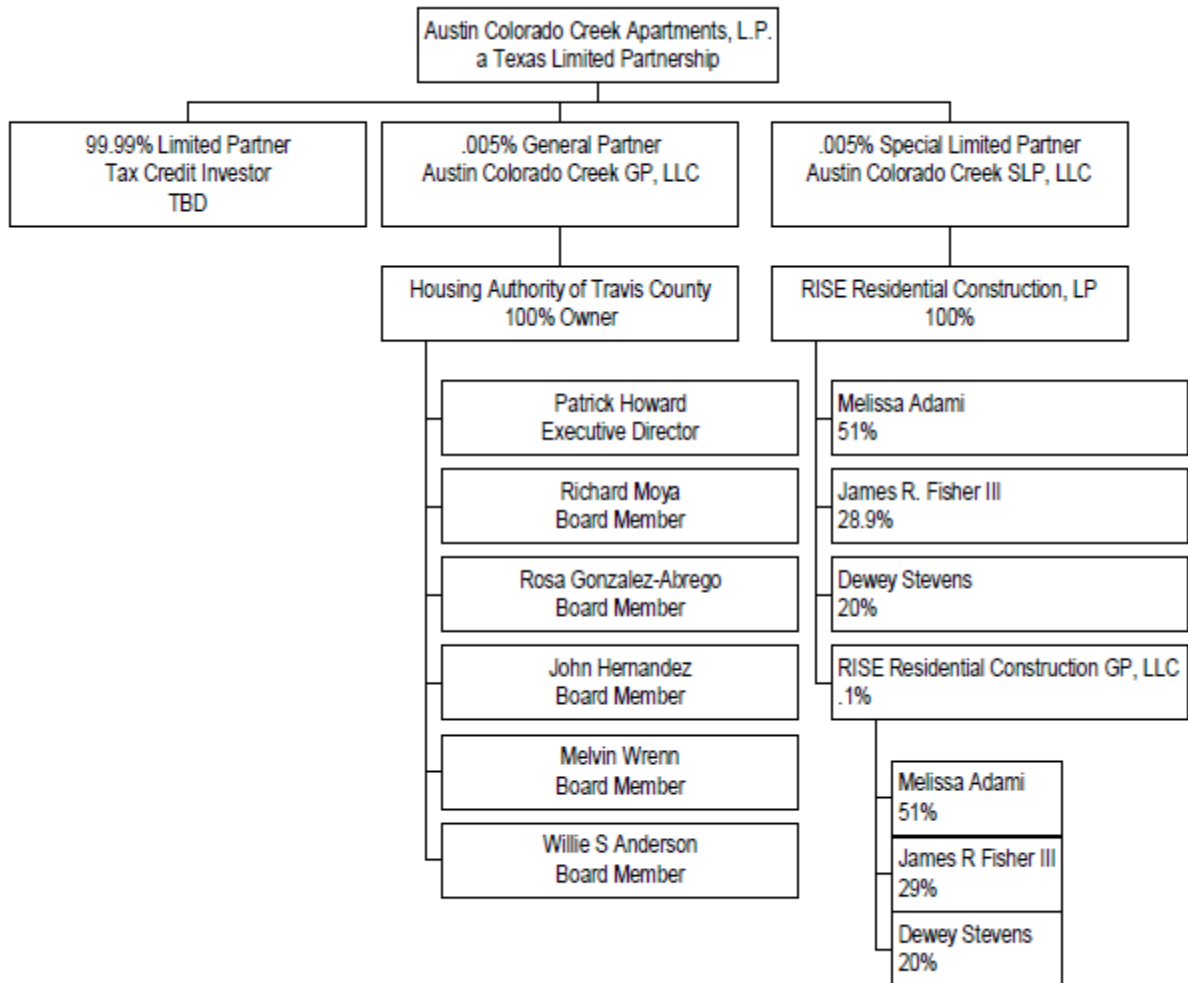
RESOLVED, that the issuance of a Determination Notice of \$1,128,043 in 4% Housing Tax Credits, subject to underwriting conditions that may be applicable as found in the Real Estate Analysis report posted to the Department’s website for Austin Colorado Creek Apartments is hereby approved as presented to this meeting.

BACKGROUND

General Information: Austin Colorado Creek Apartments, proposed to be located at Fallwell Road and Hwy 71 in Austin, Travis County, involves the new construction of 240 units all of which will be rent and income restricted at 60% AMFI. The development will serve the general population and is zoned appropriately. The census tract (0024.33) has a median household income of \$53,203, is in the third quartile and has a poverty rate of 16%.

Organizational Structure: The Borrower is Austin Colorado Creek Apartments, LP. and includes the entities and principals as indicated in the organization chart below. The EARAC met on February 17, 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 was designated as a Large Portfolio Category 4 because of an outstanding fee which was paid on February 16, 2016, and deemed acceptable by EARAC after review and discussion.

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



1i

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
FEBRUARY 25, 2016

Presentation, Discussion, and Possible Action on Waivers Relating to Mandatory Development Amenities for Balcones Haus Apartments #16124

RECOMMENDED ACTION

WHEREAS, an applicant with a pre-application in the 2016 Competitive Housing Tax Credit cycle, Balcones Haus Apartments #16124, has requested a waiver relating to 10 Texas Administrative Code ("TAC") §10.101(b)(4)(L), Mandatory Development Amenities regarding central heating and air conditioning;

WHEREAS, the applicant is proposing to rehabilitate an existing facility that was designed for and is currently served with Packaged Terminal Air Conditioners ("PTAC") for cooling and heating;

WHEREAS, the applicant has provided documentation confirming that converting the units to central air systems would be uneconomical and take space from the already small efficiency and one bedroom units; and

WHEREAS, pursuant to 10 TAC §10.207(a) of the Uniform Multifamily Rules staff recommends)based on the information provided by the applicant) the waiver be granted;

NOW, therefore, it is hereby

RESOLVED, that a waiver of 10 TAC §10.207(a) of the Uniform Multifamily Rule for Balcones Haus Apartments is hereby approved as presented to this meeting.

BACKGROUND

A 2016 Pre-Application has been timely submitted for Balcones Haus Apartments. Review of the Pre-application is currently underway. The Pre-Application proposes rehabilitation of an existing 39-unit elderly development originally funded under the HUD Section 202 program, composed of efficiency and one-bedroom residential units. The Applicant has requested a waiver of TAC §10.101(b)(4)(L), Mandatory Development Amenities, regarding installation of a central heating and air conditioning system ("HVAC").

The Balcones Haus is composed of 440sf efficiency and 530sf one bedroom units, and was originally designed with Packaged Terminal Air Conditioners for cooling and heating. Under §10.101(b)(4), PTAC units meet the requirement for central heating and air conditioning for single-room occupancy and efficiency units only. The Applicants has requested waiver of the requirement in Rule to provide HVAC in the one bedroom units because they lack ceiling height, floor space, and exterior building perimeter for the proper installation of HVAC. Installation of HVAC would reduce the square footage of units by 16 square feet and reduce the ceiling height in order to accommodate duct work. The Applicant claims that a split

system would require similar floor space and duct work, rendering it an unacceptable alternative. They propose replacing the current units with new, more efficient units as described by the architect.

In consideration of the structural challenges associated with the installation of central heat and air conditioning, and the efficiency at which the current PTAC systems operate, staff recommends granting the waiver with the condition that an Architect or Engineer certify that the PTAC units are sized properly to heat and cool the space, and the PTAC units include ducting to condition rooms without their own unit.

1j

BOARD ACTION REQUEST

ASSET MANAGEMENT

FEBRUARY 25, 2016

Presentation, Discussion, and Possible Action to approve a material amendment to the Housing Tax Credit Land Use Restriction Agreement (“LURA”) for Village at Meadowbend (# 01111)

RECOMMENDED ACTION

WHEREAS, Village at Meadowbend received an award of 9% Housing Tax Credits in 2001 to construct 138 multifamily units in Temple;

WHEREAS, the tax credit application for the Development received three points for having a Historically Underutilized Business (“HUB”), Encinas Group of Texas, Inc. (“Encinas”), participate in the ownership of the Development;

WHEREAS, the LURA for the Development requires that throughout the Compliance Period, unless otherwise permitted by the Department, the HUB shall hold an ownership interest in the Project and must maintain regular, continuous, and substantial participation in the development and operation of the Project;

WHEREAS, the Development is within the Compliance Period, as defined in the LURA;

WHEREAS, Encinas, the current Managing General Partner, requests to remain in the ownership structure;

WHEREAS, the Development Owner requests approval to amend the LURA for the Development to eliminate the HUB requirement; and

WHEREAS, 10 TAC §10.406(g) allows for a HUB to be removed when it is unable to maintain its HUB status but is determined to maintain its ownership interest as long as the LURA does not require such continual ownership or a material LURA amendment is approved, and the Owner has complied with the procedural amendment requirements in 10 TAC §10.405(b) to place this request before the Board;

NOW, therefore, it is hereby

RESOLVED, that the material LURA amendment for Village at Meadowbend is approved, as presented to this meeting and the Executive Director and his designees are hereby, authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

BACKGROUND

Village at Meadowbend was approved in 2001 for the construction of 138 multifamily units in Temple. The LURA for the Development has a 40-year term, including a 15-year Compliance Period, which expires on December 31, 2017. On January 22, 2016, Encinas submitted a request on behalf of the Development

Owner, Village at Meadowbend, L.P., for the elimination of the requirement for a HUB to hold an ownership interest in the Project and the requirement for the HUB to maintain regular, continuous, and substantial participation in the development and operation of the Project. Encinas states its participation as the HUB in the ownership has been substantive and meaningful. However, when they applied for renewal of their HUB status, the Texas Comptroller denied their request based on the determination that Encinas conducted more business in California than in Texas. Although Encinas is unable to maintain their HUB status, the Development Owner wants to allow them to remain in their current role in the ownership structure due to their valuable assistance and benefit to the Project. Additionally, the removal of Encinas would result in transfer fees or penalties assessed by the Development Owner's financing parties that would adversely affect the Project.

The Development Owner must comply with the amendment and notification requirements under the Department's rule at Government Code §2306.6712 and 10 TAC §10.405(b). The Development Owner has notified the tenants, lenders, investors and State and local public officials of this amendment request. A public hearing was also held on February 8, 2016 at 5:30 pm at the Development's management office/clubhouse. As of the date of publication of this Board Action Request, the Department has not been made aware of any public comment made regarding the requested amendment.

In addition, staff determined that with the loss of the three application points for the HUB participant, the application would have retained sufficient points to still have been awarded the allocation of tax credits.

Staff recommends approval of the request, subject to no negative public comment received, to amend the LURA to eliminate the requirement for participation of a HUB in the ownership structure and operation of the Development throughout the Compliance Period. If negative public comment is received regarding this request staff will pull this item from the Consent Agenda.

January 19, 2016

VIA HAND DELIVERY

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

Re: Village at Meadowbend (the "**Property**")
TDHCA File No. 01-111
Request for LURA Amendment

Dear Lee Ann:

The undersigned is the Managing General Partner (herein so called) of the current owner of the Property, Village at Meadowbend Apartments, L.P., a Texas limited partnership ("**Owner**"). This letter constitutes notice of a request for a material LURA amendment in accordance with Sections 10.405(b) and 10.406(g) of TDHCA's Multifamily Rules (the "Rules"). Specifically, the LURA for this Property requires ownership participation by an historically underutilized business (a "**HUB**"). The Managing General Partner requests elimination of that requirement for the reasons set forth below.

Background Information

The Owner currently consists of the Managing General Partner, Rufino Contreras Affordable Housing Corporation, Inc., a Texas nonprofit corporation ("**Rufino**"), as co-general partner, Related Corporate XX SLP, L.P., a Delaware limited partnership, as special limited partner, and Related Corporate Partners XX, L.P., a Delaware limited partnership, as limited partner. Compliance with the HUB participation requirement has been achieved through the Managing General Partner, which, until recently, has been a certified HUB. However, the Managing General Partner has now lost its certification and is unable to maintain its HUB status. Notwithstanding the change in the Managing General Partner's HUB status, the Owner would prefer to allow the Managing General Partner to remain within its ownership structure as the Managing General Partner continues to provide valuable assistance that benefits the Property. Further, transferring ownership interest to account for the withdrawal of the Managing General Partner would result in the assessment of transfer fees or similar economic penalties by the Owner's financing parties, which is expected to have an adverse effect on the Property.

LURA Amendment Request

Section 10.405(b)(2)(E) of the Rules recognizes that a LURA can be amended to

remove the requirement for material participation by a HUB. Section 10,406(g) of the Rules in turn recognizes that one of the reasons why such a LURA amendment may be needed is because the HUB is unable to maintain its HUB status yet wishes to remain in the ownership. Such is the case here, as explained above. In light of the foregoing, the Managing General Partner requests that TDHCA remove the HUB requirement from its LURA thereby simultaneously allowing (1) the Managing General Partner to remain in its current role and (2) the Owner to continue to comply with the LURA. In accordance with the Rules, the participation of the Managing General Partner as the HUB with regard to the Property has been substantive and meaningful, and the Managing General Partner has realized both financial benefit and an acquisition of skills relating to the ownership and operation of affordable housing. The approval of this LURA amendment request will allow such benefits to the Property to continue. The Managing General Partner confirms that it is willing to remain in the ownership of the Owner and continues to be in good standing as a Texas corporation notwithstanding the fact that it is no longer certified as a HUB.

Compliance with Administrative Requirements

In accordance with Section 10.901(13) of the Rules, the Managing General Partner is delivering a fee in the amount of \$2500. In addition, the Managing General Partner commits to cause the Owner to hold a public hearing, as required by the Rules, and to notify all residents, investors, lenders, and appropriate elected officials. Drafts of the public hearing notices are attached for TDHCA's review and approval, per Rules Section 10.405(b)(3)(B). Upon approval from TDHCA, the Managing General Partner, on behalf of the Owner, will proceed to set a date and time for the Public Hearing and will provide TDHCA with evidence that the notice has been delivered and the hearing has been conducted. With that, the Managing General Partner requests staff recommendation, in support of this request, to be considered at the February 25, 2016 TDHCA Board meeting.

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

Sincerely,

Encinas Group of Texas, Inc.,
a Texas corporation

By: 

Name: William Encinos

Title: AS.

Attachments

cc: (*via email*)
 Tom Gouris
 Patricia Murphy
 Colton Sanders
 Cynthia L. Bast
 Robin Raida

Village at Meadowbend Apartments, L.P.
1208 South Trace Dr.
Austin, TX 78745

January 19, 2016

Dear Resident:

Village at Meadowbend Apartments (the "**Community**") is owned by Village at Meadowbend Apartments, L.P. (the "**Owner**"). In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**") (Phone: 512-475-3800; Website: www.tdhca.state.tx.us).

Owner was originally structured with Encinas Group of Texas, Inc. ("**Encinas**"), a Texas corporation, as the managing general partner. Encinas is certified by the State of Texas as a Historically Underutilized Business (a "**HUB**"). A contractual restriction imposed by TDHCA mandated that a HUB participate in the ownership of the Community for a designated period of time. Prior to the expiration of this mandatory period, Encinas finds itself unable to maintain its HUB certification. Therefore, Owner is requesting TDHCA approval to remove the ongoing HUB requirement from its contract.

In making its decision whether to approve Owner's request, the Department considers the opinions and views of the members of the Community. Accordingly, there will be a public meeting to discuss this matter. This meeting will take place at the Community's management office/clubhouse on February 8, 2016 at 5:30pm (local time).

Please note that this proposal would not affect your current lease agreement, your rent payment, or your security deposit. You would *not* be required to move out of your home or take any other action because of this change. If the Department approves Owner's request, the Community will not change at all from its current form. It should further be noted that HUB certification is an administrative designation, and the fact that the Managing General Partner is no longer certified as a HUB does not affect its ability to properly and effectively continue as the managing general partner of the Owner.

We appreciate that Village at Meadowbend Apartments is your home and we invite you to attend and give your input on this proposal.

Thank you for choosing Village at Meadowbend Apartments as your home.

Sincerely,

Village at Meadowbend Apartments, L.P.,
a Texas limited partnership

By: Encinas Group of Texas, Inc.,
a Texas corporation,
its general partner

By: _____
Name: _____
Title: _____

Village at Meadowbend Apartments, L.P.
1208 South Trace Dr.
Austin, TX 78745

Mayor Danny Dunn
2 North Main Street
Suite 103
Temple, TX 76501

January 19, 2016

Dear Mayor Dunn:

Village at Meadowbend Apartments, L.P. (the "**Owner**") is the owner of Village at Meadowbend Apartments (the "**Community**") which is located at 2787 Martin Luther King Jr. Drive, Temple, Texas 76504. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**").

Owner was originally structured with Encinas Group of Texas, Inc. ("**Encinas**"), a Texas corporation, as the managing general partner. Encinas is certified by the State of Texas as a Historically Underutilized Business (a "**HUB**"). A contractual restriction imposed by TDHCA mandated that a HUB participate in the ownership of the Community for a designated period of time. Prior to the expiration of this mandatory period, Encinas finds itself unable to maintain its HUB certification. Therefore, Owner is requesting TDHCA approval to remove the ongoing HUB requirement from its contract. It should be noted that HUB certification is an administrative designation, and the fact that the Managing General Partner is no longer certified as a HUB does not affect its ability to properly and effectively continue as the managing general partner of the Owner.

In making its decision whether to approve Owner's request, the Department considers the opinions and views of the members of the Community and its elected representatives. Accordingly, there will be a public meeting to discuss this matter. This meeting will take place at the Community's management office/clubhouse on February 8, 2016 at 5:30pm (local time).

We invite you or one of your staff to attend and give your input on this proposal.

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Village at Meadowbend Apartments, L.P.,
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By: Encinas Group of Texas, Inc.,
a Texas corporation,
its general partner

By: _____
Name: _____
Title: _____

Village at Meadowbend Apartments, L.P.
1208 South Trace Dr.
Austin, TX 78745

Senator Troy Fraser
Texas State Senate District 24
P.O. Box 12068, Capitol Station
Austin, TX 78711

January 19, 2016

Dear Senator Fraser:

Village at Meadowbend Apartments, L.P. (the "**Owner**") is the owner of Village at Meadowbend Apartments (the "**Community**") which is located at 2787 Martin Luther King Jr. Drive, Temple, Texas 76504. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**").

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a Texas corporation,
its general partner

By: _____
Name: _____
Title: _____

Village at Meadowbend Apartments, L.P.
1208 South Trace Dr.
Austin, TX 78745

Representative Molly S. White
Texas State House District 55
P.O. Box 2910
Austin, TX 78768

January 19, 2016

Dear Representative White:

Village at Meadowbend Apartments, L.P. (the "**Owner**") is the owner of Village at Meadowbend Apartments (the "**Community**") which is located at 2787 Martin Luther King Jr. Drive, Temple, Texas 76504. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**").

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a Texas corporation,
its general partner

By: _____
Name: _____
Title: _____

Village at Meadowbend Apartments, L.P.
1208 South Trace Dr.
Austin, TX 78745

January 19, 2016

Mitch Hays
Alden Pacific Asset Management
1225 17th Street
Denver, CO 80202

Dear Mr. Hays:

Village at Meadowbend Apartments, L.P. (the "**Owner**") is the owner of Village at Meadowbend Apartments (the "**Community**") which is located at 2787 Martin Luther King Jr. Drive, Temple, Texas 76504. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**").

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In making its decision whether to approve Owner's request, the Department considers the opinions and views of the members of the Community, its elected representatives and the Owner's other financing partners. Accordingly, there will be a public meeting to discuss this matter. This meeting will take place at the Community's management office/clubhouse on February 8, 2016 at 5:30 pm (local time).

We invite you to attend and give your input on this proposal.

Sincerely,

Village at Meadowbend Apartments, L.P.,
a Texas limited partnership

By: Encinas Group of Texas, Inc.,
a Texas corporation,
its general partner

By: _____
Name: _____
Title: _____

Village at Meadowbend Apartments, L.P.
1208 South Trace Dr.
Austin, TX 78745

January 19, 2016

Melissa Sweany
Hunt Mortgage Group
11501 Outlook, Suite 300
Overland Park, KS 66211

RE: Village at Meadowbend Apartments (Loan Number 10094112)

Dear Ms. Sweany:

Village at Meadowbend Apartments, L.P. (the "**Owner**") is the owner of Village at Meadowbend Apartments (the "**Community**") which is located at 2787 Martin Luther King Jr. Drive, Temple, Texas 76504. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**").

Owner was originally structured with Encinas Group of Texas, Inc. ("**Encinas**"), a Texas corporation, as the managing general partner. Encinas is certified by the State of Texas as a Historically Underutilized Business (a "**HUB**"). A contractual restriction imposed by TDHCA mandated that a HUB participate in the ownership of the Community for a designated period of time. Prior to the expiration of this mandatory period, Encinas finds itself unable to maintain its HUB certification. Therefore, Owner is requesting TDHCA approval to remove the ongoing HUB requirement from its contract. It should be noted that HUB certification is an administrative designation, and the fact that the Managing General Partner is no longer certified as a HUB does not affect its ability to properly and effectively continue as the managing general partner of the Owner.

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a Texas limited partnership

By: Encinas Group of Texas, Inc.,
a Texas corporation,
its general partner

By: _____
Name: _____
Title: _____

BOARD ACTION REQUEST

ASSET MANAGEMENT

FEBRUARY 25, 2016

Presentation, Discussion, and Possible Action to approve a material amendment to the Housing Tax Credit Land Use Restriction Agreement (“LURA”) for Village at Meadowbend II (# 04145)

RECOMMENDED ACTION

WHEREAS, Village at Meadowbend II received an award of 9% Housing Tax Credits in 2004 to construct 99 multifamily units in Temple;

WHEREAS, the tax credit application for the Development received three points for having a Historically Underutilized Business (“HUB”), Encinas Group of Texas, Inc. (“Encinas”), participate in the ownership of the Development;

WHEREAS, the LURA for the Development requires that throughout the Compliance Period, unless otherwise permitted by the Department, the HUB shall hold an ownership interest in the Project and must maintain regular, continuous, and substantial participation in the development and operation of the Project;

WHEREAS, the Development is within the Compliance Period, as defined in the LURA;

WHEREAS, Encinas, the current special Class B limited partner, requests to remain in the ownership structure;

WHEREAS, the Development Owner requests approval to amend the LURA for the Development to eliminate the HUB requirement; and

WHEREAS, 10 TAC §10.406(g) allows for a HUB to be removed when it is unable to maintain its HUB status but is determined to maintain its ownership interest as long as the LURA does not require such continual ownership or a material LURA amendment is approved, and the Owner has complied with the procedural amendment requirements in 10 TAC §10.405(b) to place this request before the Board;

NOW, therefore, it is hereby

RESOLVED, that the material LURA amendment for Village at Meadowbend II is approved, as presented to this meeting and the Executive Director and his designees are hereby, authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

BACKGROUND

Village at Meadowbend II was approved in 2004 for the construction of 99 multifamily units in Temple. The LURA for the Development has a 40-year term, including a 15-year Compliance Period, which expires

on December 31, 2021. On January 22, 2016, the Managing General Partner, Aguila Village Housing GP, LLC, submitted a request on behalf of the Development Owner, Village at Meadowbend Apartments II, L.P., for the elimination of the requirement for a HUB to hold an ownership interest in the Project and the requirement for the HUB to maintain regular, continuous, and substantial participation in the development and operation of the Project. The Managing General Partner states that Encinas' participation as the HUB in the ownership has been substantive and meaningful. However, when they applied for renewal of their HUB status, the Texas Comptroller denied their request based on the determination that Encinas conducted more business in California than in Texas. Although Encinas is unable to maintain their HUB status, the Development Owner wants to allow them to remain in their current role in the ownership structure due to their valuable assistance and benefit to the Project. Additionally, the removal of Encinas would result in transfer fees or penalties assessed by the Development Owner's financing parties that would adversely affect the Project.

The Development Owner must comply with the amendment and notification requirements under the Department's rule at Government Code §2306.6712 and 10 TAC §10.405(b). The Development Owner has notified the tenants, lenders, investors and State and local public officials of this amendment request. A public hearing was also held on February 8, 2016 at 5:30 pm at the Development's management office/clubhouse. As of the date of publication of this Board Action Request, the Department has not been made aware of any public comment made regarding the requested amendment.

Although the loss of the three application points that were awarded to this Application for HUB participation indicates that the Application would not have been competitive, the original HUB entity, Encinas, will continue to participate in the ownership as it always has.

Staff recommends approval of the request, subject to no negative public comment received, to amend the LURA to eliminate the requirement for participation of a HUB in the ownership structure and operation of the Development throughout the Compliance Period. If negative public comment is received regarding this request staff will pull this item from the Consent Agenda.

**Aguila Village Housing GP, LLC
29700 Woodford-Tehachapi Rd.
Keene, CA 93531**

January 19, 2016

VIA HAND DELIVERY

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

Re: Village at Meadowbend II (the "**Property**")
TDHCA File No. 04-145
Request for LURA Amendment

Dear Lee Ann:

Rufino Contreras Affordable Housing Corporation, Inc., a Texas nonprofit corporation, is the Sole Member (herein so called) of Aguila Village Housing GP, LLC, a Texas limited liability company ("**Managing General Partner**"), which is the managing general partner of the current owner of the Property, Village at Meadowbend Apartments II, L.P., a Texas limited partnership ("**Owner**"). This letter constitutes notice of a request for a material LURA amendment in accordance with Section 10.405(b) and 10.406(g) of TDHCA's Multifamily Rules (the "Rules"). Specifically, the LURA for this Property requires ownership participation by an historically underutilized business (a "**HUB**"). The Sole Member, acting on behalf of the Managing General Partner, requests elimination of that requirement for the reasons set forth below.

Background Information

The Owner currently consists of the Managing General Partner, Encinas Group of Texas, Inc., a Texas corporation ("**Encinas**"), as special Class B limited partner, Related Corporate XXVIII SLP LLC, a Delaware limited liability company, as special limited partner, and Related Corporate Partners XXVIII, L.P., a Delaware limited partnership, as limited partner. Compliance with the HUB participation requirement has been achieved through the special Class B limited partner, which, until recently, has been a certified HUB. However Encinas has now lost its certification and is unable to maintain its HUB status. Notwithstanding the change in the special Class B partner's HUB status, the Owner would prefer to allow Encinas to remain within its ownership structure as Encinas continues to provide valuable assistance that benefits the Property. Further, transferring ownership interest to account for the withdrawal of Encinas would result in the assessment of transfer fees or similar economic penalties by the Owner's financing parties, which is expected to have an adverse effect on the Property.

LURA Amendment Request

Section 10.405(b)(2)(E) of the Rules recognizes that a LURA can be amended to remove the requirement for material participation by a HUB. Section 10,406(g) of the Rules in turn recognizes that one of the reasons why such a LURA amendment may be needed is because the

HUB is unable to maintain its HUB status yet wishes to remain in the ownership. Such is the case here, as explained above. In light of the foregoing, the Sole Member, acting on behalf of the Managing General Partner, requests that TDHCA remove the HUB requirement from its LURA thereby simultaneously allowing (1) Encinas to remain in its current role and (2) the Owner to continue to comply with the LURA. In accordance with the Rules, the participation of Encinas as the HUB with regard to the Property has been substantive and meaningful, and Encinas has realized both financial benefit and an acquisition of skills relating to the ownership and operation of affordable housing. The approval of this LURA amendment request will allow such benefits to the Property to continue. The special Class B limited partner confirms that it is willing to remain in the ownership of the Owner and continues to be in good standing as a Texas corporation notwithstanding the fact that it is no longer certified as a HUB.

Compliance with Administrative Requirements

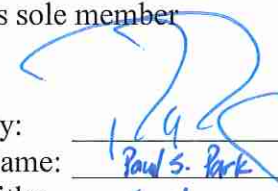
In accordance with Section 10.901(13) of the Rules, the Sole Member is delivering a fee in the amount of \$2500. In addition, the Sole Member commits to cause the Owner to hold a public hearing, as required by the Rules, and to notify all residents, investors, lenders, and appropriate elected officials. Drafts of the public hearing notices are attached for TDHCA's review and approval, per Rules Section 10.405(b)(3)(B). Upon approval from TDHCA, the Sole Member, on behalf of the Owner, will proceed to set a date and time for the Public Hearing and will provide TDHCA with evidence that the notice has been delivered and the hearing has been conducted. With that, the Sole Member, acting on behalf of the Managing General Partner requests staff recommendation, in support of this request, to be considered at the February 25, 2016 TDHCA Board meeting.

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

Sincerely,

Aguila Village Housing GP, LLC,
a Texas limited liability company

By: Rufino Contreras Affordable Housing
Corporation, Inc.,
a Texas nonprofit corporation,
its sole member

By: 
Name: Paul S. Park
Title: Secretary

January 19, 2016
Page 3

Attachments

cc: Tom Gouris
Patricia Murphy
Colton Sanders
Cynthia L. Bast
Robin Raida

Village at Meadowbend Apartments II, L.P.
2200 E. Martin Luther King Jr. Blvd.
Austin, TX 78702

January 19, 2016

Dear Resident:

Village at Meadowbend Apartments (the "**Community**") is owned by Village at Meadowbend Apartments II, L.P. (the "**Owner**"). In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**") (Phone: 512-475-3800; Website: www.tdhca.state.tx.us).

Owner was originally structured with Encinas Group of Texas, Inc. ("**Encinas**"), a Texas corporation, as the special Class B limited partner. Encinas is certified by the State of Texas as a Historically Underutilized Business (a "**HUB**"). A contractual restriction imposed by TDHCA mandated that a HUB participate in the ownership of the Community for a designated period of time. Prior to the expiration of this mandatory period, Encinas finds itself unable to maintain its HUB certification. Therefore, Owner is requesting TDHCA approval to remove the ongoing HUB requirement from its contract.

In making its decision whether to approve Owner's request, the Department considers the opinions and views of the members of the Community. Accordingly, there will be a public meeting to discuss this matter. This meeting will take place at the Community's management office/clubhouse on February 8, 2016 at 5:30pm (local time).

Please note that this proposal would not affect your current lease agreement, your rent payment, or your security deposit. You would *not* be required to move out of your home or take any other action because of this change. If the Department approves Owner's request, the Community will not change at all from its current form. It should further be noted that HUB certification is an administrative designation, and the fact that the special Class B limited partner is no longer certified as a HUB does not affect its ability to properly and effectively continue as the special Class B limited partner of the Owner.

We appreciate that Village at Meadowbend Apartments is your home and we invite you to attend and give your input on this proposal.

Thank you for choosing Village at Meadowbend Apartments as your home.

Sincerely,

Village at Meadowbend Apartments II, L.P.,
a Texas limited partnership

By: Aguila Village Housing GP, LLC,
a Texas limited liability company,
its managing general partner

By: Rufino Contreras Affordable Housing
Corporation, Inc.,
a Texas nonprofit corporation,
its sole member

By: _____
Name: _____
Title: _____

**Village at Meadowbend Apartments II, L.P.
2200 E. Martin Luther King Jr. Blvd.
Austin, TX 78702**

Mayor Danny Dunn
2 North Main Street
Suite 103
Temple, TX 76501

January 19, 2016

Dear Mayor Dunn:

Village at Meadowbend Apartments II, L.P. (the "**Owner**") is the owner of Village at Meadowbend Apartments (the "**Community**") which is located 2787 Martin Luther King Jr. Drive, Temple, Texas 76504. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**").

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its managing general partner

By: Rufino Contreras Affordable Housing
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its sole member

By: _____
Name: _____
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Village at Meadowbend Apartments II, L.P.
2200 E. Martin Luther King Jr. Blvd.
Austin, TX 78702

Senator Troy Fraser
Texas State Senate District 24
P.O. Box 12068, Capitol Station
Austin, TX 78711

January 19, 2016

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a Texas limited partnership

By: Aguila Village Housing GP, LLC,
 a Texas limited liability company,
 its managing general partner

By: Rufino Contreras Affordable Housing
 Corporation, Inc.,
 a Texas nonprofit corporation,
 its sole member

By: _____
Name: _____
Title: _____

Village at Meadowbend Apartments II, L.P.
2200 E. Martin Luther King Jr. Blvd.
Austin, TX 78702

Representative Molly S. White
Texas State House District 55
P.O. Box 2910
Austin, TX 78768

January 19, 2016

Dear Representative White:

Village at Meadowbend Apartments, L.P. (the "**Owner**") is the owner of Village at Meadowbend Apartments (the "**Community**") which is located at 2787 Martin Luther King Jr. Drive, Temple, Texas 76504. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**").

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its sole member

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Village at Meadowbend Apartments II, L.P.
2200 E. Martin Luther King Jr. Blvd.
Austin, TX 78702

January 19, 2016

Lindsay Unruh
Hunt Mortgage Group
11501 Outlook, Suite 300
Overland Park, KS 66211

RE: Village at Meadowbend II Apartments (Loan Number 10094840)

Dear Ms. Unruh:

Village at Meadowbend Apartments II, L.P. (the "**Owner**") is the owner of Village at Meadowbend Apartments (the "**Community**") which is located 2787 Martin Luther King Jr. Drive, Temple, Texas 76504. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**").

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a Texas limited partnership

By: Aguila Village Housing GP, LLC,
 a Texas limited liability company,
 its managing general partner

By: Rufino Contreras Affordable Housing
 Corporation, Inc.,
 a Texas nonprofit corporation,
 its sole member

By: _____
Name: _____
Title: _____

Village at Meadowbend Apartments II, L.P.
2200 E. Martin Luther King Jr. Blvd.
Austin, TX 78702

January 19, 2016

Tami Wielgus
Alden Pacific Asset Management
1225 17th Street
Denver, CO 80202

Dear Ms. Wielgus:

Village at Meadowbend Apartments II, L.P. (the "**Owner**") is the owner of Village at Meadowbend Apartments (the "**Community**") which is located 2787 Martin Luther King Jr. Drive, Temple, Texas 76504. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**").

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a Texas limited partnership

By: Aguila Village Housing GP, LLC,
 a Texas limited liability company,
 its managing general partner

By: Rufino Contreras Affordable Housing
 Corporation, Inc.,
 a Texas nonprofit corporation,
 its sole member

By: _____
Name: _____
Title: _____

BOARD ACTION REQUEST

ASSET MANAGEMENT

FEBRUARY 25, 2016

Presentation, Discussion, and Possible Action to approve a material amendment to the Housing Tax Credit Land Use Restriction Agreement (“LURA”) for Casa Saldana (# 04146)

RECOMMENDED ACTION

WHEREAS, Casa Saldana received an award of 9% Housing Tax Credits in 2004 to construct 196 new multifamily units in Mercedes;

WHEREAS, the tax credit application for the Development received three points for having a Historically Underutilized Business (“HUB”), Encinas Group of Texas, Inc. (“Encinas”), participate in the ownership of the Development;

WHEREAS, the LURA for the Development requires that throughout the Compliance Period, unless otherwise permitted by the Department, the HUB shall hold an ownership interest in the Project and must maintain regular, continuous, and substantial participation in the development and operation of the Project;

WHEREAS, the Development is within the Compliance Period, as defined in the LURA;

WHEREAS, Encinas, the current special Class B limited partner, requests to remain in the ownership structure;

WHEREAS, the Development Owner requests approval to amend the LURA for the Development to eliminate the HUB requirement; and

WHEREAS, 10 TAC §10.406(g) allows for a HUB to be removed when it is unable to maintain its HUB status but is determined to maintain its ownership interest as long as the LURA does not require such continual ownership or a material LURA amendment is approved, and the Owner has complied with the procedural amendment requirements in 10 TAC §10.405(b) to place this request before the Board;

NOW, therefore, it is hereby

RESOLVED, that the material LURA amendment for Casa Saldana is approved, as presented to this meeting and the Executive Director and his designees are hereby, authorized, empowered, and directed to take all necessary action to effectuate the foregoing;

BACKGROUND

Casa Saldana was approved in 2004 for the construction of 196 multifamily units in Mercedes. The LURA for the Development has a 40-year term, including a 15-year Compliance Period, which expires on December 31, 2020. On January 19, 2016, the Managing General Partner, Aguila Village Housing GP, LLC,

submitted a request on behalf of the Development Owner, Casa Korima Housing Development, L.P., for the elimination of the requirement for a HUB to hold an ownership interest in the Project and the requirement for the HUB to maintain regular, continuous, and substantial participation in the development and operation of the Project throughout the Compliance Period. The Managing General Partner states that Encinas' participation as the HUB in the ownership has been substantive and meaningful. However, when they applied for renewal of their HUB status, the Texas Comptroller denied their request based of the determination that Encinas conducted more business in California than in Texas. Although Encinas is unable to maintain their HUB status, the Development Owner wants to allow them to remain in their current role in the ownership structure due to their valuable assistance and benefit to the Project. Additionally, the removal of Encinas would result in transfer fees or penalties assessed by the Development Owner's financing parties that would adversely affect the Project.

The Development Owner must comply with the amendment and notification requirements under the Department's rule at Government Code §2306.6712 and 10 TAC §10.405(b). The Development Owner has notified the tenants, lenders, investors and State and local public officials of this amendment request. A public hearing was also held on February 8, 2016 at 5:30 pm at the Development's management office/clubhouse. As of the date of publication of this Board Action Request, the Department has not been made aware of any public comment made regarding the requested amendment.

In addition, staff has confirmed that even with the loss of the three application points for the HUB participation, the application would have remained competitive for an allocation of tax credits.

Staff recommends approval of the request, subject to no negative public comment received, to amend the LURA to eliminate the requirement for participation of a HUB in the ownership structure and operation of the Development throughout the Compliance Period. If negative public comment is received regarding this request staff will pull this item from the Consent Agenda.

**Aguila Village Housing GP, LLC
29700 Woodford-Tehachapi Rd.
Keene, CA 93531**

January 19, 2015

VIA HAND DELIVERY

Colton Sanders
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701-2410

Re: Casa Saldana (the "**Property**")
TDHCA File No. 04-146
Request for LURA Amendment

Dear Colton:

Rufino Contreras Affordable Housing Corporation, Inc., a Texas nonprofit corporation, is the Sole Member (herein so called) of Aguila Village Housing GP, LLC, a Texas limited liability company ("**Managing General Partner**"), which is the managing general partner of the current owner of the Property, Casa Korima Housing Development, L.P., a Texas limited partnership ("**Owner**"). This letter constitutes notice of a request for a material LURA amendment in accordance with Section 10.405(b) and 10.406(g) of TDHCA's Multifamily Rules (the "Rules"). Specifically, the LURA for this Property requires ownership participation by an historically underutilized business (a "**HUB**"). The Sole Member, acting on behalf of the Managing General Partner, requests elimination of that requirement for the reasons set forth below.

Background Information

The Owner currently consists of the Managing General Partner, Encinas Group of Texas, Inc., a Texas corporation ("**Encinas**"), as special Class B limited partner, Related Corporate XXVIII SLP LLC, a Delaware limited liability company, as special limited partner, and Related Corporate Partners XXVIII, L.P., a Delaware limited partnership, as limited partner. Compliance with the HUB participation requirement has been achieved through the special Class B limited partner, which, until recently, has been a certified HUB. However Encinas has now lost its certification and is unable to maintain its HUB status. Notwithstanding the change in the special Class B partner's HUB status, the Owner would prefer to allow Encinas to remain within its ownership structure as Encinas continues to provide valuable assistance that benefits the Property. Further, transferring ownership interest to account for the withdrawal of Encinas would result in the assessment of transfer fees or similar economic penalties by the Owner's financing parties, which is expected to have an adverse effect on the Property.

LURA Amendment Request

Section 10.405(b)(2)(E) of the Rules recognizes that a LURA can be amended to remove the requirement for material participation by a HUB. Section 10,406(g) of the Rules in turn recognizes that one of the reasons why such a LURA amendment may be needed is because the

HUB is unable to maintain its HUB status yet wishes to remain in the ownership. Such is the case here, as explained above. In light of the foregoing, the Sole Member, acting on behalf of the Managing General Partner, requests that TDHCA remove the HUB requirement from its LURA thereby simultaneously allowing (1) Encinas to remain in its current role and (2) the Owner to continue to comply with the LURA. In accordance with the Rules, the participation of Encinas as the HUB with regard to the Property has been substantive and meaningful, and Encinas has realized both financial benefit and an acquisition of skills relating to the ownership and operation of affordable housing. The approval of this LURA amendment request will allow such benefits to the Property to continue. The special Class B limited partner confirms that it is willing to remain in the ownership of the Owner and continues to be in good standing as a Texas corporation notwithstanding the fact that it is no longer certified as a HUB.

Compliance with Administrative Requirements


In accordance with Section 10.901(13) of the Rules, the Sole Member is delivering a fee in the amount of \$2500. In addition, the Sole Member commits to cause the Owner to hold a public hearing, as required by the Rules, and to notify all residents, investors, lenders, and appropriate elected officials. Drafts of the public hearing notices are attached for TDHCA's review and approval, per Rules Section 10.405(b)(3)(B). Upon approval from TDHCA, the Sole Member, on behalf of the Owner, will proceed to set a date and time for the Public Hearing and will provide TDHCA with evidence that the notice has been delivered and the hearing has been conducted. With that, the Sole Member, acting on behalf of the Managing General Partner requests staff recommendation, in support of this request, to be considered at the February 25, 2016 TDHCA Board meeting.

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

Sincerely,

Aguila Village Housing GP, LLC,
a Texas limited liability company

By: Rufino Contreras Affordable Housing
Corporation, Inc.,
a Texas nonprofit corporation,
its sole member

By: 
Name: Paul S. Park
Title: Secretary

January 19, 2016
Page 3

Attachments

cc: Tom Gouris
Patricia Murphy
Lee Ann Chance
Cynthia L. Bast
Robin Raida

Casa Korima Housing Development, L.P.
2200 E. Martin Luther King Jr. Blvd.
Austin, TX 78702

January 19, 2016

Dear Resident:

Casa Saldana Apartments (the "**Community**") is owned by Casa Korima Housing Development, L.P. (the "**Owner**"). In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**") (Phone: 512-475-3800; Website: www.tdhca.state.tx.us).

Owner was originally structured with Encinas Group of Texas, Inc. ("**Encinas**"), a Texas corporation, as the special Class B limited partner. Encinas is certified by the State of Texas as a Historically Underutilized Business (a "**HUB**"). A contractual restriction imposed by TDHCA mandated that a HUB participate in the ownership of the Community for a designated period of time. Prior to the expiration of this mandatory period, Encinas finds itself unable to maintain its HUB certification. Therefore, Owner is requesting TDHCA approval to remove the ongoing HUB requirement from its contract.

In making its decision whether to approve Owner's request, the Department considers the opinions and views of the members of the Community. Accordingly, there will be a public meeting to discuss this matter. This meeting will take place at the Community's management office/clubhouse on February 8, 2016 at 5:30pm (local time).

Please note that this proposal would not affect your current lease agreement, your rent payment, or your security deposit. You would *not* be required to move out of your home or take any other action because of this change. If the Department approves Owner's request, the Community will not change at all from its current form. It should further be noted that HUB certification is an administrative designation, and the fact that the special Class B limited partner is no longer certified as a HUB does not affect its ability to properly and effectively continue as the special Class B limited partner of the Owner.

We appreciate that Casa Saldana Apartments is your home and we invite you to attend and give your input on this proposal.

Thank you for choosing Casa Saldana Apartments as your home.

Sincerely,

Casa Korima Housing Development, L.P.,
a Texas limited partnership

By: Aguila Village Housing GP, LLC,
a Texas limited liability company,
its managing general partner

By: Rufino Contreras Affordable Housing
Corporation, Inc.,
a Texas nonprofit corporation,
its sole member

By: _____
Name: _____
Title: _____

Casa Korima Housing Development, L.P.
2200 E. Martin Luther King Jr. Blvd.
Austin, TX 78702

Mayor Henry Hinojosa
Mercedes City Hall
400 S. Ohio
Mercedes, TX 78570

January 19, 2016

Dear Mayor Hinojosa:

Casa Korima Housing Development, L.P. (the "**Owner**") is the owner of Casa Saldana Apartments (the "**Community**") which is located 1225 North FM 491, Mercedes, Texas 78570. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**").

Owner was originally structured with Encinas Group of Texas, Inc. ("**Encinas**"), a Texas corporation, as the special Class B limited partner. Encinas is certified by the State of Texas as a Historically Underutilized Business (a "**HUB**"). A contractual restriction imposed by TDHCA mandated that a HUB participate in the ownership of the Community for a designated period of time. Prior to the expiration of this mandatory period, Encinas finds itself unable to maintain its HUB certification. Therefore, Owner is requesting TDHCA approval to remove the ongoing HUB requirement from its contract. It should further be noted that HUB certification is an administrative designation, and the fact that the special Class B limited partner is no longer certified as a HUB does not affect its ability to properly and effectively continue as the special Class B limited partner of the Owner.

In making its decision whether to approve Owner's request, the Department considers the opinions and views of the members of the Community and its elected representatives. Accordingly, there will be a public meeting to discuss this matter. This meeting will take place at the Community's management office/clubhouse on February 8, 2016 at 5:30pm (local time).

We invite you or one of your staff to attend and give your input on this proposal.

Sincerely,

Casa Korima Housing Development, L.P.,
a Texas limited partnership

By: Aguila Village Housing GP, LLC,
 a Texas limited liability company,
 its managing general partner

By: Rufino Contreras Affordable Housing
 Corporation, Inc.,
 a Texas nonprofit corporation,
 its sole member

By: _____
Name: _____
Title: _____

Casa Korima Housing Development, L.P.
2200 E. Martin Luther King Jr. Blvd.
Austin, TX 78702

Senator Eddie Lucio, Jr.
Texas State Senate District 27
P.O. Box 12068, Capitol Station
Austin, TX 78711

January 19, 2016

Dear Senator Lucio, Jr.:

Casa Korima Housing Development, L.P. (the "**Owner**") is the owner of Casa Saldana Apartments (the "**Community**") which is located 1225 North FM 491, Mercedes, Texas 78570. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**").

Owner was originally structured with Encinas Group of Texas, Inc. ("**Encinas**"), a Texas corporation, as the special Class B limited partner. Encinas is certified by the State of Texas as a Historically Underutilized Business (a "**HUB**"). A contractual restriction imposed by TDHCA mandated that a HUB participate in the ownership of the Community for a designated period of time. Prior to the expiration of this mandatory period, Encinas finds itself unable to maintain its HUB certification. Therefore, Owner is requesting TDHCA approval to remove the ongoing HUB requirement from its contract. It should further be noted that HUB certification is an administrative designation, and the fact that the special Class B limited partner is no longer certified as a HUB does not affect its ability to properly and effectively continue as the special Class B limited partner of the Owner.

In making its decision whether to approve Owner's request, the Department considers the opinions and views of the members of the Community and its elected representatives. Accordingly, there will be a public meeting to discuss this matter. This meeting will take place at the Community's management office/clubhouse on February 8, 2016 at 5:30pm (local time).

We invite you or one of your staff to attend and give your input on this proposal.

Sincerely,

Casa Korima Housing Development, L.P.,
a Texas limited partnership

By: Aguila Village Housing GP, LLC,
a Texas limited liability company,
its managing general partner

By: Rufino Contreras Affordable Housing
Corporation, Inc.,
a Texas nonprofit corporation,
its sole member

By: _____
Name: _____
Title: _____

Casa Korima Housing Development, L.P.
2200 E. Martin Luther King Jr. Blvd.
Austin, TX 78702

Representative Oscar Longoria
Texas State House District 35
P.O. Box 2910
Austin, TX 78768

January 19, 2016

Dear Representative Longoria:

Casa Korima Housing Development, L.P. (the "**Owner**") is the owner of Casa Saldana Apartments (the "**Community**") which is located 1225 North FM 491, Mercedes, Texas 78570. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**").

Owner was originally structured with Encinas Group of Texas, Inc. ("**Encinas**"), a Texas corporation, as the special Class B limited partner. Encinas is certified by the State of Texas as a Historically Underutilized Business (a "**HUB**"). A contractual restriction imposed by TDHCA mandated that a HUB participate in the ownership of the Community for a designated period of time. Prior to the expiration of this mandatory period, Encinas finds itself unable to maintain its HUB certification. Therefore, Owner is requesting TDHCA approval to remove the ongoing HUB requirement from its contract. It should further be noted that HUB certification is an administrative designation, and the fact that the special Class B limited partner is no longer certified as a HUB does not affect its ability to properly and effectively continue as the special Class B limited partner of the Owner.

In making its decision whether to approve Owner's request, the Department considers the opinions and views of the members of the Community and its elected representatives. Accordingly, there will be a public meeting to discuss this matter. This meeting will take place at the Community's management office/clubhouse on February 8, 2016 at 5:30pm (local time).

We invite you or one of your staff to attend and give your input on this proposal.

Sincerely,

Casa Korima Housing Development, L.P.,
a Texas limited partnership

By: Aguila Village Housing GP, LLC,
a Texas limited liability company,
its managing general partner

By: Rufino Contreras Affordable Housing
Corporation, Inc.,
a Texas nonprofit corporation,
its sole member

By: _____
Name: _____
Title: _____

Casa Korima Housing Development, L.P.
2200 E. Martin Luther King Jr. Blvd.
Austin, TX 78702

Representative Armando Martinez
Texas State House District 39
P.O. Box 2910
Austin, TX 78768

January 19, 2016

Dear Representative Martinez:

Casa Korima Housing Development, L.P. (the "**Owner**") is the owner of Casa Saldana Apartments (the "**Community**") which is located 1225 North FM 491, Mercedes, Texas 78570. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**").

Owner was originally structured with Encinas Group of Texas, Inc. ("**Encinas**"), a Texas corporation, as the special Class B limited partner. Encinas is certified by the State of Texas as a Historically Underutilized Business (a "**HUB**"). A contractual restriction imposed by TDHCA mandated that a HUB participate in the ownership of the Community for a designated period of time. Prior to the expiration of this mandatory period, Encinas finds itself unable to maintain its HUB certification. Therefore, Owner is requesting TDHCA approval to remove the ongoing HUB requirement from its contract. It should further be noted that HUB certification is an administrative designation, and the fact that the special Class B limited partner is no longer certified as a HUB does not affect its ability to properly and effectively continue as the special Class B limited partner of the Owner.

In making its decision whether to approve Owner's request, the Department considers the opinions and views of the members of the Community and its elected representatives. Accordingly, there will be a public meeting to discuss this matter. This meeting will take place at the Community's management office/clubhouse on February 8, 2016 at 5:30pm (local time).

We invite you or one of your staff to attend and give your input on this proposal.

Sincerely,

Casa Korima Housing Development, L.P.,
a Texas limited partnership

By: Aguila Village Housing GP, LLC,
 a Texas limited liability company,
 its managing general partner

By: Rufino Contreras Affordable Housing
 Corporation, Inc.,
 a Texas nonprofit corporation,
 its sole member

By: _____
Name: _____
Title: _____

Casa Korima Housing Development, L.P.
2200 E. Martin Luther King Jr. Blvd.
Austin, TX 78702

January 19, 2016

Raul Arevalo
Alden Pacific Asset Management
15260 Ventura Blvd., Suite 600
Sherman Oaks, CA 91403

Dear Mr. Arevalo:

Casa Korima Housing Development, L.P. (the "**Owner**") is the owner of Casa Saldana Apartments (the "**Community**") which is located 1225 North FM 491, Mercedes, Texas 78570. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**").

Owner was originally structured with Encinas Group of Texas, Inc. ("**Encinas**"), a Texas corporation, as the special Class B limited partner. Encinas is certified by the State of Texas as a Historically Underutilized Business (a "**HUB**"). A contractual restriction imposed by TDHCA mandated that a HUB participate in the ownership of the Community for a designated period of time. Prior to the expiration of this mandatory period, Encinas finds itself unable to maintain its HUB certification. Therefore, Owner is requesting TDHCA approval to remove the ongoing HUB requirement from its contract. It should further be noted that HUB certification is an administrative designation, and the fact that the special Class B limited partner is no longer certified as a HUB does not affect its ability to properly and effectively continue as the special Class B limited partner of the Owner.

In making its decision whether to approve Owner's request, the Department considers the opinions and views of the members of the Community, its elected representatives and the Owner's other financing partners. Accordingly, there will be a public meeting to discuss this matter. This meeting will take place at the Community's management office/clubhouse on February 8, 2016 at 5:30pm (local time).

We invite you to attend and give your input on this proposal.

Sincerely,

Casa Korima Housing Development, L.P.,
a Texas limited partnership

By: Aguila Village Housing GP, LLC,
a Texas limited liability company,
its managing general partner

By: Rufino Contreras Affordable Housing
Corporation, Inc.,
a Texas nonprofit corporation,
its sole member

By: _____
Name: _____
Title: _____

Casa Korima Housing Development, L.P.
2200 E. Martin Luther King Jr. Blvd.
Austin, TX 78702

January 19, 2016

Michael Lindsay
Wells Fargo Commercial Mortgage Servicing
2010 Corporate Ridge, Suite 1000
MAC T2673-100
McLean, VA 22102

Dear Mr. Lindsay:

Casa Korima Housing Development, L.P. (the "**Owner**") is the owner of Casa Saldana Apartments (the "**Community**") which is located 1225 North FM 491, Mercedes, Texas 78570. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**").

Owner was originally structured with Encinas Group of Texas, Inc. ("**Encinas**"), a Texas corporation, as the special Class B limited partner. Encinas is certified by the State of Texas as a Historically Underutilized Business (a "**HUB**"). A contractual restriction imposed by TDHCA mandated that a HUB participate in the ownership of the Community for a designated period of time. Prior to the expiration of this mandatory period, Encinas finds itself unable to maintain its HUB certification. Therefore, Owner is requesting TDHCA approval to remove the ongoing HUB requirement from its contract. It should further be noted that HUB certification is an administrative designation, and the fact that the special Class B limited partner is no longer certified as a HUB does not affect its ability to properly and effectively continue as the special Class B limited partner of the Owner.

In making its decision whether to approve Owner's request, the Department considers the opinions and views of the members of the Community, its elected representatives and the Owner's other financing partners. Accordingly, there will be a public meeting to discuss this matter. This meeting will take place at the Community's management office/clubhouse on February 8, 2016 at 5:30pm (local time).

We invite you to attend and give your input on this proposal.

Sincerely,

Casa Korima Housing Development, L.P.,
a Texas limited partnership

By: Aguila Village Housing GP, LLC,
a Texas limited liability company,
its managing general partner

By: Rufino Contreras Affordable Housing
Corporation, Inc.,
a Texas nonprofit corporation,
its sole member

By: _____
Name: _____
Title: _____

BOARD ACTION REQUEST

ASSET MANAGEMENT

FEBRUARY 25, 2016

Presentation, Discussion, and Possible Action to approve a material amendment to the Housing Tax Credit Land Use Restriction Agreement (“LURA”) for Cimarron Senior Apartments (# 97050)

RECOMMENDED ACTION

WHEREAS, Cimarron Senior Apartments received an award of 9% Housing Tax Credits in 1997 to construct 180 multifamily units in Corpus Christi;

WHEREAS, the LURA for the Development requires a two-year Right of First Refusal (“ROFR”) period;

WHEREAS, in Spring 2015 the Texas Legislature amended Texas Government Code Section 2306.6725 to allow for a 180-day ROFR period;

WHEREAS, the General Partner, acting on behalf of the Partnership, requests to amend the LURA to eliminate the two-year ROFR period and replace it with the 180-day ROFR period; and

WHEREAS, 10 TAC §10.405(b)(2)(F) allows for an owner to request a material LURA amendment to replace the two-year ROFR period with the 180-day ROFR period, and the Owner has complied with the procedural amendment requirements in 10 TAC §10.405(b) to place this request before the Board;

NOW, therefore, it is hereby

RESOLVED, that the material LURA amendment for Cimarron Senior Apartments is approved, as presented to this meeting and the Executive Director and his designees are hereby, authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

BACKGROUND

Cimarron Senior Apartments was approved in 1997 for the construction of 180 multifamily units in Corpus Christi. In a letter dated January 29, 2016 the General Partner (Picerne) has requested approval to amend the LURA related to the ROFR provision. The LURA for the Development requires the Development Owner to provide a two-year ROFR to a qualified nonprofit organization (as defined in Section 42(h)(5)(C) of the code) or a tenant organization if at any time after the fifteenth year of the Compliance Period the owner decides to sell the property.

In 2015, the Texas Legislature passed HB 3576 which amended Texas Government Code Section 2306.6725 to allow for a 180-day ROFR period. The Department’s 2016 Post Award and Asset Management Requirements implemented administrative procedures to allow a Development Owner to conform to a ROFR period described in amended §2306.6725.

The Development Owner must comply with the amendment and notification requirements under the Department's rule at Government Code §2306.6712 and 10 TAC §10.405(b). The Development Owner has notified the tenants, lenders, investors and State and local public officials of this amendment request. As of the date of publication of this Board Action Request, the Development Owner has not yet held a public hearing on the matter; however, the Development Owner has scheduled a public hearing to be held on February 16, 2016 at 10:00 am at the Development's management office/clubhouse.

Staff recommends approval of the request, subject to no negative public comment received, to amend the LURA to eliminate the two-year ROFR period and replace it with the 180-day ROFR period. If negative public comment is received regarding this request staff will pull this item from the Consent Agenda.

Cimarron Estates, Ltd.
247 North Westmonte Drive
Altamonte Springs, Florida 32714

January ²⁹__, 2016

VIA HAND DELIVERY

Colton Sanders
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701-2410

Re: TDHCA File No. 97050 – Cimarron Senior Apartments (the "**Property**")

Dear Colton:

The undersigned, being the General Partner (herein so called) of Cimarron Estates, Ltd., a Texas limited partnership (the "**Partnership**") and the current owner of the Property, hereby submits this letter as a request for a material LURA amendment in accordance with Section 10.405(b) of the Rules for the reasons set forth below.

Background Information and Request

In 2015, Texas Government Code Section 2306.6725 was amended to allow for a 180-day Right of First Refusal ("**ROFR**") period. Currently, the LURA for this Property requires a two-year ROFR period. Section 10.405(b)(2)(F) of the Rules allows for a LURA amendment in order to conform a ROFR period to the period described in Section 2306.6725. Therefore the General Partner, acting on behalf of the Partnership, requests a LURA amendment to eliminate the two-year ROFR period and replace it with the 180-day ROFR period.

LURA Amendment

In accordance with Section 10.405(b) of the Rules, the General Partner, acting on behalf of the Partnership, is delivering a fee in the amount of \$2500. In addition, the General Partner, acting on behalf of the Partnership, commits to hold a public hearing, as required by the Rules, and to notify all residents, investors, lenders, and appropriate elected officials. Drafts of the public hearing notices are attached for your consideration. Upon approval from TDHCA, the General Partner, acting on behalf of the Partnership, will proceed to set a date and time for the Public Hearing and will provide TDHCA with evidence that the notice has been delivered and the hearing has been conducted. With that, the General Partner, acting on behalf of the Partnership, requests staff recommendation, in support of this request, to be considered at the February 25, 2016 TDHCA Board meeting.

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

Sincerely,

Picrme Cimarron Estates, LLC,
its general partner

By:


Robert M. Picrme, Manager

January 29, 2016
Page 2

Attachments

cc: Tom Gouris
Patricia Murphy
Raquel Morales
Rosalio Banuelos
Lucy Trevino
TDHCA w/ encl.

Cimarron Estates, Ltd.
247 North Westmonte Drive
Altamonte Springs, Florida 32714

February 1, 2016

Dear Resident:

Cimarron Senior Apartments (the "**Community**") is owned by Cimarron Estates, Ltd. (the "**Owner**"). In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**") (Phone: 512-475-3800; Website: www.tdhca.state.tx.us).

A contractual restriction imposed by the Department mandates that if the Owner decides to sell the Community at a certain time, the Owner will offer the Community for sale to a non-profit organization or a tenant organization for a period of up to two years. To be consistent with a change in Texas law, the Owner is requesting Department approval to change the two-year period to a 180-day period.

In making its decision whether to approve Owner's request, the Department considers the opinions and views of the members of the Community. Accordingly, there will be a public meeting to discuss this matter. This meeting will take place at the Community's management office/clubhouse on February 16, 2016 at 10 a.m./p.m.

Please note that this proposal would not affect your current lease agreement, your rent payment, or your security deposit. You would *not* be required to move out of your home or take any other action because of this change. If the Department approves Owner's request, the Community will not change at all from its current form.

We appreciate that Cimarron Senior Apartments is your home and we invite you to attend and give your input on this proposal.

Thank you for choosing Cimarron Senior Apartments as your home.

Sincerely,

Picerne Cimarron Estates, LLC,
its general partner

By:


Robert M. Picerne, Manager

Cimarron Estates, Ltd.
247 North Westmonte Drive
Altamonte Springs, Florida 32714

February ____, 2016

[Elected Official]

Dear [Addressee]:

Cimarron Estates, Ltd. (the "**Owner**") is the owner of Cimarron Senior Apartments (the "**Community**") which is located at 2802 Cimarron Blvd., Corpus Christi, Texas 78414. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**").

A contractual restriction imposed by the Department mandates that if the Owner decides to sell the Community at a certain time, the Owner will offer the Community for sale to a non-profit organization or a tenant organization for a period of up to two years. To be consistent with a change in Texas law, the Owner is requesting Department approval to change the two-year period to a 180-day period.

In making its decision whether to approve Owner's request, the Department considers the opinions and views of the members of the Community and its elected representatives. Accordingly, there will be a public meeting to discuss this matter. This meeting will take place at the Community's management office/clubhouse on February 16, 2016 at ____ a.m./p.m.

We invite you or one of your staff to attend and give your input on this proposal.

Sincerely,

Picerne Cimarron Estates, LLC,
its general partner

By: _____
Robert M. Picerne, Manager

Cimarron Estates, Ltd.
247 North Westmonte Drive
Altamonte Springs, Florida 32714

February ____, 2016

[Investor/Lender]

Dear [Addressee]:

Cimarron Estates, Ltd. (the "**Owner**") is the owner of Cimarron Senior Apartments (the "**Community**") which is located at 2802 Cimarron Blvd., Corpus Christi, Texas 78414. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**").

A contractual restriction imposed by the Department mandates that if the Owner decides to sell the Community at a certain time, the Owner will offer the Community for sale to a non-profit organization or a tenant organization for a period of up to two years. To be consistent with a change in Texas law, the Owner is requesting Department approval to change the two-year period to a 180-day period.

In making its decision whether to approve Owner's request, the Department considers the opinions and views of the members of the Community, its elected representatives and the Owner's other financing partners. Accordingly, there will be a public meeting to discuss this matter. This meeting will take place at the Community's management office/clubhouse on February 16, 2016 at ____ a.m./p.m.

We invite you to attend and give your input on this proposal.

Sincerely,

Picerne Cimarron Estates, LLC,
its general partner

By: _____
Robert M. Picerne, Manager

BOARD ACTION REQUEST

ASSET MANAGEMENT

FEBRUARY 25, 2016

Presentation, Discussion, and Possible Action to approve a material amendment to the Housing Tax Credit Land Use Restriction Agreement (“LURA”) for South Pointe Apartments (# 98020)

RECOMMENDED ACTION

WHEREAS, South Pointe Apartments received an award of 9% Housing Tax Credits in 1998 to construct 196 multifamily units in Corpus Christi;

WHEREAS, the LURA for the Development requires a two-year Right of First Refusal (“ROFR”) period;

WHEREAS, in the Spring 2015 the Texas Legislature amended Texas Government Code Section 2306.6725 to allow for a 180-day ROFR period;

WHEREAS, the General Partner, acting on behalf of the Partnership, requests to amend the LURA to eliminate the two-year ROFR period and replace it with the 180-day ROFR period; and

WHEREAS, 10 TAC §10.405(b)(2)(F) allows for an owner to request a material LURA amendment to replace the two-year ROFR period with the 180-day ROFR period, and the Owner has complied with the procedural amendment requirements in 10 TAC §10.405(b) to place this request before the Board;

NOW, therefore, it is hereby

RESOLVED, that the material LURA amendment for South Pointe Apartments is approved, as presented to this meeting and the Executive Director and his designees are hereby, authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

BACKGROUND

South Pointe Apartments was approved in 1998 for the construction of 196 multifamily units in Corpus Christi. In a letter dated January 29, 2016 the General Partner (Picerne) has requested approval to amend the LURA related to the ROFR provision. The LURA for the Development requires the Development Owner to provide a two-year ROFR to a qualified nonprofit organization (as defined in Section 42(h)(5)(C) of the Internal Revenue Code) or a tenant organization if at any time after the fifteenth year of the Compliance Period the owner decides to sell the property.

In 2015, the Texas Legislature passed HB 3576 which amended Texas Government Code Section 2306.6725 to allow for a 180-day ROFR period. The Department’s 2016 Post Award and Asset Management Requirements implemented administrative procedures to allow a Development Owner to conform to a ROFR period described in amended §2306.6725.

The Development Owner must comply with the amendment and notification requirements under the Department's rule at Government Code §2306.6712 and 10 TAC §10.405(b). The Development Owner has notified the tenants, lenders, investors and State and local public officials of this amendment request. As of the date of publication of this Board Action Request, the Development Owner has not yet held a public hearing on the matter; however, the Development Owner has scheduled a public hearing to be held on February 16, 2016 at 5:30 pm at the Development's management office/clubhouse.

Staff recommends approval of the request, subject to no negative public comment received, to amend the LURA to eliminate the two-year ROFR period and replace it with the 180-day ROFR period. If negative public comment is received regarding this request staff will pull this item from the Consent Agenda.

One Pleasant Green Place, Ltd.
247 North Westmonte Drive
Altamonte Springs, Florida 32714

January 29, 2016

VIA HAND DELIVERY

Colton Sanders
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701-2410

Re: TDHCA File No. 98020 – South Pointe Apartments (the "**Property**")

Dear Colton:

The undersigned, being the General Partner (herein so called) of South Pointe Limited Partnership, a Texas limited partnership (the "**Partnership**") and the current owner of the Property, hereby submits this letter as a request for a material LURA amendment in accordance with Section 10.405(b) of the Rules for the reasons set forth below.

Background Information and Request

In 2015, Texas Government Code Section 2306.6725 was amended to allow for a 180-day Right of First Refusal ("**ROFR**") period. Currently, the LURA for this Property requires a two-year ROFR period. Section 10.405(b)(2)(F) of the Rules allows for a LURA amendment in order to conform a ROFR period to the period described in Section 2306.6725. Therefore, the General Partner, acting on behalf of the Partnership, requests a LURA amendment to eliminate the two-year ROFR period and replace it with the 180-day ROFR period.

LURA Amendment

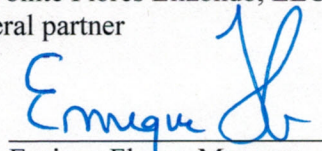
In accordance with Section 10.405(b) of the Rules, the General Partner, acting on behalf of the Partnership, is delivering a fee in the amount of \$2500. In addition, the General Partner, acting on behalf of the Partnership, commits to hold a public hearing, as required by the Rules, and to notify all residents, investors, lenders, and appropriate elected officials. Drafts of the public hearing notices are attached for your consideration. Upon approval from TDHCA, the General Partner, acting on behalf of the Partnership, will proceed to set a date and time for the Public Hearing and will provide TDHCA with evidence that the notice has been delivered and the hearing has been conducted. With that, the General Partner, acting on behalf of the Partnership, requests staff recommendation, in support of this request, to be considered at the February 25, 2016 TDHCA Board meeting.

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

Sincerely,

South Pointe Flores Elizondo, LLC,
its general partner

By:


Enrique Flores, Manager

Attachments

cc: Tom Gouris
Patricia Murphy
Raquel Morales
Lucy Trevino
Rosalio Banuelos
TDHCA w/ encl.

One Pleasant Green Place, Ltd.
247 North Westmonte Drive
Altamonte Springs, Florida 32714

February 1, 2016

Dear Resident:

South Pointe Apartments (the "**Community**") is owned by One Pleasant Green Place, Ltd. (the "**Owner**"). In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**") (Phone: 512-475-3800; Website: www.tdhca.state.tx.us).

A contractual restriction imposed by the Department mandates that if the Owner decides to sell the Community at a certain time, the Owner will offer the Community for sale to a non-profit organization or a tenant organization for a period of up to two years. To be consistent with a change in Texas law, the Owner is requesting Department approval to change the two-year period to a 180-day period.

In making its decision whether to approve Owner's request, the Department considers the opinions and views of the members of the Community. Accordingly, there will be a public meeting to discuss this matter. This meeting will take place at the Community's management office/clubhouse on February 16, 2016 at 5:30 a.m./p.m.

Please note that this proposal would not affect your current lease agreement, your rent payment, or your security deposit. You would *not* be required to move out of your home or take any other action because of this change. If the Department approves Owner's request, the Community will not change at all from its current form.

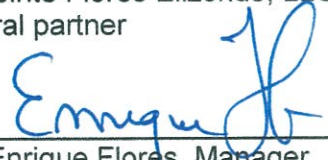
We appreciate that South Pointe Apartments is your home and we invite you to attend and give your input on this proposal.

Thank you for choosing South Pointe Apartments as your home.

Sincerely,

South Pointe Flores Elizondo, LLC,
its general partner

By:


Enrique Flores, Manager

One Pleasant Green Place, Ltd.
247 North Westmonte Drive
Altamonte Springs, Florida 32714

February ____, 2016

[Elected Official]

Dear [Addressee]:

One Pleasant Green Place, Ltd. (the "**Owner**") is the owner of South Pointe Apartments (the "**Community**") which is located at 5725 Curtis Clark Drive, Corpus Christi, Texas 78412. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**").

A contractual restriction imposed by the Department mandates that if the Owner decides to sell the Community at a certain time, the Owner will offer the Community for sale to a non-profit organization or a tenant organization for a period of up to two years. To be consistent with a change in Texas law, the Owner is requesting Department approval to change the two-year period to a 180-day period.

In making its decision whether to approve Owner's request, the Department considers the opinions and views of the members of the Community and its elected representatives. Accordingly, there will be a public meeting to discuss this matter. This meeting will take place at the Community's management office/clubhouse on February 16, 2016 at ____ a.m./p.m.

We invite you or one of your staff to attend and give your input on this proposal.

Sincerely,

South Pointe Flores Elizondo, LLC,
its general partner

By:


Enrique Flores, Manager

One Pleasant Green Place, Ltd.
247 North Westmonte Drive
Altamonte Springs, Florida 32714

February ____, 2016

[Investor/Lender]

Dear [Addressee]:

One Pleasant Green Place, Ltd. (the "**Owner**") is the owner of South Pointe Apartments (the "**Community**") which is located at 5725 Curtis Clark Drive, Corpus Christi, Texas 78412. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**").

A contractual restriction imposed by the Department mandates that if the Owner decides to sell the Community at a certain time, the Owner will offer the Community for sale to a non-profit organization or a tenant organization for a period of up to two years. To be consistent with a change in Texas law, the Owner is requesting Department approval to change the two-year period to a 180-day period.

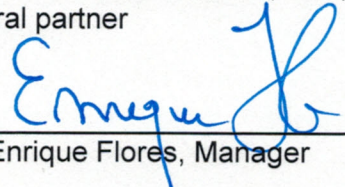
In making its decision whether to approve Owner's request, the Department considers the opinions and views of the members of the Community, its elected representatives and the Owner's other financing partners. Accordingly, there will be a public meeting to discuss this matter. This meeting will take place at the Community's management office/clubhouse on February 16, 2016 at ____ a.m./p.m.

We invite you to attend and give your input on this proposal.

Sincerely,

South Pointe Flores Elizondo, LLC,
its general partner

By:


Enrique Flores, Manager

BOARD ACTION REQUEST

ASSET MANAGEMENT

FEBRUARY 25, 2016

Presentation, Discussion, and Possible Action to approve a material amendment to the Housing Tax Credit Land Use Restriction Agreement (“LURA”) for Timber Run Apartments (# 00068)

RECOMMENDED ACTION

WHEREAS, Timber Run Apartments received an award of 9% Housing Tax Credits in 2000 to construct 144 multifamily units in Spring;

WHEREAS, the LURA for the Development requires a two-year Right of First Refusal (“ROFR”) period;

WHEREAS, in Spring 2015 the Texas Legislature amended Texas Government Code Section 2306.6725 to allow for a 180-day ROFR period;

WHEREAS, the General Partner, acting on behalf of the Partnership, requests to amend the LURA to eliminate the two-year ROFR period and replace it with the 180-day ROFR period; and

WHEREAS, 10 TAC §10.405(b)(2)(F) allows for an owner to request a material LURA amendment to replace the two-year ROFR period with the 180-day ROFR period, and the Owner has complied with the procedural amendment requirements in 10 TAC §10.405(b) to place this request before the Board;

NOW, therefore, it is hereby

RESOLVED, that the material LURA amendment for Timber Run Apartments is approved, as presented to this meeting and the Executive Director and his designees are hereby, authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

BACKGROUND

Timber Run Apartments was approved in 2000 for the construction of 144 multifamily units in Spring. In a letter dated January 29, 2016, the General Partner (Picerne) has requested approval to amend the LURA related to the ROFR provision. The LURA for the Development requires the Development Owner to provide a two-year ROFR to a qualified nonprofit organization (as defined in Section 42(h)(5)(C) of the Internal Revenue Code) or a tenant organization if at any time after the fifteenth year of the Compliance Period the owner decides to sell the property.

In 2015, the Texas Legislature passed HB 3576 which amended Texas Government Code Section 2306.6725 to allow for a 180-day ROFR period. The Department’s 2016 Post Award and Asset Management Requirements implemented administrative procedures to allow a Development Owner to conform to a ROFR period described in amended §2306.6725.

The Development Owner must comply with the amendment and notification requirements under the Department's rule at Government Code §2306.6712 and 10 TAC §10.405(b). The Development Owner has notified the tenants, lenders, investors and State and local public officials of this amendment request. As of the date of publication of this Board Action Request, the Development Owner has not yet held a public hearing on the matter; however, the Development Owner has scheduled a public hearing to be held on February 16, 2016 at 5:30 pm at the Development's management office/clubhouse.

Staff recommends approval of the request, subject to no negative public comment received, to amend the LURA to eliminate the two-year ROFR period and replace it with the 180-day ROFR period. If negative public comment is received regarding this request staff will pull this item from the Consent Agenda.

Timber Run Limited Partnership
247 North Westmonte Drive
Altamonte Springs, Florida 32714

January 29, 2016

VIA HAND DELIVERY

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

Re: TDHCA File No. 00068 – Timber Run Apartments (the "**Property**")

Dear Lucy:

The undersigned, being the General Partner (herein so called) of Timber Run Limited Partnership, a Texas limited partnership (the "**Partnership**") and the current owner of the Property, hereby submits this letter as a request for a material LURA amendment in accordance with Section 10.405(b) of the Rules for the reasons set forth below.

Background Information and Request

In 2015, Texas Government Code Section 2306.6725 was amended to allow for a 180-day Right of First Refusal ("**ROFR**") period. Currently, the LURA for this Property requires a two-year ROFR period. Section 10.405(b)(2)(F) of the Rules allows for a LURA amendment in order to conform a ROFR period to the period described in Section 2306.6725. Therefore the General Partner, acting on behalf of the Partnership, requests a LURA amendment to eliminate the two-year ROFR period and replace it with the 180-day ROFR period.

LURA Amendment

In accordance with Section 10.405(b) of the Rules, the General Partner, acting on behalf of the Partnership, is delivering a fee in the amount of \$2500. In addition, the General Partner, acting on behalf of the Partnership, commits to hold a public hearing, as required by the Rules, and to notify all residents, investors, lenders, and appropriate elected officials. Drafts of the public hearing notices are attached for your consideration. Upon approval from TDHCA, the General Partner, acting on behalf of the Partnership, will proceed to set a date and time for the Public Hearing and will provide TDHCA with evidence that the notice has been delivered and the hearing has been conducted. With that, the General Partner, acting on behalf of the Partnership, requests staff recommendation, in support of this request, to be considered at the February 25, 2016 TDHCA Board meeting.

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

Sincerely,

Picerne Timber Run, LLC,
its general partner

By:


Robert M. Picerne, Manager

January 29, 2016
Page 2

Attachments

cc: Tom Gouris
Patricia Murphy
Raquel Morales
Rosalio Banuelos
Colton Sanders
TDHCA w/ encl.

Timber Run Limited Partnership
247 North Westmonte Drive
Altamonte Springs, Florida 32714

February 1, 2016

Dear Resident:

Timber Run Apartments (the "**Community**") is owned by Timber Run Limited Partnership (the "**Owner**"). In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**") (Phone: 512-475-3800; Website: www.tdhca.state.tx.us).

A contractual restriction imposed by the Department mandates that if the Owner decides to sell the Community at a certain time, the Owner will offer the Community for sale to a non-profit organization or a tenant organization for a period of up to two years. To be consistent with a change in Texas law, the Owner is requesting Department approval to change the two-year period to a 180-day period.

In making its decision whether to approve Owner's request, the Department considers the opinions and views of the members of the Community. Accordingly, there will be a public meeting to discuss this matter. This meeting will take place at the Community's management office/clubhouse on February 16, 2016 at 5:30 a.m./p.m.

Please note that this proposal would not affect your current lease agreement, your rent payment, or your security deposit. You would *not* be required to move out of your home or take any other action because of this change. If the Department approves Owner's request, the Community will not change at all from its current form.

We appreciate that Timber Run Apartments is your home and we invite you to attend and give your input on this proposal.

Thank you for choosing Timber Run Apartments as your home.

Sincerely,

Picerne Timber Run, LLC,
its general partner

By:


Robert M. Picerne, Manager

Timber Run Limited Partnership
247 North Westmonte Drive
Altamonte Springs, Florida 32714

February ____, 2016

[Elected Official]

Dear [Addressee]:

Timber Run Limited Partnership (the "**Owner**") is the owner of Timber Run Apartments (the "**Community**") which is located at 3030 Hirschfield Road, Spring, Texas 77373. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**").

A contractual restriction imposed by the Department mandates that if the Owner decides to sell the Community at a certain time, the Owner will offer the Community for sale to a non-profit organization or a tenant organization for a period of up to two years. To be consistent with a change in Texas law, the Owner is requesting Department approval to change the two-year period to a 180-day period.

In making its decision whether to approve Owner's request, the Department considers the opinions and views of the members of the Community and its elected representatives. Accordingly, there will be a public meeting to discuss this matter. This meeting will take place at the Community's management office/clubhouse on February 16, 2016 at ____ a.m./p.m.

We invite you or one of your staff to attend and give your input on this proposal.

Sincerely,

Picerne Timber Run, LLC,
its general partner

By: _____
Robert M. Picerne, Manager

Timber Run Limited Partnership
247 North Westmonte Drive
Altamonte Springs, Florida 32714

February ____, 2016

[Investor/Lender]

Dear [Addressee]:

Timber Run Limited Partnership (the “**Owner**”) is the owner of Timber Run Apartments (the “**Community**”) which is located at 3030 Hirschfield Road, Spring, Texas 77373. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the “**Department**”).

A contractual restriction imposed by the Department mandates that if the Owner decides to sell the Community at a certain time, the Owner will offer the Community for sale to a non-profit organization or a tenant organization for a period of up to two years. To be consistent with a change in Texas law, the Owner is requesting Department approval to change the two-year period to a 180-day period.

In making its decision whether to approve Owner’s request, the Department considers the opinions and views of the members of the Community, its elected representatives and the Owner’s other financing partners. Accordingly, there will be a public meeting to discuss this matter. This meeting will take place at the Community’s management office/clubhouse on February 16, 2016 at ____ a.m./p.m.

We invite you to attend and give your input on this proposal.

Sincerely,

Picerne Timber Run, LLC,
its general partner

By: _____
Robert M. Picerne, Manager

BOARD ACTION REQUEST

ASSET MANAGEMENT

FEBRUARY 25, 2016

Presentation, Discussion, and Possible Action to approve a material amendment to the Housing Tax Credit Land Use Restriction Agreement (“LURA”) for Laurel Point Senior Apartments (# 01076)

RECOMMENDED ACTION

WHEREAS, Laurel Point Senior Apartments received an award of 9% Housing Tax Credits in 2001 to construct 148 multifamily units in Houston;

WHEREAS, the LURA for the Development requires a two-year Right of First Refusal (“ROFR”) period;

WHEREAS, in Spring 2015 the Texas Legislature amended Texas Government Code Section 2306.6725 to allow for a 180-day ROFR period;

WHEREAS, the General Partner, acting on behalf of the Partnership, requests to amend the LURA to eliminate the two-year ROFR period and replace it with the 180-day ROFR period; and

WHEREAS, 10 TAC §10.405(b)(2)(F) allows for an owner to request a material LURA amendment to replace the two-year ROFR period with the 180-day ROFR period, and the Owner has complied with the procedural amendment requirements in 10 TAC §10.405(b) to place this request before the Board;

NOW, therefore, it is hereby

RESOLVED, that the material LURA amendment for Laurel Point Senior Apartments is approved, as presented to this meeting and the Executive Director and his designees are hereby, authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

BACKGROUND

Laurel Point Senior Apartments was approved in 2001 for the construction of 148 multifamily units in Houston. In a letter dated January 29, 2016, the General Partner (Picerne) has requested approval to amend the LURA related to the ROFR provision. The LURA for the Development requires the Development Owner to provide a two-year ROFR to a qualified nonprofit organization (as defined in Section 42(h)(5)(C) of the Internal Revenue Code) or a tenant organization if at any time after the fifteenth year of the Compliance Period the owner decides to sell the property.

In 2015, the Texas Legislature passed HB 3576 which amended Texas Government Code Section 2306.6725 to allow for a 180-day ROFR period. The Department’s 2016 Post Award and Asset Management Requirements implemented administrative procedures to allow a Development Owner to conform to a ROFR period described in amended §2306.6725.

The Development Owner must comply with the amendment and notification requirements under the Department's rule at Government Code §2306.6712 and 10 TAC §10.405(b). The Development Owner has notified the tenants, lenders, investors and State and local public officials of this amendment request. As of the date of publication of this Board Action Request, the Development Owner has not yet held a public hearing on the matter; however, the Development Owner has scheduled a public hearing to be held on February 16, 2016 at 1:00 pm at the Development's management office/clubhouse.

Staff recommends approval of the request, subject to no negative public comment received, to amend the LURA to eliminate the two-year ROFR period and replace it with the 180-day ROFR period. If negative public comment is received regarding this request staff will pull this item from the Consent Agenda.

Laurel Point Limited Partnership
247 North Westmonte Drive
Altamonte Springs, Florida 32714

January 29, 2016

VIA HAND DELIVERY

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

Re: TDHCA File No. 01076 – Laurel Point Senior Apartments (the "**Property**")

Dear Lucy:

The undersigned, being the General Partner (herein so called) of Laurel Point Limited Partnership, a Texas limited partnership (the "**Partnership**") and the current owner of the Property, hereby submits this letter as a request for a material LURA amendment in accordance with Section 10.405(b) of the Rules for the reasons set forth below.

Background Information and Request

In 2015, Texas Government Code Section 2306.6725 was amended to allow for a 180-day Right of First Refusal ("**ROFR**") period. Currently, the LURA for this Property requires a two-year ROFR period. Section 10.405(b)(2)(F) of the Rules allows for a LURA amendment in order to conform a ROFR period to the period described in Section 2306.6725. Therefore the General Partner, acting on behalf of the Partnership, requests a LURA amendment to eliminate the two-year ROFR period and replace it with the 180-day ROFR period.

LURA Amendment

In accordance with Section 10.405(b) of the Rules, the General Partner, acting on behalf of the Partnership, is delivering a fee in the amount of \$2500. In addition, the General Partner, acting on behalf of the Partnership, commits to hold a public hearing, as required by the Rules, and to notify all residents, investors, lenders, and appropriate elected officials. Drafts of the public hearing notices are attached for your consideration. Upon approval from TDHCA, the General Partner, acting on behalf of the Partnership, will proceed to set a date and time for the Public Hearing and will provide TDHCA with evidence that the notice has been delivered and the hearing has been conducted. With that, the General Partner, acting on behalf of the Partnership, requests staff recommendation, in support of this request, to be considered at the February 25, 2016 TDHCA Board meeting.

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

Sincerely,

Picerne Laurel Point, LLC,
its general partner

By:


Robert M. Picerne, Manager

January 29, 2016
Page 2

Attachments

cc: Tom Gouris
Patricia Murphy
Raquel Morales
Rosalio Banuelos
Colton Sanders
TDHCA w/ encl.

Laurel Point Limited Partnership
247 North Westmonte Drive
Altamonte Springs, Florida 32714

February 1, 2016

Dear Resident:

Laurel Point Senior Apartments (the "**Community**") is owned by Laurel Point Limited Partnership (the "**Owner**"). In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**") (Phone: 512-475-3800; Website: www.tdhca.state.tx.us).

A contractual restriction imposed by the Department mandates that if the Owner decides to sell the Community at a certain time, the Owner will offer the Community for sale to a non-profit organization or a tenant organization for a period of up to two years. To be consistent with a change in Texas law, the Owner is requesting Department approval to change the two-year period to a 180-day period.

In making its decision whether to approve Owner's request, the Department considers the opinions and views of the members of the Community. Accordingly, there will be a public meeting to discuss this matter. This meeting will take place at the Community's management office/clubhouse on February 16, 2016 at 1 a.m./1p.m.

Please note that this proposal would not affect your current lease agreement, your rent payment, or your security deposit. You would *not* be required to move out of your home or take any other action because of this change. If the Department approves Owner's request, the Community will not change at all from its current form.

We appreciate that Laurel Point Senior Apartments is your home and we invite you to attend and give your input on this proposal.

Thank you for choosing Laurel Point Senior Apartments as your home.

Sincerely,

Picerne Laurel Point, LLC,
its general partner

By:


Robert M. Picerne, Manager

Laurel Point Limited Partnership
247 North Westmonte Drive
Altamonte Springs, Florida 32714

February ____, 2016

[Elected Official]

Dear [Addressee]:

Laurel Point Limited Partnership (the “**Owner**”) is the owner of Laurel Point Senior Apartments (the “**Community**”) which is located at 16170 Westpark Drive, Houston, Texas 77082. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the “**Department**”).

A contractual restriction imposed by the Department mandates that if the Owner decides to sell the Community at a certain time, the Owner will offer the Community for sale to a non-profit organization or a tenant organization for a period of up to two years. To be consistent with a change in Texas law, the Owner is requesting Department approval to change the two-year period to a 180-day period.

In making its decision whether to approve Owner’s request, the Department considers the opinions and views of the members of the Community and its elected representatives. Accordingly, there will be a public meeting to discuss this matter. This meeting will take place at the Community’s management office/clubhouse on February 16, 2016 at ____ a.m./p.m.

We invite you or one of your staff to attend and give your input on this proposal.

Sincerely,

Picerne Laurel Point, LLC,
its general partner

By: _____
Robert M. Picerne, Manager

Laurel Point Limited Partnership
247 North Westmonte Drive
Altamonte Springs, Florida 32714

February ____, 2016

[Investor/Lender]

Dear [Addressee]:

Laurel Point Limited Partnership (the “**Owner**”) is the owner of Laurel Point Senior Apartments (the “**Community**”) which is located at 16170 Westpark Drive, Houston, Texas 77082. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the “**Department**”).

A contractual restriction imposed by the Department mandates that if the Owner decides to sell the Community at a certain time, the Owner will offer the Community for sale to a non-profit organization or a tenant organization for a period of up to two years. To be consistent with a change in Texas law, the Owner is requesting Department approval to change the two-year period to a 180-day period.

In making its decision whether to approve Owner’s request, the Department considers the opinions and views of the members of the Community, its elected representatives and the Owner’s other financing partners. Accordingly, there will be a public meeting to discuss this matter. This meeting will take place at the Community’s management office/clubhouse on February 16, 2016 at ____ a.m./p.m.

We invite you to attend and give your input on this proposal.

Sincerely,

Picerne Laurel Point, LLC,
its general partner

By: _____
Robert M. Picerne, Manager

BOARD ACTION REQUEST

ASSET MANAGEMENT

FEBRUARY 25, 2016

Presentation, Discussion, and Possible Action to approve a material amendment to the Housing Tax Credit Land Use Restriction Agreement (“LURA”) for Madison Point Apartments (# 02149)

RECOMMENDED ACTION

WHEREAS, Madison Point Apartments received an award of 9% Housing Tax Credits in 2002 to construct 176 multifamily units in Dallas;

WHEREAS, the LURA for the Development requires a two-year Right of First Refusal (“ROFR”) period;

WHEREAS, in Spring 2015 the Texas Legislature amended Texas Government Code Section 2306.6725 to allow for a 180-day ROFR period;

WHEREAS, the General Partner, acting on behalf of the Partnership, requests to amend the LURA to eliminate the two-year ROFR period and replace it with the 180-day ROFR period; and

WHEREAS, 10 TAC §10.405(b)(2)(F) allows for an owner to request a material LURA amendment to replace the two-year ROFR period with the 180-day ROFR period, and the Owner has complied with the procedural amendment requirements in 10 TAC §10.405(b) to place this request before the Board;

NOW, therefore, it is hereby

RESOLVED, that the material LURA amendment for Madison Point Apartments is approved, as presented to this meeting and the Executive Director and his designees are hereby, authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

BACKGROUND

Madison Point Apartments was approved in 2002 for the construction of 176 multifamily units in Dallas. In a letter dated January 29, 2016 the General Partner (Picerne) has requested approval to amend the LURA related to the ROFR provision. The LURA for the Development requires the Development Owner to provide a two-year ROFR to a qualified nonprofit organization (as defined in Section 42(h)(5)(C) of the Internal Revenue Code) or a tenant organization if at any time after the fifteenth year of the Compliance Period the owner decides to sell the property.

In 2015, the Texas Legislature passed HB 3576 which amended Texas Government Code Section 2306.6725 to allow for a 180-day ROFR period. The Department’s 2016 Post Award and Asset Management Requirements implemented administrative procedures to allow a Development Owner to conform to a ROFR period described in amended §2306.6725.

The Development Owner must comply with the amendment and notification requirements under the Department's rule at Government Code §2306.6712 and 10 TAC §10.405(b). The Development Owner has notified the tenants, lenders, investors and State and local public officials of this amendment request. As of the date of publication of this Board Action Request, the Development Owner has not yet held a public hearing on the matter; however, the Development Owner has scheduled a public hearing to be held on February 16, 2016 at 5:30 pm at the Development's management office/clubhouse.

Staff recommends approval of the request, subject to no negative public comment received, to amend the LURA to eliminate the two-year ROFR period and replace it with the 180-day ROFR period. If negative public comment is received regarding this request staff will pull this item from the Consent Agenda.

Madison Point Limited Partnership
247 North Westmonte Drive
Altamonte Springs, Florida 32714

January 29, 2016

VIA HAND DELIVERY

Rosalio Banuelos
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701-2410

Re: TDHCA File No. 02149 – Madison Point Apartments (the "Property")

Dear Rosalio:

The undersigned, being the General Partner (herein so called) of Madison Point Limited Partnership, a Texas limited partnership (the "Partnership") and the current owner of the Property, hereby submits this letter as a request for a material LURA amendment in accordance with Section 10.405(b) of the Rules for the reasons set forth below.

Background Information and Request

In 2015, Texas Government Code Section 2306.6725 was amended to allow for a 180-day Right of First Refusal ("ROFR") period. Currently, the LURA for this Property requires a two-year ROFR period. Section 10.405(b)(2)(F) of the Rules allows for a LURA amendment in order to conform a ROFR period to the period described in Section 2306.6725. Therefore the General Partner, acting on behalf of the Partnership, requests a LURA amendment to eliminate the two-year ROFR period and replace it with the 180-day ROFR period.

LURA Amendment

In accordance with Section 10.405(b) of the Rules, the General Partner, acting on behalf of the Partnership, is delivering a fee in the amount of \$2500. In addition, the General Partner, acting on behalf of the Partnership, commits to hold a public hearing, as required by the Rules, and to notify all residents, investors, lenders, and appropriate elected officials. Drafts of the public hearing notices are attached for your consideration. Upon approval from TDHCA, the General Partner, acting on behalf of the Partnership, will proceed to set a date and time for the Public Hearing and will provide TDHCA with evidence that the notice has been delivered and the hearing has been conducted. With that, the General Partner, acting on behalf of the Partnership, requests staff recommendation, in support of this request, to be considered at the February 25, 2016 TDHCA Board meeting.

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

Sincerely,

Picerne Madison Point, LLC,
its general partner

By:


Robert M. Picerne, Manager

January 29, 2016
Page 2

Attachments

cc: Tom Gouris
Patricia Murphy
Raquel Morales
Lucy Trevino
Colton Sanders
TDHCA w/ encl.

Madison Point Limited Partnership
247 North Westmonte Drive
Altamonte Springs, Florida 32714

February 1, 2016

Dear Resident:

Madison Point Apartments (the "**Community**") is owned by Madison Point Limited Partnership (the "**Owner**"). In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**") (Phone: 512-475-3800; Website: www.tdhca.state.tx.us).

A contractual restriction imposed by the Department mandates that if the Owner decides to sell the Community at a certain time, the Owner will offer the Community for sale to a non-profit organization or a tenant organization for a period of up to two years. To be consistent with a change in Texas law, the Owner is requesting Department approval to change the two-year period to a 180-day period.

In making its decision whether to approve Owner's request, the Department considers the opinions and views of the members of the Community. Accordingly, there will be a public meeting to discuss this matter. This meeting will take place at the Community's management office/clubhouse on February 16, 2016 at 5:30 a.m./p.m.

Please note that this proposal would not affect your current lease agreement, your rent payment, or your security deposit. You would *not* be required to move out of your home or take any other action because of this change. If the Department approves Owner's request, the Community will not change at all from its current form.

We appreciate that Madison Point Apartments is your home and we invite you to attend and give your input on this proposal.

Thank you for choosing Madison Point Apartments as your home.

Sincerely,

Picerne Madison Point, LLC,
its general partner

By:


Robert M. Picerne, Manager

Madison Point Limited Partnership
247 North Westmonte Drive
Altamonte Springs, Florida 32714

February ____, 2016

[Elected Official]

Dear [Addressee]:

Madison Point Limited Partnership (the "**Owner**") is the owner of Madison Point Apartments (the "**Community**") which is located at 220 West Overton Road, Dallas, Texas 75224. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**").

A contractual restriction imposed by the Department mandates that if the Owner decides to sell the Community at a certain time, the Owner will offer the Community for sale to a non-profit organization or a tenant organization for a period of up to two years. To be consistent with a change in Texas law, the Owner is requesting Department approval to change the two-year period to a 180-day period.

In making its decision whether to approve Owner's request, the Department considers the opinions and views of the members of the Community and its elected representatives. Accordingly, there will be a public meeting to discuss this matter. This meeting will take place at the Community's management office/clubhouse on February 16, 2016 at ____ a.m./p.m.

We invite you or one of your staff to attend and give your input on this proposal.

Sincerely,

Picerne Madison Point, LLC,
its general partner

By: _____
Robert M. Picerne, Manager

Madison Point Limited Partnership
247 North Westmonte Drive
Altamonte Springs, Florida 32714

February ____, 2016

[Investor/Lender]

Dear [Addressee]:

Madison Point Limited Partnership (the "**Owner**") is the owner of Madison Point Apartments (the "**Community**") which is located at 220 West Overton Road, Dallas, Texas 75224. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**").

A contractual restriction imposed by the Department mandates that if the Owner decides to sell the Community at a certain time, the Owner will offer the Community for sale to a non-profit organization or a tenant organization for a period of up to two years. To be consistent with a change in Texas law, the Owner is requesting Department approval to change the two-year period to a 180-day period.

In making its decision whether to approve Owner's request, the Department considers the opinions and views of the members of the Community, its elected representatives and the Owner's other financing partners. Accordingly, there will be a public meeting to discuss this matter. This meeting will take place at the Community's management office/clubhouse on February 16, 2016 at ____ a.m./p.m.

We invite you to attend and give your input on this proposal.

Sincerely,

Picerne Madison Point, LLC,
its general partner

By: _____
Robert M. Picerne, Manager

1k

BOARD ACTION REQUEST
ASSET MANAGEMENT DIVISION
FEBRUARY 25, 2016

Presentation, Discussion, and Possible Action regarding a material amendment to the Housing Tax Credit (“HTC”) application for StoneLeaf at Eustace (#13032)

RECOMMENDED ACTION

WHEREAS, in 2013 StoneLeaf at Eustace received an award of 9% Housing Tax Credits to construct 49 multifamily units in Eustace;

WHEREAS, the Development Owner requests approval to amend the HTC application to decrease the common area square footage from 2,991 square feet to 2,779 square feet;

WHEREAS, the change requested results in a 7% decrease in the Development’s common area square footage;

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

WHEREAS, §2306.6712(d)(4) of the Texas Government Code considers a reduction of three percent or more in the square footage of the units or common area to be a material alteration requiring Board approval and the Owner has complied with the amendment requirements in 10 TAC §10.405(a); and

WHEREAS, the change in common area square footage does 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;

NOW, therefore, it is hereby

RESOLVED, that the requested amendment of the Housing Tax Credit application for StoneLeaf at Eustace is approved as presented to this meeting and the Executive Director and his designees are each authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

BACKGROUND

StoneLeaf at Eustace was submitted and approved during the 2013 competitive 9% Housing Tax Credit cycle. The Application proposed the new construction of 49 multifamily units in Eustace.

On January 28, 2016, the owner, StoneLeaf at Eustace, LLC (Erica Steakly, on behalf of Victoria Sugrue the 51% owner of StoneLeaf Homes of Distinction, the Managing Member), 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 states that the wrong architectural rendering of the clubhouse was submitted in the application. Therefore, the net square footage identified as 2,991 on the design plan and the underwriting report was not correct. The as-built design plan provided identifies the net square feet of the clubhouse as 2,779 and supports that there were no changes to the amenities identified on the plan submitted at application. The change in the square footage results in a 7.09% reduction, and therefore, is considered a material alteration of the Development under 10 TAC §10.405(a)(4)(D).

Staff has reviewed the original application, the underwriting report, and the cost certification and has concluded that the reduced square footage of the clubhouse did not significantly affect the total development costs or affect the tax credit allocation awarded.

Staff recommends approval of the request, subject to negative public comment received, to amend the HTC application as presented. If negative public comment is received regarding this request staff will pull this item from the Consent Agenda.

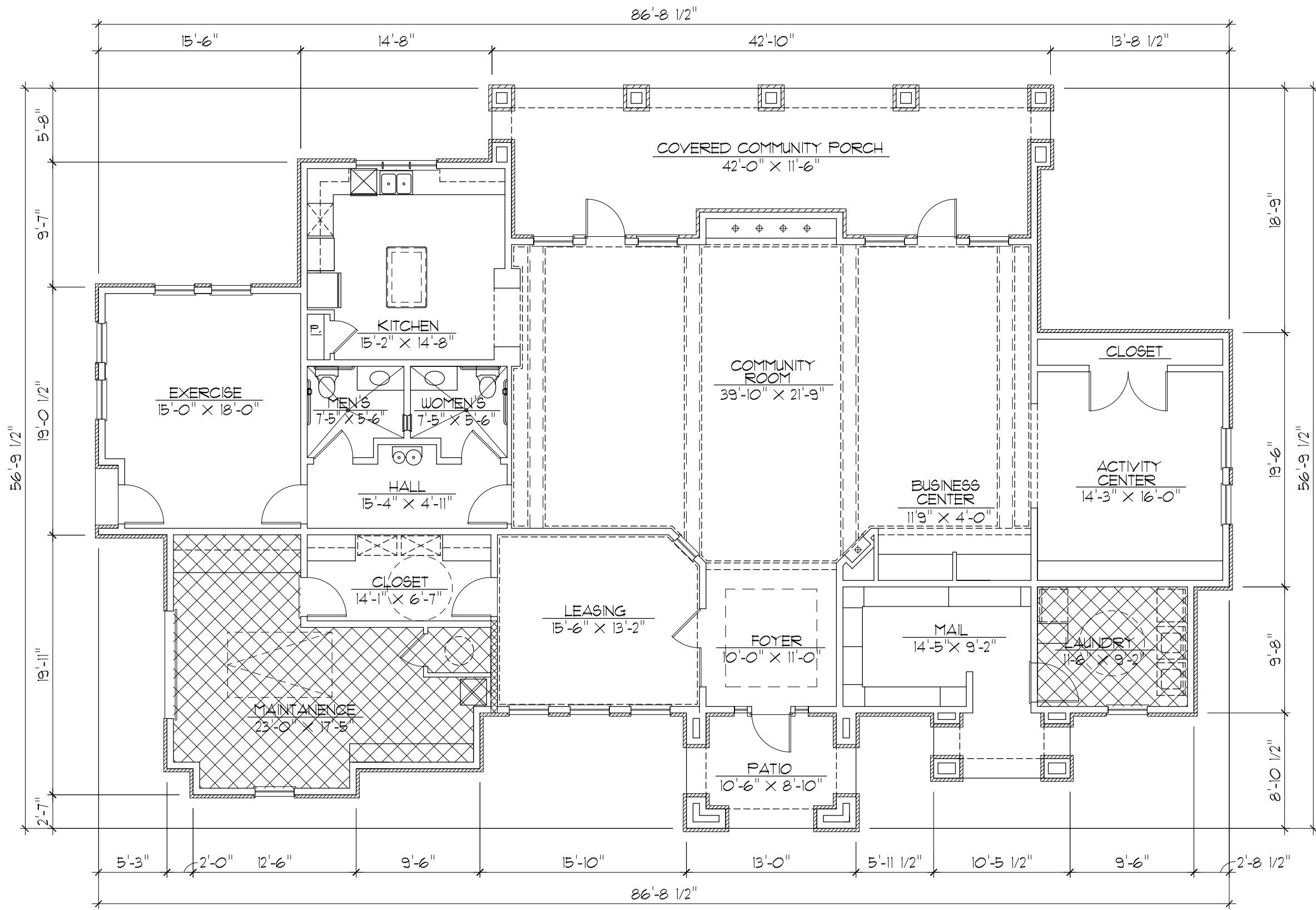
**RE: Request for Information for Cost Certification for StoneLeaf at
Eustace (TDHCA #13032)**

- 1. Exhibit 5A, Development Summary:** The Community Bldg. sqft went from 2,991 at Application to 2,706 at Cost cert. This represents a decrease of 9.53% in sqft which is considered a material alteration; therefore, an amendment will be required which will have to go to the board for approval. Please confirm if there was in fact a change in the sqft for the Community Bldg. and submit an amendment request for approval of the change and the \$2,500 amendment fee.

Exhibit 5A as well as the final drawings submitted to the agency are incorrect. The clubhouse is actually 2779 square foot which is still above the 3% decrease threshold. Therefore, we will need an amendment on this item and will send the \$2500 amendment fee to have this started.

I have attached the correct Exhibit 5A as well as a new drawing of the clubhouse that represents the correct square footage.

Clubhouse Plan -
Provided at Application



AMENITIES:

- EQUIPPED AND FUNCTIONING BUSINESS CENTER
- COMMUNITY ACTIVITY CENTER
- LAUNDRY ROOM
- FURNISHED COMMUNITY ROOM
- FURNISHED FITNESS CENTER
- COVERED PATIO
- COVERED COMMUNITY PORCH

CLUBHOUSE

SCALE 1/8" = 1' - 0"

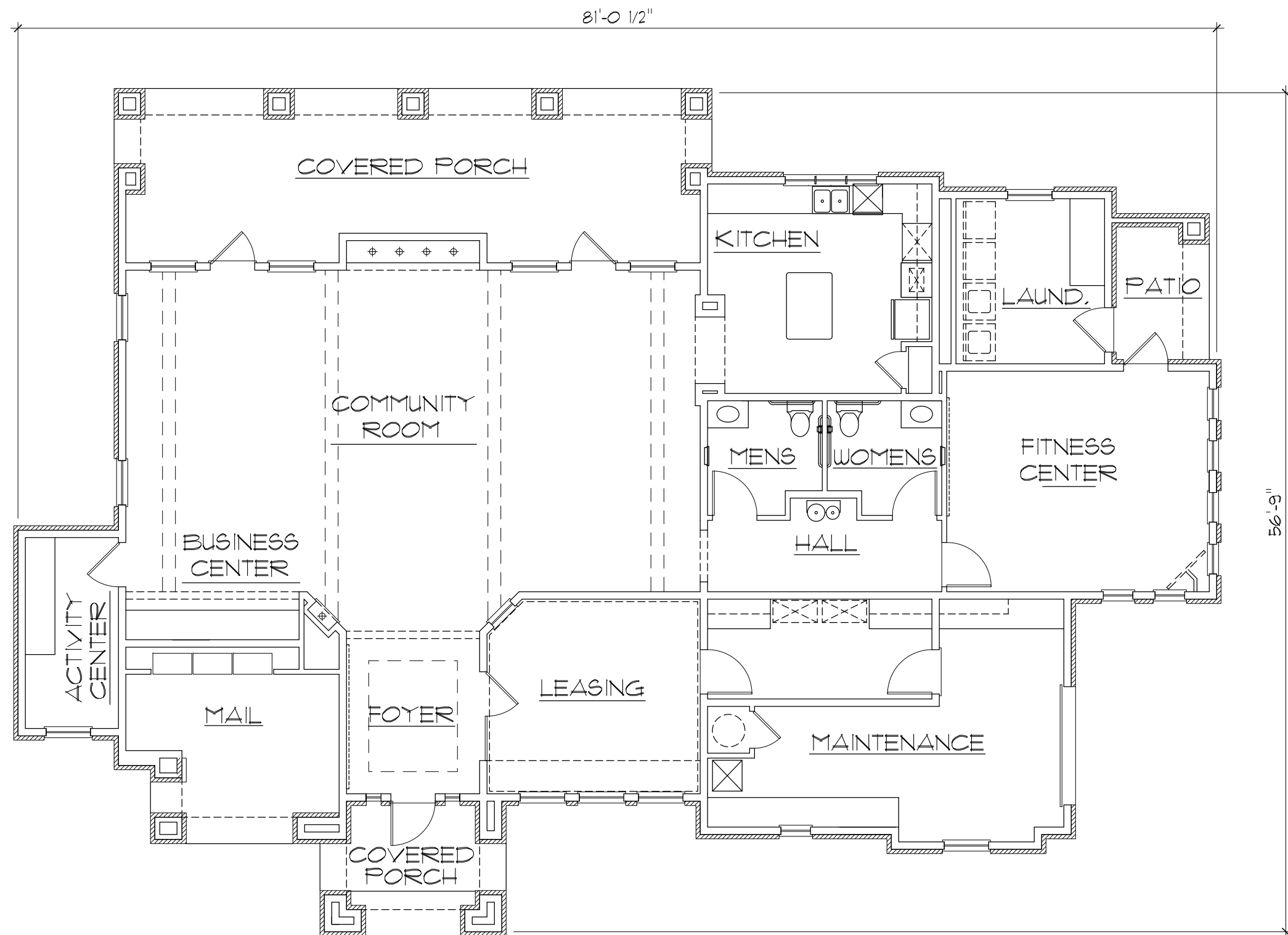
2,991 S.F.



**STONELEAF APARTMENTS
EUSTACE, TEXAS**

**A5.0
CLUBHOUSE**

Copyright © 2013



SITE AMENITIES

- COMMUNITY LAUNDRY ROOM WITH AT LEAST ONE WASHER AND DRYER FOR EVERY 40 UNITS
- EQUIPPED AND FUNCTIONING BUSINESS CENTER OR EQUIPPED COMPUTER LEARNING CENTER. MUST BE EQUIPPED WITH 1 COMPUTER FOR EVERY 30 UNITS LOADED WITH BASIC PROGRAMS, 1 LASER PRINTER FOR EVERY 3 COMPUTERS AND AT LEAST ONE SCANNER WHICH MAY BE INTEGRATED WITH PRINTER
- FURNISHED COMMUNITY ROOM
- ENCLOSED COMMUNITY SUN PORCH OR COVERED COMMUNITY PORCH/PATIO
- ONE CHILDREN'S PLAYSCAPE EQUIPPED FOR 5 TO 12 YEARS OLD, OR ONE TOT LOT.
- GREEN CERTIFIED

STONELEAF APARTMENTS
EUSTACE, TEXAS

CLUBHOUSE

SCALE 1/8" = 1' - 0"

2,779 S.F. AC
3,553 S.F. GROSS



A5.0
CLUBHOUSE

BOARD ACTION REQUEST
ASSET MANAGEMENT DIVISION
FEBRUARY 25, 2016

Presentation, Discussion, and Possible Action regarding a material amendment to the Housing Tax Credit (“HTC”) application for StoneLeaf at Fairfield (#13033)

RECOMMENDED ACTION

WHEREAS, in 2013 StoneLeaf at Fairfield received an award of 9% Housing Tax Credits to construct 49 multifamily units in Fairfield;

WHEREAS, the Development Owner requests approval to amend the HTC application to decrease the common area square footage from 2,991 square feet to 2,779 square feet;

WHEREAS, the change requested results in a 7% decrease in the Development’s common area square footage;

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

WHEREAS, §2306.6712(d)(4) of the Texas Government Code considers a reduction of three percent or more in the square footage of the units or common area to be a material alteration requiring Board approval and the Owner has complied with the amendment requirements in 10 TAC §10.405(a); and

WHEREAS, the change in common area square footage does 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;

NOW, therefore, it is hereby

RESOLVED, that the requested amendment of the Housing Tax Credit application for StoneLeaf at Fairfield is approved as presented to this meeting and the Executive Director and his designees are each authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

BACKGROUND

StoneLeaf at Fairfield was submitted and approved during the 2013 competitive 9% Housing Tax Credit cycle. The Application proposed new construction of 49 multifamily units in Fairfield.

On January 25, 2016, the owner, StoneLeaf at Fairfield, LLC (Erica Steakly, on behalf of Mike Sugrue the 44% owner of StoneLeaf Homes of Distinction, the Managing Member), 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 states that the wrong architectural rendering of the clubhouse was submitted in the application. Therefore, the net square footage identified as 2,991 on the design plan and as 3,000 at underwriting was not correct. The final as-built design plan identifies the net square feet of the clubhouse as 2,779 and supports that there were no changes to the amenities identified on the plan submitted at application. The change in the square footage results in a 7.09% reduction, and therefore, is considered a material alteration of the Development under 10 TAC §10.405(a)(4)(D).

Staff has reviewed the original application, the underwriting report, and the cost certification and has concluded that the reduced square footage of the clubhouse did not significantly affect the total development costs or affect the tax credit allocation awarded.

Staff recommends approval of the request, subject to negative public comment received, to amend the HTC application as presented. If negative public comment is received regarding this request staff will pull this item from the Consent Agenda.

Lee Ann Chance

From: Erica Steakley [erica@stoneleafcompanies.com]
Sent: Monday, January 25, 2016 4:30 PM
To: Lee Ann Chance
Cc: 'Ben Dempsey'; MIKE@stoneleafcompanies.com
Subject: FW: FW: Fairfield Clubhouse
Attachments: A5.0 Clubhouse Plan-2.pdf

Lee Ann,

We would like to request an amendment for StoneLeaf at Fairfield 13033 to resemble a change in square footage of the clubhouse.

This is because the wrong architectural rendering was submitted for the clubhouse. The square footage is supposed to be 2,779. Also, the final plans that were submitted had the wrong square footage (it was showing 2,706). All of the amenities are still offered in the common area despite the reduction in architectural area.

I will mail a \$2500 check to TDHCA at your attention if that is the correct way. Please let me know if I should do this differently.

Thanks,

Erica Steakley

Accounting/StoneLeaf Companies

1920 S 3rd St/Mabank, TX 75147

903-887-4344 Phone/903-713-4366 Fax

From: Ben Dempsey [<mailto:ben@stoneleafcompanies.com>]
Sent: Monday, January 25, 2016 11:32 AM
To: Erica Steakley
Subject: RE: FW: Fairfield Clubhouse

Erica,

We have a couple of problems. I pulled the Fairfield application and saw that the wrong architectural rendering was submitted for the clubhouse. The square footage is supposed to be 2,779. Also, the final plans that were submitted had the wrong square footage (it was showing 2,706).

I'm not sure if the final drawings are an issue with the agency because we can always send them the updated page with the correct net square footage. However, we need to know what they want us to do in order to correct the administrative error that we made in the application. Attached is the rendering that should have been in the app. I imagine that we can request an amendment. The size variance is pretty minor and none of the amenities changed. Please see what they want us to do and let me know. Thanks.

Ben Dempsey, CGP
StoneLeaf Companies
1920 South 3rd St.
Mabank, TX 75147
903-887-4344



----- Original Message -----

Subject: FW: Fairfield Clubhouse
From: "Erica Steakley" <erica@stoneleafcompanies.com>
Date: Mon, January 25, 2016 11:12 am
To: "Ben Dempsey" <ben@stoneleafcompanies.com>

Erica Steakley

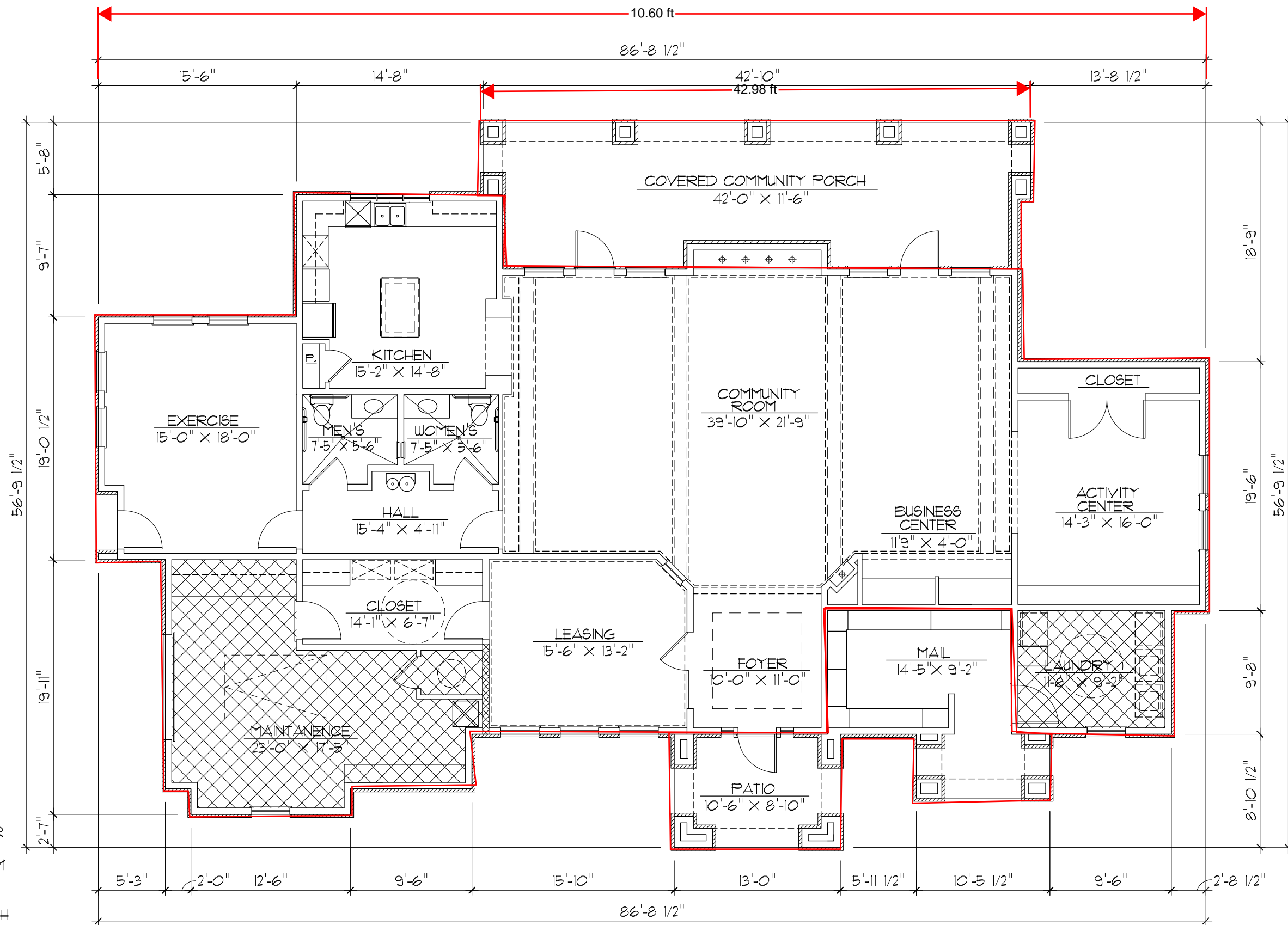
Accounting/StoneLeaf Companies

1920 S 3rd St/Mabank, TX 75147

903-887-4344 Phone/903-713-4366 Fax

From: Lee Ann Chance [<mailto:leeann.chance@tdhca.state.tx.us>]
Sent: Friday, January 22, 2016 10:25 AM
To: Erica Steakley

Provided at application



AMENITIES:

- EQUIPPED AND FUNCTIONING BUSINESS CENTER
- COMMUNITY ACTIVITY CENTER
- LAUNDRY ROOM
- FURNISHED COMMUNITY ROOM
- FURNISHED FITNESS CENTER
- COVERED PATIO
- COVERED COMMUNITY PORCH

CLUBHOUSE

SCALE 1/8" = 1' - 0"

2,991 S.F.

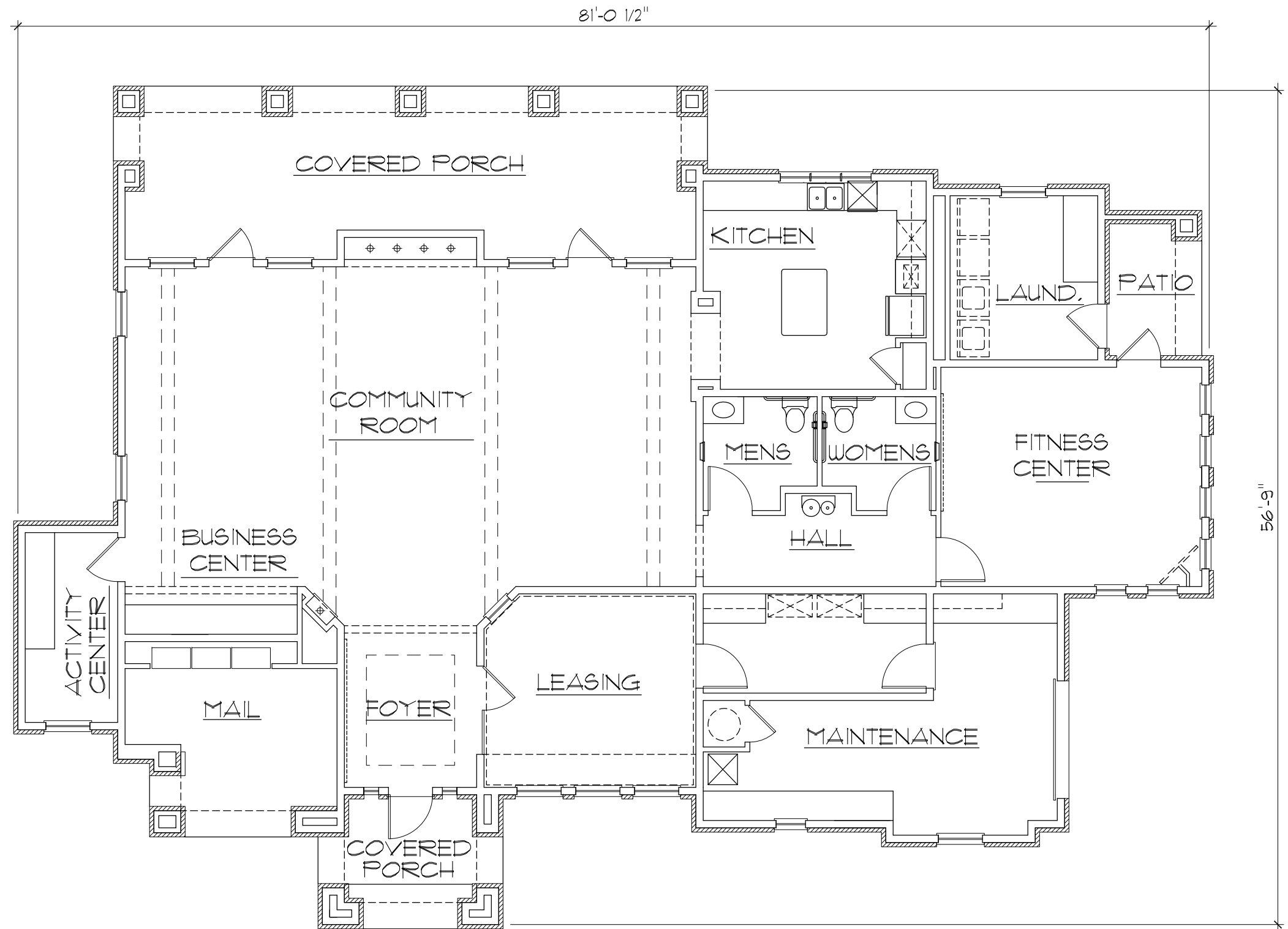


**STONELEAF APARTMENTS
FAIRFIELD, TEXAS**

**A5.0
CLUBHOUSE**

Copyright © 2013

Final design at cost certification



SITE AMENITIES

- COMMUNITY LAUNDRY ROOM WITH AT LEAST ONE WASHER AND DRYER FOR EVERY 40 UNITS
- EQUIPPED AND FUNCTIONING BUSINESS CENTER OR EQUIPPED COMPUTER LEARNING CENTER. MUST BE EQUIPPED WITH 1 COMPUTER FOR EVERY 30 UNITS LOADED WITH BASIC PROGRAMS, 1 LASER PRINTER FOR EVERY 3 COMPUTERS AND AT LEAST ONE SCANNER WHICH MAY BE INTEGRATED WITH PRINTER
- FURNISHED COMMUNITY ROOM
- ENCLOSED COMMUNITY SUN PORCH OR COVERED COMMUNITY PORCH/PATIO
- ONE CHILDREN'S PLAYSCAPE EQUIPPED FOR 5 TO 12 YEARS OLD, OR ONE TOT LOT.
- GREEN CERTIFIED

STONELEAF APARTMENTS
FAIRFIELD, TEXAS

CLUBHOUSE

SCALE 1/8" = 1' - 0"

2,779 S.F. AC
3,553 S.F. GROSS



A5.0
CLUBHOUSE

BOARD ACTION REQUEST
ASSET MANAGEMENT DIVISION
FEBRUARY 25, 2016

Presentation, Discussion, and Possible Action regarding a material amendment to the Housing Tax Credit Application Amendment for Cayetano Villas of La Vernia (#15281)

RECOMMENDED ACTION

WHEREAS, in 2015 Cayetano Villas of La Vernia received an award of 9% Housing Tax Credits to construct 48 new multifamily units in La Vernia;

WHEREAS, the Development Owner requests approval for a decrease of the development site acreage from 6.424 acres to 5.815 acres that was the result of the dedication of a portion of the property to the City of La Vernia for a public right of way;

WHEREAS, the change requested results in a 9.48% decrease in site acreage and a 10.47% increase in residential density;

WHEREAS, §2306.6712(d)(6) of the Texas Government Code considers a modification of the residential density of the development of at least 5% to be a material alteration requiring Board approval and the Owner has complied with the amendment requirements in 10 TAC §10.405(a); and

WHEREAS, the changes in site acreage and residential density do not negatively affect the Development, impact the viability of the transaction, or affect the amount of tax credits awarded;

NOW, therefore, it is hereby

RESOLVED, that the requested amendment of the Housing Tax Credit application for Cayetano Villas of La Vernia is approved as presented to this meeting and the Executive Director and his designees are each authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

BACKGROUND

Cayetano Villas of La Vernia was submitted and approved for a 9% HTC allocation during the 2015 cycle to construct 48 new multifamily units in La Vernia, Wilson County. The Applicant, Cayetano Villas of La Vernia, LLC, through their Consultant (Lora Myrick), has requested to amend the application with respect to the site acreage. The Department was notified of a change to the legal description after the site was re-platted and a portion of the site dedicated to the city for Villas Drive, which will provide ingress and egress from the site to Highway 1346. The Development Site is decreasing from 6.424 acres to 5.815 acres, resulting in a modification to the residential density of 10.47%. The Owner has confirmed that the change will not impact construction costs for the development.

A modification of the residential density of at least 5% is considered to be material requiring Board approval under 10 TAC §10.405(a)(3)(F). The Development Owner has complied with the amendment requirements under the Department's rule at Government Code §2306.6712, 10 TAC §10.405(a).

Staff recommends approval of the amendment request, subject to no negative comment, to amend the Housing Tax Credit Application as presented. If negative public comment is received regarding this request staff will pull this item from the Consent Agenda.



February 2, 2016

Texas Department of Housing and Community Affairs
Asset Management Division
Attn: Ms. Raquel Morales, Director
221 E. 11th Street
Austin, Texas 78701

Re: Cayetano Villas of La Vernia – TDHCA #15281
Material Amendment Request

Dear Ms. Morales,

We are formally requesting an amendment request for the above-referenced housing tax credit application. A check for the amendment fee in the amount of \$2,500 has been included with this request.

We are requesting an amendment to the acreage. The acreage has changed from 6.424 acres, as presented in the full application, to 5.815 acres, as reflected in the attached recorded plat. This change is a result of a portion of the surveyed property being dedicated for Villas Drive. The recorded plats have been submitted for staff review.

This change in acreage has resulted in a change in residential density that is greater than 5%. In accordance to Section 10.405(a)(3) of Subchapter E of the Uniform Multifamily Rules; therefore, triggering a material change to the application and submission of our request.

It should be noted that this change does not negatively affect the proposed development, as it does not impact the viability of this transaction. There will be no changes to cost in the reduction of acreage, as the development is still building the road as originally represented in the full application. Therefore, we respectfully request approval of this amendment request.

If you have any questions, please feel free to contact me directly at the phone number or email address listed below.

Sincerely,

Lora Myrick

Lora Myrick
Principal

Enclosures

11

BOARD ACTION REQUEST
HOUSING RESOURCE CENTER
FEBRUARY 25, 2016

Presentation, Discussion, and Possible Action on adoption of the 2016 State of Texas Low Income Housing Plan and Annual Report, and an order adopting amendments to 10 TAC Chapter 1, Subchapter A, General Policies and Procedures §1.23 concerning State of Texas Low Income Housing Plan and Annual Report, and directing their publication in the *Texas Register*

RECOMMENDED ACTION

WHEREAS, the Texas Department of Housing and Community Affairs (“TDHCA” or “the Department”) enabling statute Texas Government Code §2306.0721 requires that the Department produce a state low income housing plan;

WHEREAS, Texas Government Code §2306.0722 requires that the Department produce an annual low income housing report;

WHEREAS, Texas Government Code, §2306.0723 requires that the Department consider the annual low income housing report to be a rule; and

WHEREAS, at the Board meeting of December 17, 2015, the Board approved proposed amendments to 10 TAC §1.23, concerning State of Texas Low Income Housing Plan and Annual Report, and directed their publication in the *Texas Register* for public comment;

NOW, therefore, it is hereby

RESOLVED, that amendments to 10 TAC Chapter 1, Subchapter A, General Policies and Procedures §1.23 concerning State of Texas Low Income Housing Plan and Annual Report are hereby adopted in the form presented at this meeting; and

FURTHER RESOLVED, that the 2016 State of Texas Low Income Housing Plan and Annual Report, in the form presented to this meeting, together with such grammatical and non-substantive technical corrections as they may deem necessary or advisable, is approved and adopted.

BACKGROUND

TDHCA is required to prepare and submit to the Board not later than March 18 of each year an annual report of the Department’s housing activities for the preceding year. This State of Texas Low Income Housing Plan and Annual Report (“SLIHP”) must be submitted annually to the Governor, Lieutenant Governor, Speaker of the House, and legislative oversight committee members not later than 30 days after the Board receives and approves the SLIHP. The document offers a comprehensive reference on statewide housing needs, housing resources, and strategies for funding allocations. It reviews TDHCA’s housing programs, current and future policies, resource allocation plans to meet state housing needs, and reports on performance during the preceding state fiscal year (September 1, 2014, through August 31, 2015).

Texas Government Code §2306.0723 requires that the Department consider the SLIHP to be a rule and in developing the SLIHP, the Department is required to follow rulemaking procedures required by Texas Government Code, Chapter 2001.

At the Board meeting of December 17, 2015, the Board approved the release of a draft 2016 SLIHP for public comment. The public comment period for the SLIHP was held from Friday, December 18, 2015, through Thursday, January 21, 2016. A public hearing was held on Thursday, January 14, 2016, in Austin. The Department received seven comments on the draft 2016 SLIHP from one source: Texas Council for Developmental Disabilities. No changes were made to the 2016 SLIHP in response to public comment.

Summary of changes made to the 2016 SLIHP following the public comment period:

1. Clerical, non-technical corrections.
2. Captions added to photos in the Action Plan Chapter.
3. Revised Public Participation chapter to reflect public comment period and reasoned responses to public comment.

The full text of the 2016 SLIHP may be viewed at the Department's website: <http://www.tdhca.state.tx.us/board/meetings.htm>. The public may also receive a copy of the 2016 SLIHP by contacting the Department's Housing Resource Center at (512) 475-3976.

Also at the Board meeting of December 17, 2015, the Board approved proposed amendments to 10 TAC §1.23, concerning State of Texas Low Income Housing Plan and Annual Report, and directed their publication in the *Texas Register* for public comment. The public comment period for the proposed rule amendment was open from Friday, January 1, 2016, through Thursday, January 21, 2016. No public comment was received concerning the proposed rule amendment.

The following attachments are provided:

Attachment A – Adoption preamble and amendment to 10 TAC §1.23 with comments and response to comments.

Attachment B –2016 SLIHP, as presented to the Board on February 25, 2016.

Attachment A. Preamble and adopted amendment to 10 TAC §1.23

The Texas Department of Housing and Community Affairs (the "Department") adopts amendments to 10 TAC Chapter 1, Subchapter A, General Policies and Procedures, §1.23, concerning State of Texas Low Income Housing Plan and Annual Report, without changes to the proposed text as published in the January 1, 2016 issue of the *Texas Register* (41 TexReg 25) and will not be republished. The section adopts by reference the 2016 State of Texas Low Income Housing Plan and Annual Report ("SLIHP") as a rule. No changes have been made to the rule text or to the 2016 SLIHP in response to comment.

REASONED JUSTIFICATION. The Department finds that Texas Government Code §2306.0723 specifically authorizes the Department to consider the SLIHP as a rule. Accordingly, the amendment adopts by reference the 2016 SLIHP. The purpose of the rule and referenced 2016 SLIHP is to serve as a comprehensive reference on statewide housing needs, housing resources, and strategies for funding allocations. The document reviews the Department's programs, current and future policies, resource allocation plan to meet state housing needs, and reports on State Fiscal Year 2015 performance.

SUMMARY OF PUBLIC COMMENT AND STAFF RECOMMENDATIONS. The public comment period was between January 1, 2016, and January 21, 2016, and a public hearing was held on January 14, 2016, in Austin, TX. Written comments were accepted by mail, email, and facsimile.

Although no comments were received concerning the proposed rule amendment, the Department received seven comments on the 2016 SLIHP from one source: Texas Council for Developmental Disabilities.

Comment 1: TCDD commented on the unmet need for individuals with incomes below 30% [Area Median Family Income](#) ("AMFI"), stating that failure to provide housing affordable to people with disabilities or elderly who rely on Social Security, Social Security Disability Income or Supplement Security Income forces many individuals into unsafe conditions. Further, TCDD commented that only the Section 811 and Homeless Housing and Services Program ("HHSP") target individuals with income below 30% AMFI and urged TDHCA to go beyond simply recognizing the unmet need and provide more for this income group.

Department Response: The Department targets individuals and households with income at or below 30% AMFI through a number of programs. In addition to the Section 811 Program and HHSP, TDHCA administers the Community Services Block Grant ("CSBG") Program, with income eligibility at or below 125% of the Federal Poverty level, and the Emergency Solutions Grants ("ESG") Program, with income eligibility at or below 30% AMI. Through CSBG and ESG, TDHCA served more than 362,000 individuals in SFY 2015.

Also, in the 2016 Qualified Allocation Plan ("QAP"), which governs the awarding and allocation of 2016 9% Housing Tax Credit ("HTC") program funds, scoring priority may be awarded to applicants who elect to restrict an additional 10 percent of the proposed low income units for households at or below 30 percent of Area Median Gross Income ("AMGI"). These Units must be in addition to units required under any other provision of the 2016 QAP. While the pre-application period for the 2016 HTC has concluded, the Department is actively seeking stakeholder input on the development of the 2017 QAP. The 2017 QAP Project Plan is available at <http://www.tdhca.state.tx.us/multifamily/docs/17-QAP-ProjectPlan.pdf>.

Finally, through the Department's newly created Multifamily Direct Loan Program, funding is provided to nonprofit and for-profit entities for the new construction or rehabilitation of affordable

multifamily rental developments. Funding is typically provided in the form of low interest rate, repayable construction-to-permanent loans. Multifamily developments funded through the Department's Multifamily Direct Loan Program must comply with long-term rent and income restrictions and may be layered with additional funding sources (such as HTC). In the Multifamily Direct Loan Program NOFA, released in January 2016, funds under a Deferred Forgivable Loan Set-Aside are intended to increase the number of 30% rent-restricted units and occupy them with households with an annual income of 30% Area Median Income ("AMI") or less who are not currently receiving any type of rental assistance. The Department ~~will~~ accepted applications under this NOFA beginning on January 4, 2016. Based on the availability of funds, applications may be accepted until 5:00pm Austin Local Time on May 31, 2016. The NOFA can be found at <http://www.tdhca.state.tx.us/multifamily/nofas-rules.htm>.

Through the administration of all programs, TDHCA will continue to solicit public and stakeholder comment to enhance program delivery to target populations. . No changes have been made to the SLIHP in response to this comment.

Comment 2: TCDD referenced TDHCA's Strategic Plan Goal 1 and recommended that TDHCA should develop a target income category of between 0 and 110% of the level of SSI with the rationale that setting a threshold below "extremely low" will allow TDHCA to monitor, plan for, and allocate resources to a group that TCDD states is currently slipping through the cracks of the housing and human service programs.

Department Response: TDHCA's Strategic Plan Goals reflect program performance based upon measures developed with the State's Legislative Budget Board ("LBB") and the Governor's Office of Budget, Planning and Policy ("GOBPP"). The goals are also based upon Riders attached to the Department's appropriations bill. The Department believes that the goals and objectives for the various TDHCA programs, to the extent feasible, should be consistent with its mandated performance requirements. Revising income eligibility and setting a target income category of between 0 and 110% of the level of SSI for programs addressed by Goal 1 (Single-Family Mortgage Revenue Bond Program, Multifamily Mortgage Revenue Bond Program, HOME Investment Partnership Program, Housing Trust Fund, Section 8 Housing Choice Voucher Program, and the Housing Tax Credit Program) would be driven by changes to program rules. Opportunities for public comment on program rules are made available at <http://www.tdhca.state.tx.us/public-comment.htm>. Further, the Department has developed a plan for ongoing stakeholder involvement in development of the 2017 QAP, which governs the HTC program. The 2017 QAP Project Plan is available at <http://www.tdhca.state.tx.us/multifamily/docs/17-QAP-ProjectPlan.pdf>. No changes have been made to the SLIHP in response to this comment.

Comment 3: Referring to Goal 3 of TDHCA's Strategic Plan goals, TCDD recommended that people with extremely low-income should be included in the opportunity to improve living conditions, citing that seniors and people with disabilities living on fixed incomes will not be able to keep up their homes and will be choosing between heat and food.

Department Response: In the utility assistance programs that Goal 3 and the TDCC comment refer to, program rules require the Department to establish priority criteria to serve persons in Households who are particularly vulnerable such as the Elderly, Persons with Disabilities, Families with Young Children, Households with High Energy Burden, and Households with High Energy Consumption. Highest energy costs or needs in relation to income shall be the highest rated item in

sliding scale priority determinations (10 TAC Chapter 5 Subchapter D, §5.407). No changes have been made to the SLIHP in response to this comment.

Comment 4: TCDD referenced Rider 5 (a) of the General Appropriations Act and recommended that TDHCA increase the \$30,000,000 targeted allocation of resources that provide mainstream community integrated housing for people with extremely low-income.

Department Response: As required by Rider 5 (a) of the General Appropriations Act, TDHCA adopts an annual goal to apply no less than \$30,000,000 of the funds available from the Housing Trust Fund, HOME Program, Section 8 Program, and Housing Tax-Credit Program's total housing funds toward housing assistance for individuals and families earning less than 30% ~~AMFI~~ ~~percent of the Area Median Family Income (AMFI)~~. TDHCA regularly exceeds this goal, and as reported in this Plan, the actual funding for SFY 2015 was \$59,423,728, meeting the goal by 198.08%. No changes have been made to the SLIHP in response to this comment.

Comment 5: TCDD recommended that TDHCA include a goal to dedicate expected National Housing Trust Fund (“NHTF”) funding to establish community-integrated accessible housing for individuals who must rely on Social Security or Supplemental Security Income or incomes no greater than 20% AMFI.

Department Response: Although TDHCA has been named as the State-Designated Entity that will administer NHTF funds in Texas, TDHCA must first develop a NHTF Allocation Plan and solicit input from the public, in accordance with the HUD-approved Citizen Participation Plan, before setting performance goals. At this time, HUD anticipates that grantees will receive their NHTF allocations by summer 2016. No changes have been made to the SLIHP in response to this comment.

Comment 6: TCDD recommended that TDHCA include a goal to encourage and provide incentives to employ people with disabilities in building, rehabilitating or managing TDHCA housing programs in support of the Texas Employment First policy for working age Texans adopted by the 83rd Texas Legislature.

Department Response: While the Employment-First policy, as required by Senate Bill 1226 83rd Texas Legislature, Regular Session, only applies to the Health and Human Services Commission, the Texas Education Agency, and the Texas Workforce Commission, the Department recognizes the importance of competitive employment opportunities that provide a living wage for individuals with disabilities. Similar to the Department response to Comment 2, adding incentives TDHCA programs to employ people with disabilities would be driven by changes to program rules. Opportunities for public comment on program rules are made available at <http://www.tdhca.state.tx.us/public-comment.htm>. Again, the Department has developed a plan for ongoing stakeholder involvement in development of the 2017 Qualified Allocation Plan (“QAP”), which governs the HTC program. The 2017 QAP Project Plan is available at <http://www.tdhca.state.tx.us/multifamily/docs/17-QAP-ProjectPlan.pdf>. No changes have been made to the SLIHP in response to this comment.

Comment 7: TCDD recommended that TDHCA include a goal to promote innovative approaches that advance community integrated housing opportunities for individuals with disabilities that couple general revenue with federal funding.

Department Response: Similar to the Department response to Comment 2 and Comment 6, adding a goal to TDHCA programs to promote innovative approaches that advance community integrated housing opportunities for individuals with disabilities that couple general revenue with federal funding would be driven by changes to program rules. Opportunities for public comment on program rules are made available at <http://www.tdhca.state.tx.us/public-comment.htm>. Again, the Department has developed a plan for ongoing stakeholder involvement in development of the 2017 QAP, which governs the HTC program. The 2017 QAP Project Plan is available at <http://www.tdhca.state.tx.us/multifamily/docs/17-QAP-ProjectPlan.pdf>. No changes have been made to the SLIHP in response to this comment.

The TDHCA Governing Board approved the 2016 SLIHP and the final order adopting the amendments on February 25, 2016.

The full text of the 2016 SLIHP may be viewed at the Department's website: www.tdhca.state.tx.us. The public may also receive a copy of the 2016 SLIHP by contacting the Department's Housing Resource Center at (512) 475-3976.

STATUTORY AUTHORITY. The amendments are adopted pursuant to the authority of Texas Government Code §2306.053 which authorizes the Department to adopt rules and pursuant to §2306.0723 which specifically authorizes the Department to consider the SLIHP as a rule.

§1.23. State of Texas Low Income Housing Plan and Annual Report (SLIHP)

The Texas Department of Housing and Community Affairs (the "Department") adopts by reference the 2016 State of Texas Low Income Housing Plan and Annual Report (SLIHP). The full text of the 2016 SLIHP may be viewed at the Department's website: www.tdhca.state.tx.us. The public may also receive a copy of the 2016 SLIHP by contacting the Department's Housing Resource Center at (512) 475-3800.

Attachment B:

The 2016 SLIHP is available on the Board Meeting Materials webpage at <http://www.tdhca.state.tx.us/board/meetings.htm>.

2a

TDHCA Outreach Activities, January 2016

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
Research Subcommittee/ Community Resource Coordination Group	Austin	Jan 5	Housing Resource Center	Participant
Housing and Health Services Coordination Council	Austin	Jan 6	Housing Resource Center	Presentation
Lender Training/CLM Mortgage	Houston	Jan 13	Homeownership	Training
Public Hearing/Draft 2016 State of Texas Low Income Housing Plan and Report	Austin	Jan 14	Housing Resource Center	Public Hearing
Re-Entry Task Force/Texas Department of Criminal Justice	Austin	Jan 19	Housing Resource Center	Participant
Promoting Independence Advisory Committee	Austin	Jan 21	Housing Resource Center	Participant
Lender Training/CLM Mortgage	San Antonio	Jan 22	Homeownership	Training
Webinar/Annual Owner's Compliance Report and Annual Owner's Financial	Austin	Jan 25	Compliance	Training
State Independent Living Council	Austin	Jan 25-26	Housing Resource Center	Participant
Annual Meeting/Affordable Housing Tax Credit Coalition	San Antonio	Jan 26	Executive	Remarks
Texas Interagency Council for the Homeless Quarterly Meeting	Austin	Jan 26	Housing Resource Center	Participant
2017 QAP Planning Session	Austin	Jan 27	Multifamily Finance	Roundtable
Housing Subcommittee/ Intellectual and Developmental Disabilities System Redesign Advisory Council	Austin	Jan 27	Housing Resource Center	Presentation
50 th Anniversary/Williamson & Burnett Counties Opportunities	Round Rock	Jan 28	Executive	Remarks
Austin Area Referral Agents & Service Coordinators/Section 811 Training	Austin	Jan 28	Fair Housing-Data Management-Reporting	Training
Foundation Communities/ Section 811 Training	Austin	Jan 28	Fair Housing-Data Management-Reporting	Training
Statewide Community Research Coordination Group	Austin	Jan 28	Housing Resource Center	Participant
Multifamily Compliance Quarterly Workgroup	Austin	Jan 29	Compliance	Forum

Internet Postings of Note, January 2016

A list of new or noteworthy documents posted to the Department's website

2016 Multifamily Bond Pre-Application Submission Timeline — *listing dates for submission, public comment deadlines, and Board meetings at which time an inducement resolution could be made in association with applicants seeking bond financing:*

www.tdhca.state.tx.us/multifamily/apply-for-funds.htm

Proposed Compliance Monitoring Rules, Subchapter F — *outlining proposed amendments to rules and requirements for owners of TDHCA-financed rental properties subject to the Department's Compliance Rules:*

www.tdhca.state.tx.us/public-comment.htm

2016 Post Bond Closure Submission Packet — *detailing documents, including an Executed Determination Notice, Management Plan, Affirmative Marketing Plan, and Fair Housing Training, required from owners of developments financed through a bond issuance:*

www.tdhca.state.tx.us/multifamily/housing-tax-credits-4pct/index.htm

2016 Neighborhood Organizations on Record with the Department: January 4, 2016 — *detailing neighborhood organizations on record with the Department for QCP purposes at the beginning of the 2015 9% Housing Tax Credit allocation cycle:*

www.tdhca.state.tx.us/multifamily/housing-tax-credits-9pct/index.htm

2016 Homeless Housing and Services Program Allocations and Contact Information — *listing entities currently administering HHSP contracts by city, funding amount, primary contact person, phone number, and email address:*

www.tdhca.state.tx.us/community-affairs/hhsp/index.htm

2016 Competitive Housing Tax Credit Application Cycle: Frequently Asked Questions — *providing staff responses to the most frequently asked questions regarding the 2016 competitive Housing Tax Credit cycle:*

www.tdhca.state.tx.us/multifamily/housing-tax-credits-9pct/index.htm

TDHCA Purchasing: No Bid Contracts List — *detailing no-bid contracts held by the Department in response to Governor Abbott's call for increased transparency with respect to state contracts:*

www.tdhca.state.tx.us/purchasing/vendors.htm

Phase 2 of AYBRP Reservation System January 12, 2016/March 14, 2016 — *regarding the availability of funds by service region for the Amy Young Barrier Removal Program for eligible applicants:*

www.tdhca.state.tx.us/hf/single-family/amy-young.htm

Housing Tax Credit Basics — *updated document providing a layperson's explanation regarding the HTC Program:*

www.tdhca.state.tx.us/multifamily/hfc/docs/HTC-Basics.pdf

2016 Multifamily Housing Revenue Bond Rules — *detailing the Department's requirements for issuing bonds to finance rental housing, the procedures for applying for bonds and the regulatory and land use restrictions imposed upon Bond financed Developments:*

www.tdhca.state.tx.us/multifamily/nofas-rules.htm

LIHEAP Priority List: January 2016 — *specifying measures to be taken by subrecipient agencies weatherizing single-family homes, manufactured homes, or small multifamily buildings to achieve maximum impact:*

www.tdhca.state.tx.us/community-affairs/wap/guidance.htm

2016 Multifamily Uniform Application: January 13, 2016 — *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

2016 9% Housing Tax Credit Pre-Application Log — *listing applicants participating in the 2016 Competitive HTC pre-app cycle, organized by region and subregion, except for the At-Risk and USDA Set-Asides:*
www.tdhca.state.tx.us/multifamily/apply-for-funds.htm

2016 Comprehensive Energy Assistance Program: Subrecipient Contacts — *listing entities currently administering CEAP funds sorted by city, counties served, and contact information:*
www.tdhca.state.tx.us/community-affairs/ceap/index.htm

2016 Comprehensive Energy Assistance Program: Subrecipients by County — *providing visual detail regarding the service areas of all entities administering the Department's CEAP Program:*
www.tdhca.state.tx.us/community-affairs/ceap/index.htm

2016 Weatherization Assistance Program: Subrecipient Contacts — *listing entities currently administering WAP funds sorted by city, counties served, and contact information:*
www.tdhca.state.tx.us/community-affairs/wap/index.htm

2016 Weatherization Assistance Program: Subrecipients by County — *providing visual detail regarding the service areas of all entities administering the Department's WAP Program:*
www.tdhca.state.tx.us/community-affairs/wap/index.htm

Homeless and Housing Services Program: Subrecipient Allocations and Contacts — *listing entities currently administering HHSP funds sorted by city, contact information and funding amounts:*
www.tdhca.state.tx.us/community-affairs/hhsp/index.htm

Homeless and Housing Services Program: Subrecipients Cities — *providing visual detail regarding the service areas of all entities administering the Department's HHSP Program:*
www.tdhca.state.tx.us/community-affairs/hhsp/index.htm

2016 9% Individually Imaged Pre-Applications — *providing access to all applications seeking housing tax credits in the 2016 allocation round participating in the pre-application cycle:*
www.tdhca.state.tx.us/multifamily/housing-tax-credits-9pct/index.htm

HOME Single Family Program Reservation System Fund Release — *providing details regarding a planned two-stage release of funds administered through the Department's HOME Program now to be combined into one February release:*
www.tdhca.state.tx.us/home-division/announcements.htm

2016 Community Services Block Grant Allocation — *listing entities currently administering CSBG funds sorted by name and funding amounts:*
www.tdhca.state.tx.us/community-affairs/csbg/index.htm

2016 Community Services Block Grant: Subrecipient Contacts — *listing entities currently administering CSBG funds sorted by city, counties served, and contact information:*
www.tdhca.state.tx.us/community-affairs/csbg/index.htm

2016 Community Services Block Grant: Subrecipients by County — *providing visual detail regarding the service areas of all entities administering the Department's CSBG Program:*
www.tdhca.state.tx.us/community-affairs/csbg/index.htm

Post Award Activities Manual: January 2016 — detailing procedures and instructions to owners of HTC properties for completing activities required, such as the 10% Test, Construction Status Reports, Cost Certifications, etc:
www.tdhca.state.tx.us/asset-management/pca-manual.htm

2017 Qualified Allocation Plan Project Resources — providing status updates and information to HTC program stakeholders regarding development of 2017 QAP, including meeting notes:
www.tdhca.state.tx.us/multifamily/nofas-rules.htm

Qualified Contract Request Procedures Manual — detailing procedures owners of properties financed through the Department's HTC Program must follow when seeking a qualified buyer for the property:
www.tdhca.state.tx.us/asset-management/pca-manual.htm

Community Services Block Grant Program: Income Guidelines — detailing income eligibility levels for the CSBG Program at 100% and 125% of the federal poverty guidelines:
www.tdhca.state.tx.us/community-affairs/csbg/guidance.htm

Comprehensive Energy Assistance Program: Income Guidelines — detailing income eligibility levels for CEAP at 100% and 150% of the federal poverty guidelines:
www.tdhca.state.tx.us/community-affairs/ceap/guidance.htm

Weatherization Assistance Program: Income Guidelines — detailing income eligibility levels for WAP at 100%, 150%, and 200% of the federal poverty guidelines:
www.tdhca.state.tx.us/community-affairs/wap/guidance.htm

2016-1 Multifamily Direct Loan NOFA Application Log — listing applicants seeking financing through the Department's Multifamily Direct Loan Program by property name, location, funds requested, and housing type:
www.tdhca.state.tx.us/multifamily/home/index.htm

2016 Neighborhood Organizations on Record with the Department — listing the organizations that have requested to be on record with the state and which must be notified by applicants in the 2016 HTC cycle per the QAP:
www.tdhca.state.tx.us/multifamily/housing-tax-credits-9pct/index.htm

Texas Interagency Council for the Homeless: 2015 Annual Report — reporting on activities undertaken by the Council in coordinating the state's resources and services to address homelessness as outlined in statute:
www.tdhca.state.tx.us/tich/pathways-home.htm

HOME Single Family Procurement: Use of Lowest Bidder — regarding the use of the lowest bidder, in a sealed-bid process, for all Community Planning and Development-funded projects:
www.tdhca.state.tx.us/single-family/training/procurement/index.htm

2016 MF Bond Pre-Application and Submission Manual — providing an application and basic information needed for filing a Private Activity Bond Pre-application:
www.tdhca.state.tx.us/multifamily/apply-for-funds.htm

2016 Individually Imaged Neighborhood Organization Registrations — detailing neighborhood organizations registering for QCT purposes in the 2016 HTC cycle, including name, key contacts, written boundary descriptions, etc:
www.tdhca.state.tx.us/multifamily/housing-tax-credits-9pct/index.htm

2b

BOARD REPORT ITEM
FINANCIAL ADMINISTRATION DIVISION
FEBRUARY 25, 2016

Report on the Department's 1st Quarter Investment Report in accordance with the Public Funds Investment Act ("PFIA")

BACKGROUND

The Department's investment portfolio consists of two distinct parts. One part is related to bond funds under trust indentures that are not subject to the PFIA, and the remaining portion is related to accounts excluded from the indentures but covered by the PFIA. The Department's total investment portfolio is \$757,143,954, of which \$727,594,058 is not subject to the PFIA. This report addresses the remaining \$29,549,896 (See Page 1 of the Internal Management Report) in investments covered by the PFIA. These investments are deposited in the General Fund, Housing Trust Fund, Compliance, and Housing Initiative accounts, which are all held at the Texas Treasury Safekeeping Trust Company ("TTSTC"), primarily in the form of overnight repurchase agreements. These investments are fully collateralized and secured by the U.S. Government Securities. A repurchase agreement is the purchase of a security with an agreement to repurchase that security at a specific price and date (which in this case was November 30, 2015), with an effective interest rate of 0.07%. These investments safeguard principal while maintaining liquidity.

Below is a description of each fund group and its corresponding accounts.

- The **General Fund** accounts maintain funds for administrative purposes to fund expenses related to the Department's ongoing operations. These accounts contain balances related to bond residuals, fee income generated from the Mortgage Credit Certificate ("MCC") Program, escrow funds, single family and multifamily bond administration fees, and balances associated with the Below Market Interest Rate ("BMIR") Program.
- The **Housing Trust Fund** accounts maintain funds related to programs set forth by the Housing Trust Fund funding plan. The Housing Trust Fund provides loans and grants to finance, acquire, rehabilitate, and develop decent and safe affordable housing.
- The **Compliance** accounts maintain funds from compliance fees and asset management fees collected from multifamily developers. The number of low income units and authority to collect these fees is outlined in the individual Land Use Restriction Agreements ("LURAs") that are issued to each Developer. These fees are generated for the purpose of offsetting expenses incurred by the Department related to the monitoring and administration of these properties.

- The **Housing Initiative** accounts maintain funds from fees collected from Developers in connection with the Department's Tax Credit Program. The majority of fees collected are application fees and commitment fees. The authority for the collection of these fees is outlined in the Department's Multifamily Rules. These fees are generated for the purpose of offsetting expenses incurred by the Department related to the administration of the Tax Credit Program.

This report is in the format required by the Public Funds Investment Act. It shows in detail the types of investments, their maturities, their carrying (face amount) values, and fair values at the beginning and end of the quarter. The detail for investment activity is on Pages 1 and 2.

During the 1st Quarter, as it relates to the investments covered by the PFIA, the carrying value increased by \$129,302 (See Page 1) for a total of \$29,549,896. The increase is described below by fund groups.

General Fund: The General Fund increased by \$349,130. This consists primarily of \$346,105 received in bond administration fees, and \$493,327 in MCC Fees and a transfer of \$2,200,000 from the Taxable Mortgage Program ("TMP"). Disbursements included \$2,455,075 transferred to fund the operating budget and \$197,021 in bond related expenses.

Housing Trust Fund: The Housing Trust Fund increased by \$1,619,492. This consists primarily of \$619,072 received in loan repayments and \$2,546,600 from General Revenue. Disbursements included \$1,385,392 for loans and grants.

Compliance: Compliance funds decreased \$2,713,678. This consists primarily of \$858,475 received in compliance fees, offset by disbursements of \$3,527,575 transferred to fund the operating budget.

Housing Initiative: Housing Initiative funds increased by \$874,359. This consists primarily of \$2,886,804 received in fees related to tax credit activities, offset by disbursements of \$2,010,000 transferred to fund the operating budget.

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
HOUSING FINANCE DIVISION**


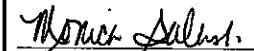
**PUBLIC FUNDS INVESTMENT ACT
INTERNAL MANAGEMENT REPORT (SEC. 2256.023)
QUARTER ENDING NOVEMBER 30, 2015**

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
HOUSING FINANCE DIVISION
PUBLIC FUNDS INVESTMENT ACT
Internal Management Report (Sec. 2256.023)
Supplemental Management Report
Quarter Ending November 30, 2015

Investment Type		FAIR VALUE (MARKET) @ 08/31/15	CARRYING VALUE @ 08/31/15	CHANGE IN CARRYING VALUE			CARRYING VALUE @ 11/30/15	FAIR VALUE (MARKET) @ 11/30/15	CHANGE IN FAIR VALUE (MARKET)	ACCRUED INT RECVBL @ 11/30/15	RECOGNIZED GAIN
				ACCRETION/ PURCHASES	AMORTIZATION/ SALES	MATURITIES	TRANSFERS				
NON-INDENTURE RELATED:											
General Fund	Mortgage-Backed Securities	544,284.15	524,920.90			(38,511.64)		486,409.26	502,239.68	(3,532.83)	2,465.87
General Fund	Repurchase Agreements	7,578,099.77	7,578,099.77	2,031,223.17	(1,643,581.94)			7,965,741.00	7,965,741.00	-	15.48
Housing Trust Fund	Repurchase Agreements	3,946,195.98	3,946,195.98	3,117,545.76	(1,498,053.84)			5,565,687.90	5,565,687.90	-	11.09
Compliance	Repurchase Agreements	8,699,397.27	8,699,397.27		(2,713,678.29)			5,985,718.98	5,985,718.98	-	11.64
Housing Initiatives	Repurchase Agreements	8,671,980.26	8,671,980.26	1,197,446.77	(323,087.81)			9,546,339.22	9,546,339.22	-	18.76
NON-INDENTURE RELATED TOTAL		29,439,957.43	29,420,894.18	6,346,215.70	(6,178,401.88)	(38,511.64)	0.00	29,549,896.36	29,565,726.78	(3,532.83)	2,522.84

(b) (8) The Department is in compliance with regards to investing its funds in a manner which will provide by priority the following objectives: (1) safety of principal, (2) sufficient liquidity to meet Department cash flow needs, (3) a market rate of return for the risk assumed, and (4) conformation to all applicable state statutes governing the investment of public funds including Section 2306 of the Department's enabling legislation and specifically, Section 2256 of the Texas Government Code, the Public Funds Investment Act.

Per Section 2256.007(4) of the Texas Government Code, the Public Funds Investment Act:
David Cervantes completed 5.0 hrs. of training on the Texas Public Funds Investment Act on August 15, 2014
Monica Galuski completed 5.0 hrs. of training on the Texas Public Funds Investment Act on February 20, 2015

	Date 2/3/16
David Cervantes, Chief Financial Officer	
	Date 2/2/16
Monica Galuski, Director of Bond Finance	

**Texas Department of Housing and Community Affairs
Non-Indenture Related Investment Summary
For Period Ending November 30, 2015**

Investment Type	Issue	Current Interest Rate	Current Purchase Date	Current Maturity Date	Beginning Carrying Value 08/31/15	Beginning Market Value 08/31/15	Accretions/Purchases	Amortizations/Sales	Maturities	Transfers	Ending Carrying Value 11/30/15	Ending Market Value 11/30/15	Change In Market Value	Recognized Gain
Repo Agmt	General Fund	0.07	10/30/15	11/02/15	1,626,630.23	1,626,630.23	1,738.70				1,628,368.93	1,628,368.93	-	
Repo Agmt	General Fund	0.07	10/30/15	11/02/15	25,183.21	25,183.21		(3,385.83)			21,797.38	21,797.38	-	
Repo Agmt	General Fund	0.07	10/30/15	11/02/15	100,263.17	100,263.17		(59,472.56)			40,790.61	40,790.61	-	
Repo Agmt	General Fund	0.07	10/30/15	11/02/15	1,494,104.78	1,494,104.78		(706,714.90)			787,389.88	787,389.88	-	
Repo Agmt	General Fund	0.07	10/30/15	11/02/15			1,900,341.64				1,900,341.64	1,900,341.64	-	
Repo Agmt	General Fund	0.07	10/30/15	11/02/15	1,521,214.35	1,521,214.35		(862,045.71)			659,168.64	659,168.64	-	
Repo Agmt	General Fund	0.07	10/30/15	11/02/15	271,039.89	271,039.89		(11,962.94)			259,076.95	259,076.95	-	
Repo Agmt	General Fund	0.07	10/30/15	11/02/15	588,483.32	588,483.32	46,462.53				634,945.85	634,945.85	-	
Repo Agmt	General Fund	0.07	10/30/15	11/02/15	1,951,180.82	1,951,180.82	82,680.30				2,033,861.12	2,033,861.12	-	
GNMA	General Fund	7.50	08/31/89	07/20/18	54,628.77	57,591.29			(4,892.61)		49,736.16	52,180.69	(517.99)	
GNMA	General Fund	7.50	10/31/89	09/20/18	87,733.71	92,062.49			(12,719.86)		75,013.85	78,336.21	(1,006.42)	
GNMA	General Fund	7.50	01/01/90	11/20/18	34,566.77	35,478.64			(3,542.65)		31,024.12	31,497.86	(438.13)	
GNMA	General Fund	7.50	01/01/90	12/20/18	41,910.51	43,814.92			(3,728.48)		38,182.03	39,522.60	(563.84)	
GNMA	General Fund	7.50	02/27/90	12/20/18	5,817.33	5,837.69			(433.77)		5,383.96	5,402.51	(1.41)	
GNMA	General Fund	7.50	03/30/90	01/20/19	59,339.66	62,694.72			(4,528.74)		54,810.92	57,645.74	(520.24)	
GNMA	General Fund	7.50	04/26/90	03/20/19	28,929.13	29,265.00			(2,541.91)		26,387.22	26,674.05	(49.04)	
GNMA	General Fund	7.50	05/29/90	04/20/19	56,532.44	59,530.92			(5,164.20)		51,368.24	53,905.32	(461.40)	
GNMA	General Fund	2.65	01/29/13	12/15/42	45,901.02	45,526.01			(371.18)		45,529.84	45,079.55	(75.28)	
GNMA	General Fund	3.20	01/29/13	10/15/42	109,561.56	112,482.47			(588.24)		108,973.32	111,995.15	100.92	
	General Fund				8,103,020.67	8,122,383.92	2,031,223.17	(1,643,581.94)	(38,511.64)	0.00	8,452,150.26	8,467,980.68	(3,532.83)	0.00
Repo Agmt	Housing Trust Fund	0.07	10/30/15	11/02/15	38,677.47	38,677.47	83,458.87				122,136.34	122,136.34	-	
Repo Agmt	Housing Trust Fund	0.07	10/30/15	11/02/15	47.27	47.27		(12.77)			34.50	34.50	-	
Repo Agmt	Housing Trust Fund	0.07	10/30/15	11/02/15	63,158.39	63,158.39	52,480.18				115,638.57	115,638.57	-	
Repo Agmt	General Revenue Appn	0.07	10/30/15	11/02/15	875.57	875.57		(5.33)			870.24	870.24	-	
Repo Agmt	General Revenue Appn	0.07	10/30/15	11/02/15	89,213.97	89,213.97	108,583.22				197,797.19	197,797.19	-	
Repo Agmt	General Revenue Appn	0.07	10/30/15	11/02/15	740,704.57	740,704.57	313,169.49				1,053,874.06	1,053,874.06	-	
Repo Agmt	General Revenue Appn	0.07	10/30/15	11/02/15	51,278.05	51,278.05	13,254.00				64,532.05	64,532.05	-	
Repo Agmt	Housing Trust Fund-GR	0.07	10/30/15	11/02/15	1,656,503.15	1,656,503.15			(952,100.42)		704,402.73	704,402.73	-	
Repo Agmt	Housing Trust Fund-GR	0.07	10/30/15	11/02/15			1,196,600.00				1,196,600.00	1,196,600.00	-	
Repo Agmt	Bootstrap -GR	0.07	10/30/15	11/02/15	3,342.08	3,342.08	0.00				3,342.08	3,342.08	-	
Repo Agmt	Bootstrap -GR	0.07	10/30/15	11/02/15	925,895.46	925,895.46		(526,435.32)			399,460.14	399,460.14	-	
Repo Agmt	Bootstrap -GR	0.07	10/30/15	11/02/15			1,100,000.00				1,100,000.00	1,100,000.00	-	
Repo Agmt	Contract for Deed Conversion	0.07	10/30/15	11/02/15	376,500.00	376,500.00		(19,500.00)			357,000.00	357,000.00	-	
Repo Agmt	Contract for Deed Conversion	0.07	10/30/15	11/02/15			250,000.00				250,000.00	250,000.00	-	
	Housing Trust Fund				3,946,195.98	3,946,195.98	3,117,545.76	(1,498,053.84)	0.00	0.00	5,565,687.90	5,565,687.90	0.00	0.00
Repo Agmt	Multi Family	0.07	10/30/15	11/02/15	1,077,664.00	1,077,664.00		(1,923.20)			1,075,740.80	1,075,740.80	-	
Repo Agmt	Multi Family	0.07	10/30/15	11/02/15	821,411.09	821,411.09		(512,466.01)			308,945.08	308,945.08	-	
Repo Agmt	Low Income Tax Credit Prog. Compliance	0.07	10/30/15	11/02/15	6,800,322.18	6,800,322.18		(2,199,289.08)			4,601,033.10	4,601,033.10	-	
					8,699,397.27	8,699,397.27	0.00	(2,713,678.29)	0.00	0.00	5,985,718.98	5,985,718.98	0.00	0.00
Repo Agmt	Asset Management	0.07	10/30/15	11/02/15	1,071,855.10	1,071,855.10	81,097.93				1,152,953.03	1,152,953.03	-	
Repo Agmt	Low Income Tax Credit Prog.	0.07	10/30/15	11/02/15	1,086,438.71	1,086,438.71		(323,087.81)			763,350.90	763,350.90	-	
Repo Agmt	Low Income Tax Credit Prog.	0.07	10/30/15	11/02/15	6,128,870.29	6,128,870.29	1,099,576.21				7,228,446.50	7,228,446.50	-	
Repo Agmt	Low Income Tax Credit Prog.	0.07	10/30/15	11/02/15	384,816.16	384,816.16	16,772.63				401,588.79	401,588.79	-	
	Housing Initiatives				8,671,980.26	8,671,980.26	1,197,446.77	(323,087.81)	0.00	0.00	9,546,339.22	9,546,339.22	0.00	0.00
Total Investment Summary					29,420,394.18	29,439,957.43	6,346,215.70	(6,178,401.88)	(38,511.64)	0.00	29,549,896.36	29,565,726.78	(3,532.83)	0.00

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BOARD REPORT ITEM
BOND FINANCE DIVISION
FEBRUARY 25, 2016

REPORT ITEM

Report on the Department's 1st Quarter Investment Report relating to funds held under Bond Trust Indentures.

BACKGROUND

- The Department's Investment Policy excludes funds invested under a bond trust indenture for the benefit of bond holders because each trust indenture controls the authorized investments under that particular trust indenture. Management of assets within an indenture is the responsibility of the Trustee. This internal management report is for informational purposes only and while not required under the Public Funds Investment Act, it is consistent with the prescribed format and detail as required by the Public Funds Investment Act. It shows in detail the types of investments, their maturity, their carrying (face amount) value and their fair value at the beginning and end of the quarter.
- The detail for investment activity can be found online at TDHCA's Board Meeting Information Center website at <http://www.tdhca.state.tx.us/board/meetings.htm>.
- Overall, the portfolio carrying value decreased by \$19.7 million (see page 3) for a total of \$727,594,058. The decrease reflects loan repayments and bond redemptions.

The portfolio consists of those investments described in the attached Bond Trust Indenture Supplemental Management Report.

	<u>Beginning Quarter</u>	<u>Ending Quarter</u>
Mortgage Backed Securities ("MBS")	81%	81%
Guaranteed Investment Contract/ Investment Agreement ("GIC/IA")	5%	5%
Repurchase Agreements	8%	7%
Money Markets and Mutual Funds	6%	7%

The 1% decrease in Repurchase Agreements and 1% increase in Money Markets and Mutual Funds is the result of the normal flow of funds.

The portfolio activity for the quarter:

- The maturities in MBS this quarter were \$27.9 million which represents loan repayments or payoffs. \$19.8 million in MBSs were purchased associated with the issuance of Single Family 2015 Series B. Also, the transfer of \$9 million was due to a defeasance of multifamily bonds.

	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	1st Qtr	
	FY 15	FY 15	FY 15	FY 15	FY 16	Total
Purchases		-			\$ 19,835,271	\$ 19,835,271
Sales		-				-
Maturities	\$ 40,322,810	\$ 27,713,951	\$ 27,472,359	\$ 30,958,949	\$ 27,975,967	\$ 154,444,036
Transfers					\$ 9,009,061	\$ 9,009,061

- The process of valuing investments at fair value (market value) identifies unrealized gains and losses. These gains or losses do not impact the overall portfolio because the Department does not typically liquidate these investments (MBS) but holds them until maturity.
- The fair value (the amount at which a financial instrument could be exchanged in a current transaction between willing parties) decreased \$3.8 million (see pages 3 and 4), with fair value being greater than the carrying value. The national average for a 30-year fixed rate mortgage, as reported by the Freddie Mac Primary Mortgage Market Survey as of November 30, 2015, was 3.95%, up from 3.84% at the end of August 2015. There are various factors that affect the fair value of these investments, but there is a correlation between the prevailing mortgage interest rates and the change in market value.
- Given the current financial environment, this change in market value is to be expected. However, the change is cyclical and is reflective of the overall change in the bond market as a whole.
- The ability of the Department's investments to provide the appropriate cash flow to pay debt service and eventually retire the related bond debt is of more importance than the assessed relative value in the bond market as a whole.
- The more relevant measures of indenture parity, projected future cash flows, and the comparison of current interest income to interest expense are reported on page 5 in the Bond Trust Indenture Parity Comparison. This report shows parity (ratio of assets to liabilities) by indentures with assets greater than liabilities in a range from 99.26% to 155.72% which would indicate the Department has sufficient assets to meet its obligations. The interest comparison reflects interest income greater than interest expense and indicates a positive cash flow.

Texas Department of Housing and Community Affairs
Bond Finance Division
Executive Summary
As of November 30, 2015

	Single Family Indenture Funds	Residential Mortgage Revenue Bond Indenture Funds	Collateralized Home Mortgage Revenue Bond Indenture Funds	Taxable Mortgage Program	Multi-Family Indenture Funds	Combined Totals
PARITY COMPARISON:						
PARITY ASSETS						
Cash	\$ 106,753	\$ -			\$ 179,079	\$ 285,832
Investments ⁽¹⁾	\$ 53,898,285	\$ 26,422,223	\$ 520,615	\$ 2,433,619	\$ 78,145,496	\$ 161,420,238
Mortgage Backed Securities ⁽¹⁾	\$ 333,742,696	\$ 222,237,806	\$ 3,516,098	\$ 4,673,334	\$ -	\$ 564,169,934
Loans Receivable ⁽²⁾	\$ 727,637				\$ 934,054,217	\$ 934,781,854
Accrued Interest Receivable	\$ 1,912,325	\$ 835,607	\$ 21,308	\$ 10,481	\$ 9,799,489	\$ 12,579,210
TOTAL PARITY ASSETS	\$ 390,387,696	\$ 249,495,636	\$ 4,058,021	\$ 7,117,434	\$ 1,022,178,281	\$ 1,673,237,068
PARITY LIABILITIES						
Bonds Payable ⁽¹⁾	\$ 339,455,000	\$ 210,490,000	\$ 2,600,000		\$ 934,218,502	\$ 1,486,763,502
Accrued Interest Payable	\$ 2,522,254	\$ 3,206,569	\$ 5,898		\$ 9,853,658	\$ 15,588,379
Other Non-Current Liabilities ⁽³⁾					\$ 85,689,112	\$ 85,689,112
TOTAL PARITY LIABILITIES	\$ 341,977,254	\$ 213,696,569	\$ 2,605,898	\$ -	\$ 1,029,761,272	\$ 1,588,040,993
PARITY DIFFERENCE	\$ 48,410,442	\$ 35,799,067	\$ 1,452,123	N/A	\$ (7,582,991)	\$ 85,196,075
PARITY	114.16%	116.75%	155.72%	N/A	99.26%	105.36%

INTEREST COMPARISON For the *Third* Fiscal Month Only (not Fiscal Year to Date) :

INTEREST INCOME						
Interest & Investment Income	\$ 1,689,435	\$ 838,144	\$ 22,754		\$ 3,290,173	\$ 5,840,506
TOTAL INTEREST INCOME	\$ 1,689,435	\$ 838,144	\$ 22,754	\$ -	\$ 3,290,173	\$ 5,840,506
INTEREST EXPENSE						
Interest on Bonds	\$ 1,060,247	\$ 633,417	\$ 14,459		\$ 3,290,172	\$ 4,998,295
TOTAL INTEREST EXPENSE	\$ 1,060,247	\$ 633,417	\$ 14,459	\$ -	\$ 3,290,172	\$ 4,998,295
NET INTEREST	\$ 629,188	\$ 204,727	\$ 8,295	N/A	\$ 1	\$ 842,211
INTEREST RATIO	159.34%	132.32%	157.37%	N/A	100.00%	116.85%

(1) Investments, Mortgage Backed Securities and Bonds Payable reported at par value not fair value.

This adjustment is consistent with indenture cashflows prepared for rating agencies.

(2) Loans Receivable include whole loans only. Special mortgage loans are excluded.

(3) Other Non-Current Liabilities include "Due to Developers" (for insurance, taxes and other operating expenses) and "Earning Due to Developers" (on investments).

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
 BOND FINANCE DIVISION
 BOND TRUST INDENTURES
 Supplemental Management Report
 Quarter Ending November 30, 2015

	FAIR VALUE (MARKET) @ 08/31/15	CARRYING VALUE @ 08/31/15	ACCRETION / PURCHASES	CHANGE IN CARRYING VALUE			CARRYING VALUE @ 11/30/15	FAIR VALUE (MARKET) @ 11/30/15	CHANGE IN FAIR VALUE (MARKET)	ACCRUED INT REC'BL @ 11/30/15	RECOGNIZED GAIN
				AMORTIZATION/ SALES	MATURITIES	TRANSFERS					
INDENTURE RELATED:											
Single Family	432,977,963.94	399,711,810.42	33,600,534.06	(28,304,412.70)	(17,584,716.89)		387,423,214.89	419,087,777.43	(1,601,590.98)	1,914,984.72	-
RMRB	272,299,573.13	252,409,931.88	5,821,425.58		(9,768,112.03)		248,463,245.43	267,067,850.25	(1,285,036.43)	835,607.37	-
CHMRB	4,365,027.61	4,023,675.07	187,795.13		(169,844.35)		4,041,625.85	4,357,179.11	(25,799.28)	21,308.48	-
Taxable Mortgage Program	9,402,484.16	9,155,543.51	101,364.87	(1,785,277.66)	(364,677.56)		7,106,953.16	7,331,097.76	(22,796.05)	15,465.29	-
Multi Family	85,740,538.76	82,003,615.93	14,648,365.09	(6,995,286.08)	(88,615.77)	(9,009,060.99)	80,559,018.18	83,392,810.05	(903,130.96)	-	-
	804,785,587.60	747,304,576.81	54,359,484.73	(37,084,976.44)	(27,975,966.60)	(9,009,060.99)	727,594,057.51	781,236,714.60	(3,838,353.70)	2,787,365.86	-



* With regards to the Multi Family Indenture, the Department is carrying \$80,738,097 of investments pledged as reserves by participating entities. The Department is carrying these investments with their corresponding liability purely for tracking the flow of funds.

(b) (8) The Department is in compliance with regards to investing its funds in a manner which will provide by priority the following objectives: (1) safety of principal, (2) sufficient liquidity to meet Department cash flow needs, (3) a market rate of return for the risk assumed, and (4) conformation to all applicable state statutes governing the investment of public funds including Section 2306 of the Department's enabling legislation and specifically, Section 2256 of the Texas Government Code, the Public Funds Investment Act.

Per Section 2256.007(d) of the Texas Government Code, the Public Funds Investment Act:

David Cervantes completed 5.0 hrs. of training on the Texas Public Funds Investment Act on August 15, 2014

Monica Galuski completed 5.0 hrs. of training on the Texas Public Funds Investment Act on February 20, 2015

	Date 2/10/16
David Cervantes, Chief Financial Officer	
	Date 2/10/16
Monica Galuski, Director of Bond Finance	

TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS
 BOND FINANCE DIVISION
 BOND TRUST INDENTURES
 Supplemental Management Report
 Quarter Ending November 30, 2015



INVESTMENT TYPE	FAIR VALUE (MARKET) @ 08/31/15	CARRYING VALUE @ 08/31/15	ACCRETION / PURCHASES	AMORTIZATION/ SALES	MATURITIES	TRANSFERS	CARRYING VALUE @ 11/30/15	FAIR VALUE (MARKET) @ 11/30/15	CHANGE IN FAIR VALUE (MARKET)	RECOGNIZED GAIN
INDENTURE RELATED:										
Mortgage-Backed Securities	664,313,222.35	606,832,211.56	19,835,271.26	-	(27,975,966.60)	(9,009,060.99)	589,682,455.23	643,325,112.32	(3,838,353.70)	-
Guaranteed Inv Contracts	34,225,360.11	34,225,360.11	10,301,924.42	(6,235,476.08)	-	-	38,291,808.45	38,291,808.45	-	-
Investment Agreements	2,078,365.97	2,078,365.97	2,197,647.56	(118,077.14)	-	-	4,157,936.39	4,157,936.39	-	-
Treasury-Backed Mutual Funds	45,460,849.34	45,460,849.34	14,217,926.28	(6,877,208.94)	-	-	52,801,566.68	52,801,566.68	-	-
Repurchase Agreements	58,707,789.83	58,707,789.83	7,806,715.21	(23,854,214.28)	-	-	42,660,290.76	42,660,290.76	-	-
	804,785,587.60	747,304,576.81	54,359,484.73	(37,084,976.44)	(27,975,966.60)	(9,009,060.99)	727,594,057.51	781,236,714.60	(3,838,353.70)	-

(b) (8) The Department is in compliance with regards to investing its funds in a manner which will provide by priority the following objectives: (1) safety of principal, (2) sufficient liquidity to meet Department cash flow needs, (3) a market rate of return for the risk assumed, and (4) conformation to all applicable state statutes governing the investment of public funds including Section 2306 of the Department's enabling legislation and specifically, Section 2256 of the Texas Government Code, the Public Funds Investment Act.

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	Date 2/10/14
David Cervantes, Chief Financial Officer	
	Date 2/2/16
Monica Galuski, Director of Bond Finance	

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BOARD REPORT ITEM
MULTIFAMILY FINANCE DIVISION
FEBRUARY 25, 2016

2017 Qualified Allocation Plan ("QAP") Project

On December 16, 2015, the Multifamily Finance Division staff presented the QAP Project Plan to approximately 50 attendees at the initial planning meeting. Notice of the meeting was sent via email to all multifamily lists and the event was included on the Department's calendar.

Discussion during the initial meeting included introduction of the project concept and general discussion of policy priorities. A schedule for future meeting topics was agreed upon by the group. An outline of notes from the meeting has been posted to the Department's website.

On January 27, 2016, the first 2017 QAP meeting was held with the topic focusing on Concerted Revitalization Plans ("CRP"). Email notice of the meeting was provided and meeting materials were posted to the Multifamily Finance webpage.

A report on the results of CRP scoring over several years was presented by a University of Texas Austin student, Meghan Randall. The group discussed CRP scoring in general and the difficulties in finding locations suitable for development that fall under an acceptable plan. There was no agreement among the group about needed changes to the CRP scoring item, and in fact there was general agreement that, pending the results of the 2016 9% cycle, the current CRP scoring criteria are generally acceptable.

The group requested that staff investigate adding a scoring item for gentrifying neighborhoods, which by their nature won't score well under either CRP or Opportunity Index but have a need for creation and preservation of affordable housing. Staff is continuing to research potential measures, and will report to the group and the Board at a later date.

The second 2017 QAP meeting was held on February 24, 2016. The topic for the meeting was Aging in Place and Elderly development. Staff will present the results at the March Board meeting in writing.

The 2017 QAP Project Plan calls for the first of two meetings to occur in March on the Opportunity Index, to discuss location and population issues, respectively.

ACTION ITEMS

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BOARD REPORT ITEM
HOUSING RESOURCE CENTER
FEBRUARY 25, 2016

Report Regarding the *Housing and Services Partnership Academy*

BACKGROUND

Texas Government Code §2306.1096 directs the Texas Housing and Health Services Coordination Council (“HHSCC” or the “Council”) to develop policies to coordinate and increase state efforts to offer Service-Enriched Housing (“SEH”) and identify barriers preventing or slowing SEH efforts.

For the purpose of directing the work of the Council and its work products, including the biennial plan, SEH is defined as integrated, affordable, and accessible housing that provides residents with the opportunity to receive on-site or off-site health-related and other services and supports that foster independence in living and decision-making for individuals with disabilities and persons who are elderly.

In 2011, TDHCA partnered with the Texas Department of Aging and Disability Services (“DADS”) to develop a successful application to the Centers for Medicare and Medicaid Services (“CMS”) for the Real Choice Systems Change Grant: Building Sustainable Partnerships for Housing. The State of Texas was one of six states selected to receive a grant and was awarded \$330,000. One of the activities which DADS and TDHCA partnered on under this grant was implementing a Housing and Services Partnership (“HSP”) Academy.

The 2013 two-day Academy provided 16 local community teams the tools and education necessary to create safe, affordable, accessible housing for people with disabilities. Each team consisted of a housing and service provider, as well as a person with a disability. In addition, documents were created for the HSP Academy that are available through TDHCA’s Housing Resource Center’s Tools for Serving People with Disabilities, and as resources for organizations and developers interested in creating community-based, affordable, integrated housing for persons with disabilities.

In the Council’s [2014-2015 Biennial Plan](#) submitted to Governor Rick Perry on August 1, 2014, Council members recommended the HSP Academy be replicated.

At the TDHCA governing board meeting of June 16, 2015, staff sought board approval to submit a Request for Proposal, negotiate, and approve a contract to prepare a second Academy with follow-up training and technical assistance. On behalf of the Council, TDHCA awarded the Corporation for Supportive Housing (“CSH”) the contract.

In November 2015, CSH released a Request for Applications from teams throughout Texas who wanted to participate in the Academy and post-Academy technical assistance. Eleven applications were received and after a review team process, nine teams were approved to participate. The names of the teams selected follow:

1. Alamo Affordable Accessible Housing Co-Operative
2. Coastal Bend Housing Solutions Services Committee
3. Dallas County Housing Alliance
4. East Texas Housing Coalition
5. Greater Houston Area Housing & Services Partnership Team
6. Heart and Home Communities
7. Housing and Services Roundtable of Tarrant County
8. Lubbock Housing Team
9. San Benito Housing & Services Group

As part of the technical assistance, CSH and TDHCA staff conducted two pre-Academy webinars. On December 9, 2015, the first webinar included an overview of federal, state, and local housing and services resources. The second webinar, held December 18, provided information to prepare the teams for the onsite Academy which was held in Austin on February 9-10, 2016.

The recently held Academy included but was not limited to topics teams expressed an interest in learning more about. The topics included a tenant/consumer panel; an overview of new construction and rehabilitation development processes; identifying and securing existing units for SEH; round table sessions on housing and services programs; peer presentations; and team planning sessions.

Seven Council members attended some or all of the two-day Academy, including three governor appointees. The initial feedback has been very positive. One governor appointee shared with TDHCA staff that she thoroughly enjoyed it and believes it is an extremely worthwhile activity in furthering the goals and objectives of the Council. This member also commented that as a contractor for relocation services, she was gratified to hear that several public housing authorities are planning on establishing preferences for persons leaving institutions which is a direct benefit to individuals as they work to transition back into the community.

CSH staff will conduct an evaluation of the Academy and continue technical assistance with each team by way of onsite and teleconference sessions scheduled throughout spring 2016.

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BOARD ACTION REQUEST
SINGLE FAMILY OPERATIONS AND SERVICES
FEBRUARY 25, 2016

Presentation, Discussion, and Possible Action to authorize staff to procure a statewide pool of housing industry professionals to assist on an as-needed basis with practical, ad hoc solutions for Department Single Family contracts, activities, and assets

RECOMMENDED ACTION

WHEREAS, the Texas Department of Housing and Community Affairs (“the Department”) administers multiple federal- and state-funded Single Family programs offering rental assistance, refinance, rehabilitation, homeownership and land banking activities to low-income households across the state;

WHEREAS, despite diligent efforts to manage risk through technical assistance to administrators and through thoughtful policy creation, the Department has from time to time needed the opinion or services of a professional third party to investigate program issues, provide construction or oversight activities, and address emergent obstacles;

WHEREAS, from time to time the single family asset management portfolio may include foreclosed properties that may need immediate security of the property, as well as possible rehabilitation prior to sale; and

WHEREAS, the Department seeks the authority to procure a statewide pool of contracted professional services such as construction project managers, licensed inspectors, appraisers, surveyors, architects, engineers, etc., that can provide the Department, on an as needed basis, with the services and information needed to carry out its mission in compliance with all federal, state and local regulations, statutes and rules and funding limitations;

NOW, therefore, it is hereby

RESOLVED, that the Director of Single Family Operations and Services Division and his/her designees are hereby authorized, empowered, and directed, for and on behalf of the Department, to procure a statewide pool of professional contractors from which they can select appropriate professionals to assist with actual construction, construction management and oversight, inspections, appraisals and surveys, plans, compliance, and other associated training or duties as may be needed on a case by case basis.

BACKGROUND

During recent months, several instances have arisen in which the Department has been faced with unforeseen issues on specific contracted single family projects, such as the EBENZ situation in the HOME Program when an immediate response and access to pre-procured professionals could have enabled a smoother resolution to the issue. When such situations arise and as appropriate response options are considered, staff may determine that contracting directly with a qualified professional third party will result in the most expeditious resolution of the issue. The proposed pool of pre-procured professional contractors would eliminate the need to procure the appropriate professional services on an ad hoc basis, allowing staff to more quickly respond to problematic issues and achieve responsible resolution.

The Single Family Operations and Services Division will be the area that will oversee the procurement and subsequent ongoing management of this professional pool of individual providers. For example, once the pool of providers is procured, if a need for a professional arose in the HOME Division, the HOME Program Director would have the ability to use the pool. Access to the pool of providers is not limited to only activities administered within the Single Family Operations and Services Division.

Upon approval, staff will establish objective criteria and standards that respondents to a Request for Qualifications (RFQ) must meet or exceed.

Examples of various professionals that the Department deems appropriate for this contractor pool include: mold specialists, rehabilitation specialists, accessibility design professionals, construction project managers, general contractors, licensed inspectors, appraisers, surveyors, architects, engineers, International Code Council (ICC)-certified inspectors, Texas Commission on Environmental Quality (TCEQ)-licensed On-Site Sewage Facility Installers, etc.

Following the appropriate procurement requirements, the Department will execute a master contract with each qualified entity. As individual projects arise, the Department will establish specific contract terms as necessary.

5a

ORAL
PRESENTATION

5b

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
FEBRUARY 25, 2016

Presentation, Discussion, and Possible Action regarding Frequently Asked Questions for Multifamily Programs.

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 would be applied to a given set of circumstances. In these cases, staff is requesting approval of the interpretation as published. These Frequently Asked Questions do not constitute a complete statement of Texas law or administrative rules, and are not, themselves, new rules. Accordingly, they are for guidance and informational purposes only. If there is any conflict between these FAQs and Texas laws or administrative rules, the laws and administrative rules shall prevail.



2016 Multifamily 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.

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 application 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

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is made unless the update is extensive. Staff encourages interested individuals to check back periodically. At the February 25, 2016, board meeting, staff will present to the Board all questions and answers added to 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: *We mistakenly checked the wrong box on Target population on the Pre-Application. How do we get the required correction noted?*

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: The limitation applies to the entire region, not just the affected county(ies).

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.

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: 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: 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: 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: 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 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: “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?*

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- A: 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? 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?*
- A: 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: 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: 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: 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.

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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: 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.

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: As long as any member of the public can access membership it would count 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: 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: (Updated February 12, 2016) *Will you provide a list of registered Neighborhood Organizations?*

A: TDHCA does 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 list of the Neighborhood Organizations that have requested to be on record with TDHCA, as well as 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: 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?*

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A: 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: 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: 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: A resolution from both bodies must be submitted.

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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. 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 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: 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

Maximum Request Limit

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. 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.

Increase in Eligible Basis (30 Percent Boost)

Q: (Added February 12, 2016) *Does a 4% HTC application get the boost in a DDA as well as in a QCT or just in a QCT? If the DDA qualifies for the boost, does a SADDA qualify or does a SADDA qualify but not a DDA?*

A: The QAP provides that a 2016 4% HTC application in Texas can qualify for the boost if located in a QCT or if located in a SADDA. The methodology behind how DDAs are designated in metropolitan areas was

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recently modified by HUD and is now calculated for the ZIP Code Tabulation Areas or portions thereof. These areas, known as Small Area Difficult Development Areas (SADDAs), would qualify for the boost, provided the development is located within the boundaries of the SADDA. When the QAP was developed it was anticipated that this new methodology would be used for metropolitan as well as non-metropolitan areas. The prior methodology was a county wide designation which, for metropolitan areas, might not be warranted on a county wide basis and therefore the Department previously prevented any application from receiving the boost as a result of a county wide DDA designation. At the October of 2015 a waiver to allow the county wide designation to apply to a development in Odessa was granted by the Board which further evidenced the shift in the Department's policy. The new rule provides for the acceptance of the DDA but only specifically refers to SADDAs. Even though the methodology behind how DDAs are designated in non-metropolitan areas did not change and, staff believes that if a development is located within a non-metropolitan DDA, it would qualify for the boost. This is subject to the final determination by the Board.

Q: (Added February 12, 2016) *I understand the 2016 SADDAs will take effect July 1, 2016. For a 4% HTC application, does the SADDA need to be effective at the time of application, Certificate of Reservation, award/Determination Notice date, closing or cost certification?*

A: For a 4% HTC Application that intends to claim the 30% boost associated with a 2016 SADDA designation, the complete HTC application (including all Third-Party Reports) must be submitted to the Department after July 1, 2016. If the area is not considered a SADDA in 2017 or 2018, the bonds must be issued or the building placed in service no later than 730-days after the date the complete application was submitted to the Department and such submission was made before the effective date of subsequent lists. For applications made before July 1, 2016, the SADDA must still be effective when the bonds close.

Q: (Added February 12, 2016) *For 4% HTC applications that intend to claim the 30% boost associated with a 2015 QCT designation, what is the definitive date by which such boost could be claimed?*

A: For a 4% HTC application that intends to claim the boost based on a 2015 QCT designation that is not a QCT designation for 2016, the complete HTC application (including all Third-Party Reports) must be submitted to the Department prior to the effective date of the 2016 Designations (e.g. no later than June 30, 2016) and the bonds must be issued OR the building must be placed in service within 730-days after the date such complete application is submitted to the Department.

Q: (Added February 12, 2016) *For a 9% HTC application filed in the 2016 application round, can a 30% boost be based upon a QCT or a SADDA that becomes effective July 1, 2016, which is prior to the award?*

A: For 9% HTC applications that intend to claim the 30% boost for a 2015 QCT or DDA, the application would qualify for such boost because the application was submitted on March 1, 2016 which is prior to the effective date of July 1, 2016. For 9% HTC applications that intend to claim the boost for a 2016 QCT or SADDA, the application would qualify for such boost because the allocation is made in November 2016 (e.g. at Carryover) which is after the effective date of July 1, 2016.

11.5 At-Risk Set-Aside

Q: (Added February 12, 2016) *Regarding relocating existing units of an At-Risk project to a new development site, Section 11.5(3)(c)(ii) states: "the Applicant seeking tax credits must propose the same number of restricted units (e.g. the Applicant may add market rate units)". When I read this, it seems to be that the following example would comply: the existing units consist of an 70-unit project that is 100% project-based Section 8, then relocation of the existing units to a new Development Site that will consist of 100 units, 70*

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of which would be restricted via project-based Section 8 (in addition to having some or all units also be LIHTC-restricted). In other words, so long as at least 70 units at the new Development Site are restricted in the same manner they were at the original site, does it matter if there are additional restrictions on the additional 30 units or are the LIHTC units also restricted to 70 units?

A: The rule requires that the number of restricted units is the same. The market rate units cannot have restrictions on them and be considered market rate units because they would no longer be considered market rate units therefore all of the project based Section 8 or its equivalent would be required to transfer and the LIHTC units would be restricted to those 70 units. None of the additional 30 units could be tax credit restricted nor could they be restricted in another way to increase the concentration of affordable housing at the site and still be considered in the At Risk set aside. An increase in the number of units would result in the application competing in the general regional set aside as a new construction.

§11.6.Competitive HTC Allocation Process.

Q: *How will elderly preference impact scoring items?*

A: 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: 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: 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 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. 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: 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: 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: 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: 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.

Q: *I am seeking clarification to the last sentence in the answer provided below from the 2016 round FAQ's:*

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.

A PHA will qualify as Qualified Nonprofit Organization for what? Does the last sentence mean an application with the PHA or its instrumentality in the ownership structure is eligible to receive the one point, even though they do not meet the Qualified Non-profit definition? If yes, would the application also have had to choose entering the Non-Profit Set Aside even though they normally are not eligible because they are not a Qualified Non-Profit? What is required to earn the one point for an application using the PHA instrumentality ownership structure?

A: This is subject to the final determination by the Board. A PHA may (though depending on how they are organized may not always) qualify as a Qualified Nonprofit Organization for the purposes of scoring points under this item, as that term is defined in Section 42. If the organizational structure of the PHA allows, the Application must be under the Nonprofit Set-Aside. An Application proposing to use a PHA as the Qualified Nonprofit Organization under this item must provide evidence that the PHA meets the definition of Qualified Nonprofit under §42(h)(5).

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: 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.

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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.Infofinder.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.

Q: (Added February 12, 2016) *If a proposed development is located in an area that has a choice of schools and the district provides transportation to the choice schools and there are (for discussion sake) four choices but not all the choices have a MET standard and/or the 77 Performance index rating. Do you use the lowest school score for your calculation or can you choose to your benefit?*

A: Per §§11.9(c)(4)(C) and 11.9(c)(5) of the QAP, in this instance, the Applicant would use the rating of the closest elementary middle, or high schools, as applicable, that may possibly be attended by the tenants.

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..." 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.

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: 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: 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

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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.

Proximity to Services

Q: (Added February 12, 2016) *If you have a mobile pharmacy that comes to a city weekly, same day every week at a consistent location, would that be sufficient to count for proximity point for pharmacy in a rural location? Documentation could be provided from the pharmacy company as well as the city mayor.*

A: This is subject to the final determination by the Board and the specific facts included in the documentation provided however, it may be sufficient, as long as the location of the service meets the requirements §11.9(c)(8) of the QAP.

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: 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.

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: 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?*

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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: 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: 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: 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.

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: 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)

Q: (Added February 12, 2016) Can you please confirm for me that all deals, regardless of location within a city or city ETJ, are able to seek qualifying LPS funding from the County in which the site is located?

A: The funding should come from the entity that has jurisdiction over development for the site. If the County is the entity that has jurisdiction over development in the ETJ, then the County is the appropriate entity to provide LPS funding.

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Q: (Added February 12, 2016) *Regarding the QAP requirement that for local funding, a letter is from a local official, does this mean that, say, someone in the local building department who agrees to waive certain fees will qualify as "an official" or does it need to be from the city manager, or from the mayor?*

A: The letter needs to be from an official who has the authority to provide such a letter. If the authority to provide such waivers vest at the local building department manager, then documentation that supports their ability to waive such fees without further action from the council or other officials should be provided.

Q: (Added February 12, 2016) *Can a Housing Authority provide a Commitment of Funding by a Local Political Subdivision?*

A: This is subject to the final determination by the TDHCA Board; however, Staff believes that if the Housing Authority is an instrumentality of government and can claim jurisdiction over the site then its commitment for funding can be used to document the LP S funding. A Housing Authority would have an identity of interest concern if they provide a commitment of funding for a development in which it has an interest for the purpose of gaining the LPS point.

Q: (Added February 12, 2016) *Is there a definition somewhere of instrumentality as it pertains to the Commitment of Funding by LPS scoring item? For example, would a MUD be an instrumentality under that scoring item?*

A: This is subject to the final determination by the TDHCA Board; however, Staff believes that as §2306.6725(a)(5) describes "commitment of development funding by local political subdivisions...", a Municipal Utility District (MUD) with a Board of Directors that is appointed by the Municipality or County would meet this description, and therefore would qualify as an instrumentality eligible to provide funding under Commitment of Funding from a Local Political Subdivision.

Q: (Added February 12, 2016) *The City of San Antonio Housing Trust was created by the City of San Antonio in 1988 with a corpus of \$10 million. SAHT is governed by an 11 member Board of Trustees appointed by the San Antonio City Council. Would they be considered a unit of local government for local funding purposes?*

A: A Housing Trust Corporation with a Board of Directors that is appointed by the Municipality or County would qualify as an instrumentality eligible to provide funding under Commitment of Funding from a Local Political Subdivision.

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: 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.

Q: (Added February 12, 2016) *Do we have a definitive answer on whether a property ownership association qualifies as a Neighborhood Organization when there are no residences in the association? The language of the statute refers to “persons living near one another,” which implies a residential requirement, but then says that a neighborhood organization can be a property owner’s association. The QAP requires a certification that at least 80% of the membership of a Neighborhood Organization consist of persons “residing or owning real property”. This implies that a Neighborhood Organization could consist of persons who own real property, without a residential requirement.*

A: Per §11.9(d)(4)(a)(2) of the QAP, an organization would have to make an affirmative certification or statement that the boundaries of the Neighborhood Organization contain the Development Site and that the Neighborhood Organization meets the definition pursuant to Texas Government Code, §2306.004(23-a) and includes at least two separate residential households.

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”.

Q: (Added February 12, 2016) *For the per square foot calculations within the Rent Schedule, the calculations are pulling the numbers from the “Total Cost” column in the Development Cost Schedule. However, since the line item for the garages isn’t included in basis, the cost per square foot is overstated by a small amount. If an applicant applies for points under the cost per square foot and goes over the cap, then they would not attain those points, or would they just be given a deficiency and allowed an opportunity to “fix” the overage?*

A: Since “carports and/or garages” is included in Building Costs and Total Hard Costs, these costs would be included in the CPSF calculation. The definition of Net Rentable Area does not include carports or garages, as they are not typically heated and cooled by HVAC. Thus, no deficiency to “fix the overage” would be issued.

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.”

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: 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.

Q: (Added February 12, 2016) *We have a client who is filing a 9% Application where a source of funding might turn out to be Project Based Vouchers. Is it possible to change between Elderly Limitation and Elderly Preference between Pre-Application and Application without losing Pre-Application points?*

A: It is possible, but the change is discouraged. See the prior FAQ response below.

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: 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: (Added February 12, 2016) *It is my understanding that Pre-App points will not be lost if an applicant increases the project site in the Application by adding one or more additional tracts to be purchased from other sellers, as long as the project site still contains all or a portion of the land described in the Pre-Application. Can you please confirm this is correct?*

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.”

Nothing prohibits the Applicant from adding additional tracts as long as at least a portion of the original remains.

2016 Competitive Application Cycle FAQ

Q: (Added February 12, 2016) *We have a site where the site control was signed by Person A for the Partnership X. Person A no longer will be a part of the deal. The partnership would like to sign a contract directly with the land owner through Person B rather than get an assignment from person A (since person A is concerned about any residual obligation regarding the transaction). Technically speaking the partnership will have always had site control, just that it would be a new contract with a different signer. Would this present a problem with site control for any reason in the eyes of the Department? Or would this be considered a valid site control regardless of the change in the underlying contract/signer? We want to make sure that this fix will not jeopardize the pre app points.*

A: There is no requirement that the site control documents be signed by the same person from Pre-Application to full Application, however the documentation to support that the original Person signing the contract must have had some documentation to assign the original contract to the Partnership or the new Person. The original Person could have only signed the original contract on behalf of the Partnership if the Partnership was in existence at the time the contract was signed. Evidence of that existence could include an affidavit from the original Person and the new person or other persons involved in the Partnership. If the Partnership was to be formed an assignment of the contract will likely be necessary to establish that site control was continual.

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.

5c

BOARD REPORT ITEM
MULTIFAMILY FINANCE DIVISION
FEBRUARY 25, 2016

Report on the failure of some 4% Housing Tax Credit Applicants and Direct Loan Applicants to properly disclose Undesirable Site and Neighborhood Characteristics

BACKGROUND

Staff has determined that several Applications recently submitted for 4% Housing Tax Credits (“HTC”) and Direct Loan Program financing have not included appropriate disclosure of Undesirable Site and Undesirable Neighborhood Features as required by Texas Administrative Code (“TAC”) §10.101(a)(3) and (4). Specifically, Applicants have not disclosed that one or more of the schools in the attendance zone of the development have failed the Met Standard test.

The Development Owner Certification required for all Applications includes sections that require affirmative statements that the Development is or is not located in an area with undesirable neighborhood characteristics.

The Certification includes the following statement, to which all parties agree by their execution of the Certification.

By signing this document, the undersigned, in their individual capacity, on behalf of Applicant, whether formed or to be formed, and in all other related capacities described above, is affirming under penalty of Chapter 37 of the Texas Penal Code titled Perjury and Other Falsification and subject to criminal penalties as defined by the State of Texas. TEX. PENAL CODE ANN. §§37.01 *et seq.* (Vernon 2003 & Supp. 2007) and subject to any and all other state or federal laws regarding the making of false statements to governmental bodies or the false statements or the providing of false information in connection with the procurement of allocations or awards that the Application and all materials relating thereto constitute government documents and that the Application and all materials relating thereto are true, correct, and complete in all material respects.

The Undesirable Neighborhood Features §10.101(a)(4) rule further states, "Should staff determine that the Development Site has any characteristics described in subparagraph (B) of this paragraph and such characteristics were not disclosed, the Application may be subject to termination."

The Certification and Undesirable Neighborhood Features requirements apply to all Multifamily Applications. Staff is concerned that because the 4% Housing Tax Credit program is not competitive, Applicants may not feel the same pressure to submit a completely accurate application that they experience in the 9% program. Simply put, termination of a 4% Application does not mean that the Development will not be able to access the Credits. Direct Loan Applicants that are not layering with 9% credits may also experience less pressure, although termination of an application may mean that it does not receive an award.

Verification of the presence or lack of Undesirable Site and Neighborhood Features for all Applications is not possible with the Multifamily Finance Division's current resources. In order to better assure that submitted Applications are providing proper disclosure, staff will perform an in-depth review of a random sample of Applications. The in-depth review may include site visits if warranted by the initial results. The results of the review, including any actions taken by staff will be reported to the Board as they occur. While Applicants terminated as the result of staff review will have rights to appeal staff's determination, it is anticipated that 4% Applicants will instead submit a new, corrected application, rather than appealing to the Department's Governing Board.

5d

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
FEBRUARY 25, 2016

Presentation, Discussion and Possible Action on a Determination Notice for Housing Tax Credits with another Issuer and an Award of Direct Loan Funds

RECOMMENDED ACTION

WHEREAS, a 4% Housing Tax Credit application for New Hope at Harrisburg was submitted to the Department on November 23, 2015;

WHEREAS, the applicant revised the 4% Housing Tax Credit application and submitted an application for 4% Housing Tax Credits, as well as Direct Loan funds under the 2016-1 Multifamily Direct Loan Notice of Funding Availability (“2016-1 NOFA”), on January 4, 2016;

WHEREAS, the Certification of Reservation from the Texas Bond Review Board (“BRB”) was issued on November 13, 2015, and will expire on April 11, 2016;

WHEREAS, the proposed issuer of the bonds is the Houston Housing Finance Corporation and there is Multifamily Direct Loan funding available to award the subject application under the Deferred Forgivable Loan Set-Aside;

WHEREAS, pursuant to 10 TAC §10.101(a)(4) of the Uniform Multifamily Rules related to Undesirable Neighborhood Characteristics, applicants are required to disclose to the Department the existence of certain characteristics of a proposed development site;

WHEREAS, the applicant disclosed the presence of such undesirable neighborhood characteristics, specifically related the proposed site located in a census tract that has a 46.5% poverty rate and that is located in a urban area where the Part I violent crime rate is 26.70 per 1,000 persons annually according to NeighborhoodScout;

WHEREAS, the applicant did not disclose the presence of multiple vacant structures within 1,000 feet of the proposed development that could commonly be regarded as blighted or abandoned; and

WHEREAS, staff has conducted a further review of the proposed development site and surrounding neighborhood and recommends the proposed site be found eligible under 10 TAC §10.101(a)(4) of the Uniform Multifamily Rules;

NOW, therefore, it is hereby

RESOLVED, that the issuance of a Determination Notice of \$759,164 in 4% Housing Tax Credits and \$607,698 in Direct Loan funds, subject to underwriting conditions that may be

applicable as found in the Real Estate Analysis report posted to the Department's website for New Hope Housing at Harrisburg is hereby approved as presented to this meeting.

BACKGROUND

General Information: New Hope Housing at Harrisburg, proposed to be located at 3315 Harrisburg Boulevard in Houston, Harris County, involves the new construction of 175 units, all of which will be rent and income restricted at 60% of AMFI under the HTC program. Of those 175 units, 11 units will be further restricted at 30% of AMFI under the Direct Loan program. The four-story wrap development, with a courtyard in the middle, will serve as single room occupancy and supportive housing for a population that includes homeless and adults at-risk of homelessness. The development is proposed to include approximately 4,000 square feet of retail space on the first floor and approximately 7,000 square feet of office space on the fourth floor, some of which will serve as corporate headquarters for New Hope Housing. It is located in an area that does not have a zoning ordinance.

While the application for Direct Loan funds was submitted under the Deferred Forgivable Loan Set-Aside as an application that meets the underwriting requirements and definition of Supportive Housing in 10 TAC §10, the \$607,698 in Direct Loan funds for this transaction will be structured as a surplus cash flow loan rather than a deferred forgivable loan. There will be no scheduled repayment on the cash flow loan until maturity – by which time it is expected that the development will be refinanced or ownership will be transferred – since Supportive Housing developments generally are not expected to generate cash flow. This surplus cash flow loan structure is being employed as an accommodation to the applicant's eligible basis requirements; however, the development will continue to be attributed to the Deferred Forgivable Loan set-aside. As required in section 4 of the 2016-1 NOFA, the Department's Governing Board must establish a hard closing deadline at the time of award. As such, staff recommends that closing on all sources of funds and the land must occur no later than April 11, 2016, which coincides with the expiration of the Certificate of Reservation from BRB. In the event that TCAP Repayment Funds are utilized for this transaction, the Department may require that the development be subject to some or all HOME requirements in 24 CFR Part 92.

Site Analysis: The applicant disclosed the presence of an undesirable neighborhood characteristic under §10.101(a)(4)(B) which requires additional site analysis; specifically the development site is located in a census tract (3101.00) that has a 46.5% poverty rate and that it is located in an urban area where the Part I violent crime rate is 26.70 per 1,000 persons annually. An assessment of the percentage of households residing in the census tract with incomes greater than \$50,000 (median income for the Houston-Woodlands-Sugarland MSA is \$58,689) showed an increase from 40% in 2010 to 44% in 2014 with a steady increase in population by 432 households. There has been a 5% decrease in those households earning between \$10,000 and \$15,000 annually and conversely an increase by the same percentage in those earning between \$75,000 and \$100,000 annually.

In conjunction with reviewing the submitted statistical information, staff conducted a Development Site and Neighborhood Review, including visiting the site. The proposed development is to be located in East Houston, in an area known as the East End Neighborhood. The census tract boundary that characterizes the neighborhood of the proposed site includes IH-10 and Buffalo Bayou to the north, Highway 59 and Minute Maid Park to the west, IH-45 to the south and Milby Street to the east. The METRO commuter rail train tracks are located in the median of Harrisburg Blvd and the proposed site is located one stop on the

light rail past the Dynamo Soccer Stadium. The general uses in the neighborhood includes residential, commercial and industrial.

Staff visited the proposed site on February 15, 2016, and observed an established neighborhood that is in transition, as evidenced by older single family homes, some of which were in physical decline, mixed with newer, market rate apartments/townhomes, various community assets and private investment within a one mile radius of the proposed site. Several of these investments were constructed several years ago, for example, the BBVA Compass Stadium was constructed in 2012, and more recently there have been some market rate apartments built in 2015, and even more recently a high-end gated townhome community just north of the site near Buffalo Bayou just opened with prices from \$360k. Information from neighborhoodscout.com indicated a median home value of \$192k and an appreciation rate for the neighborhood of 28% in the last 12 months and 7.89% in the last quarter alone. There are other private investments in the neighborhood expected to be completed in 2016.

During the site visit, staff noticed multiple vacant structures within 1,000 feet of the proposed development that have fallen into such significant disrepair that they would commonly be regarded as blighted or abandoned. This undesirable neighborhood characteristic, as noted in §10.101(a)(4)(B)(ii) of the Uniform Multifamily Rules was not disclosed in the application. Specifically, there are two boarded houses and another house that is clearly abandoned on Preston Street, the northern boundary of the site. One of these properties is currently listed for sale as a tear-down for the lot value only. Harris County records indicate that property taxes are current for these properties, indicating that they are being held for investment purposes. The neighborhood is in the redevelopment process with significant public and private investment, it is reasonable to assume that the blighted properties will be redeveloped shortly, and are not likely to negatively impact the proposed development.

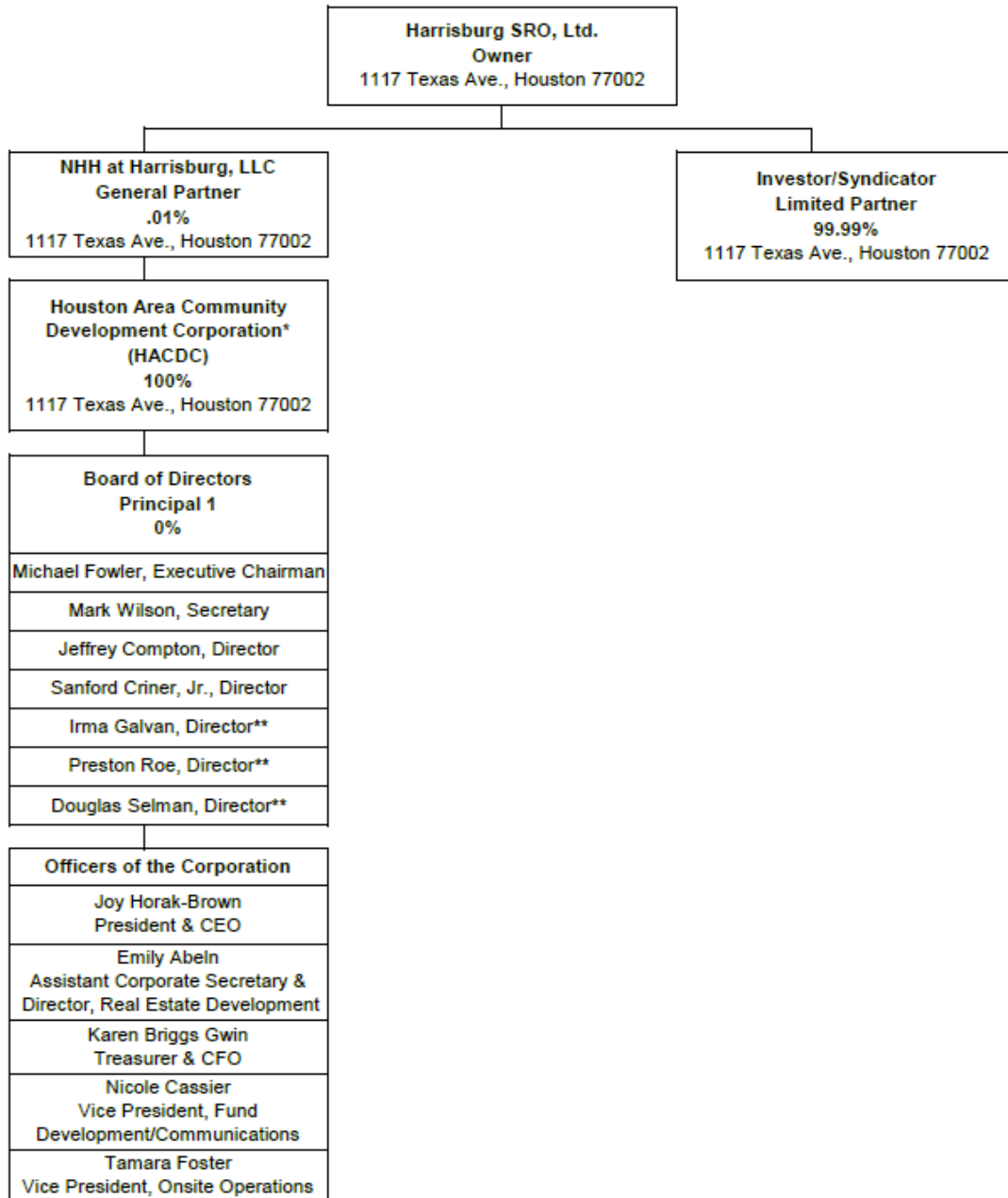
According to neighborhoodscout.com, the proposed location is an urban area where the Part I violent crime rate is 26.70 per 1,000 persons annually. The applicant provided violent crime data from information available from the City of Houston's Police Department, based on the police beat in which the proposed development is located, consistent with acceptable mitigation allowed under §10.101(a)(4)(D) of the Uniform Multifamily Rules. The data indicated that over the past 21 months, the average violent crime per 1,000 persons was 4.5, well below the threshold in the rule of 18 per 1,000 persons. Staff also looked at data from crimereports.com and found that crime reported over the past six months in the census tract of the development did not rise to a level that warranted disclosure under the rule.

Basing the assessment of the relative components to poverty and crime with the gentrification and transition that has been occurring over the past several years, along with observed infrastructure improvements, staff is not convinced that the nature of the undesirable neighborhood characteristics that were disclosed are of such a nature or severity that should render the site ineligible. The mitigation efforts as provided by the applicant, combined with staff's assessment of the neighborhood, staff believes leads to a supported conclusion that the reported factors should not result in ineligibility under §10.101(a)(4) of the Uniform Multifamily Rules.

Organizational Structure and Previous Participation: The Borrower is Harrisburg SRO, Ltd. and includes the entities and principals as indicated in the organization chart below. The applicant is considered a Small Category 1 portfolio and the previous participation was deemed acceptable by EARAC without further review or discussion.

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

LIMITED PARTNERSHIP ORGANIZATION CHART



* HACDC is a non-profit Community Housing Development Organization that is wholly controlled by New Hope Housing

** Low-income neighborhood representatives

5e

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
FEBRUARY 25, 2016

Presentation, Discussion, and Possible Action Regarding the Issuance of Multifamily Housing Revenue Bonds (Chisolm Trace and Cheyenne Village Apartments) Series 2016 Resolution No. 16-011 and Determination Notices of Housing Tax Credits

RECOMMENDED ACTION

WHEREAS, the Board adopted the inducement resolution on December 18, 2014, and updated at the Board meeting of September 3, 2015;

WHEREAS, two Carryforward Designation Certificates were issued, in the amount of \$4,500,000 for Cheyenne Village Apartments and \$9,000,000 for Chisolm Trace, on January 22, 2016, with a bond delivery deadline of December 31, 2018; and

WHEREAS, the Executive Award and Review Advisory Committee (“EARAC”) recommends the issuance of Multifamily Housing Revenue Bonds (Chisolm Trace and Cheyenne Village Apartments) Series 2016, and the issuance of Determination Notices with the condition that closing occur within 120 days (on or before June 25, 2016);

NOW, therefore, it is hereby

RESOLVED, that the issuance of up to \$13,500,000 in tax-exempt Multifamily Housing Revenue Bonds (Chisolm Trace and Cheyenne Village Apartments) Series 2016, Resolution No. 16-011 is hereby approved in the form presented to this meeting,

FURTHER RESOLVED, the issuance of a Determination Notice of \$605,251 in 4% Housing Tax Credits for Chisolm Trace Apartments, subject to underwriting conditions that may be applicable as found in the Real Estate Analysis report posted to the Department’s website is hereby approved in the form presented to this meeting,

FURTHER RESOLVED, the issuance of a Determination Notice of \$297,346 in 4% Housing Tax Credits for Cheyenne Village Apartments, subject to underwriting conditions that may be applicable as found in the Real Estate Analysis report posted to the Department’s website is hereby approved in the form presented to this meeting, and

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

BACKGROUND

General Information: The Bonds will be issued in accordance with Chapter 1371, Texas Government Code, as amended, and under Chapter 2306, Texas Government Code, as amended, the Department's Enabling Statute (the "Statute"), which authorizes the Department to issue revenue bonds for its public purposes, as defined therein. *(The Statute provides that the Department's revenue bonds are solely obligations of the Department, and do not create an obligation, debt or liability of the State of Texas or a pledge or loan of faith, credit or taxing power of the State of Texas.)*

Chisolm Trace and Cheyenne Village Apartments are both located in San Antonio, Bexar County, and propose the acquisition and rehabilitation of 126 units and 60 units, respectively, serving the general population. The Carryforward Designation Certificate issued by the Bond Review Board does not have a prescribed restriction on the percentage of Area Median Family Income ("AMFI") that must be served; however, all of the units at both properties will be rent and income restricted at 60% AMFI. Both of the properties currently have a U.S. Department of Housing and Urban Development Section 8 project-based contract covering all of the units and the contracts are currently being renewed on an annual basis. When the existing contracts expire, the Borrower will request 20-year contracts, the maximum period allowed by HUD. Moreover, both properties had undesirable neighborhood characteristics pursuant to §10.101(a)(4) of the Uniform Multifamily Rules that were disclosed at the time the pre-application was submitted and both properties were deemed eligible by the Board at the time the updated inducement resolution was adopted on September 3, 2015.

Organizational Structure and Previous Participation: The organizational structure is similar for both properties as illustrated in Exhibit A. The applicant is considered a Small Category 1 portfolio and the previous participation was deemed acceptable by EARAC without further review or discussion.

Public Hearing/Public Comment: A public hearing for each property was conducted by staff on February 3, 2016, and there was no one in attendance at the hearing. A copy of the hearing transcript is included herein. The Department has not received any letters of support or opposition for either of the properties.

Summary of Financial Structure

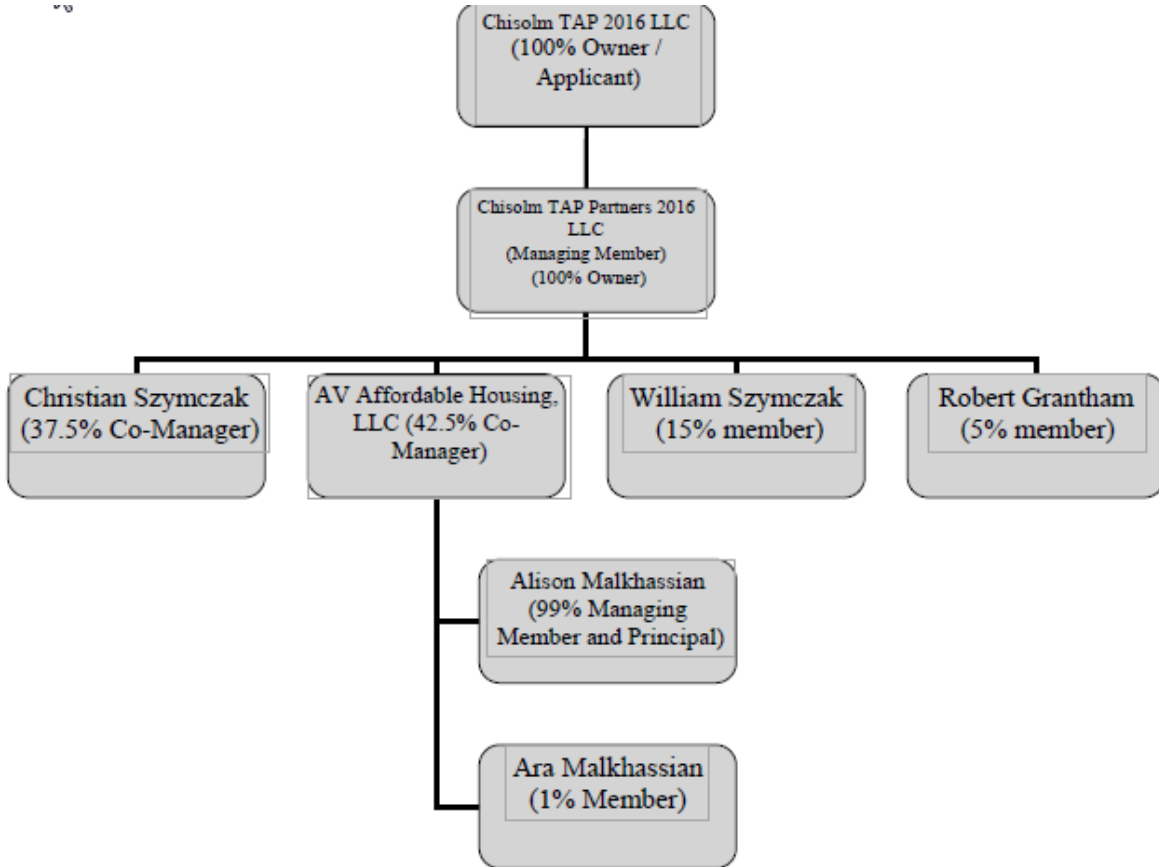
This transaction involves an FHA 221(d)(4) loan originated by Red Mortgage Capital and underwritten by Red Capital Markets, LLC which mirrors the financing structure used by several bond transactions previously approved by the Board. Under the proposed structure, the Department will issue a single series of short-term, tax-exempt fixed rate bonds in an amount not to exceed \$13,500,000 that will be collateralized with the proceeds of the taxable FHA mortgage loan for each property. The bond proceeds will be utilized for project costs and as bond proceeds are drawn down, the proceeds from the FHA loan are simultaneously drawn and placed in an escrow account for the benefit of the bondholders. Given the cash collateralization, the transaction minimizes risk to the Department. The mortgage loan will be secured by eligible investments including obligations of the United States or money market mutual funds rated "AA+" at all times which offers protection to the bondholder. While there will be one master Trust Indenture, there will be separate Loan Agreements, Bond Regulatory and Land Use Restriction Agreements, Deeds of Trust, etc. specific to each property.

The bond mortgage will be subordinate in lien position to the FHA mortgage but as previously indicated, the bond proceeds will also be cash collateralized as long as the bonds are outstanding. The bonds will remain outstanding through the rehabilitation period, estimated between 10-12 months, and will then be retired. The bonds will have a maximum interest rate of 2% and an initial mandatory tender date of May 1, 2017, at which time the bonds can be redeemed or remarketed until the final maturity date of December 1,

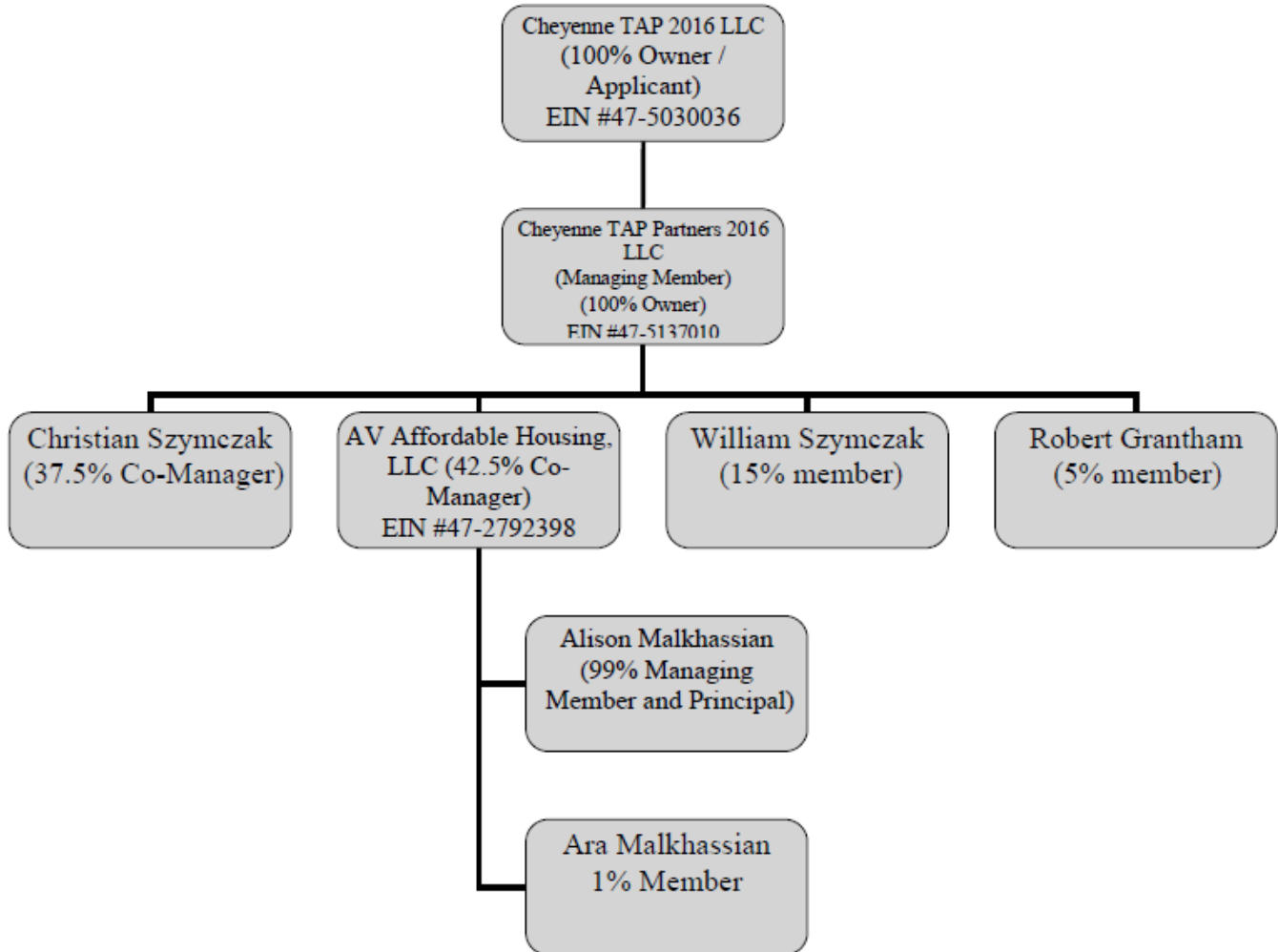
2018. Upon redemption of the bonds, the FHA mortgage loan will remain and carry a 4% interest rate with a 40-year term and amortization.

Exhibit A

Chisolm Trace



Cheyenne Village Apartments



RESOLUTION NO. 16-011

RESOLUTION AUTHORIZING AND APPROVING THE ISSUANCE, SALE AND DELIVERY OF TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS MULTIFAMILY HOUSING REVENUE BONDS (CHISOLM TRACE AND CHEYENNE VILLAGE APARTMENTS), SERIES 2016; APPROVING THE FORM AND SUBSTANCE AND AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS AND INSTRUMENTS PERTAINING THERETO; AUTHORIZING AND RATIFYING OTHER ACTIONS AND DOCUMENTS; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

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

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

WHEREAS, the Board has determined to authorize the issuance of its Texas Department of Housing and Community Affairs Multifamily Housing Revenue Bonds (Chisolm Trace and Cheyenne Village Apartments), Series 2016 (the "Bonds") pursuant to and in accordance with the terms of a Trust Indenture (the "Indenture") between the Department and Wilmington Trust, National Association, as trustee (the "Trustee"), for the purpose of obtaining funds to finance the Development (defined below), all under and in accordance with the Constitution and laws of the State; and

WHEREAS, the Department desires to use the proceeds of the Bonds to fund mortgage loans to Chisolm TAP 2016, LLC, a Texas limited liability company, and Cheyenne TAP 2016, LLC, a Texas limited liability company (each a "Borrower" and collectively, the "Borrowers"), in order to finance the cost of acquisition, equipping and rehabilitation of the qualified residential rental developments described in Exhibit A attached hereto (each a "Development" and collectively, the "Developments") located within the State and required by the Act to be occupied by individuals and families of low and very low income and families of moderate income, as determined by the Department; and

WHEREAS, the Board, by resolution adopted on December 18, 2014, as revised on September 3, 2015, declared its intent to issue its revenue bonds to provide financing for the Developments; and

WHEREAS, the Borrowers have requested and received reservations of private activity bond allocation from the State of Texas;

WHEREAS, it is anticipated that the Department and each Borrower will execute and deliver a Loan Agreement (each a "Loan Agreement" and collectively, the "Loan Agreements") pursuant to which (i) the

Department will agree to make a mortgage loan funded with the proceeds of the Bonds (each a “Loan” and collectively, the “Loans”) to each Borrower to enable the Borrower to finance the cost of acquisition, equipping and rehabilitation of the applicable Development and related costs, and (ii) each Borrower will execute and deliver to the Department a promissory note (each a “Note” and collectively, the “Notes”) in a combined original principal amount equal to the original aggregate principal amount of the Bonds, and providing for payment of interest on such combined principal amount equal to the interest on the Bonds and to pay other costs described in the Loan Agreements; and

WHEREAS, it is anticipated that each Note will be secured by a subordinate Multifamily Deed of Trust, Security Agreement and Fixture Filing (each a “Bond Mortgage” and collectively, the “Bond Mortgages”) from the applicable Borrower for the benefit of the Department and the Trustee; and

WHEREAS, each Borrower will obtain a first lien mortgage loan from Red Mortgage Capital (the “HUD Lender”), and the Board has determined that the HUD Lender, the Trustee, the Department and each Borrower will execute and deliver a Loan Disbursement Procedures Agreement (each a “Disbursement Agreement” and collectively, the “Disbursement Agreements”) pursuant to which the HUD Lender will deposit the proceeds of the applicable first lien mortgage loan with the Trustee, to be held by the Trustee as security for the Bonds in accordance with the Indenture; and

WHEREAS, the Board has determined that the Department, the Trustee, and each Borrower will execute a Regulatory and Land Use Restriction Agreement (each a “Regulatory Agreement” and collectively, the “Regulatory Agreements”) with respect to the applicable Development, which will be filed of record in the real property records of Bexar County, Texas; and

WHEREAS, the Board has been presented with a draft of, has considered and desires to ratify, approve, confirm and authorize the use and distribution in the public offering of the Bonds of an Official Statement (the “Official Statement”) and to authorize the Authorized Representatives of the Department to deem the Official Statement “final” for purposes of Rule 15c2-12 of the Securities and Exchange Commission and to approve the making of such changes in the Official Statement as may be required to provide a final Official Statement for use in the public offering and sale of the Bonds; and

WHEREAS, the Board has further determined that the Department will enter into a Purchase Contract (the “Bond Purchase Agreement”) with Red Capital Markets, LLC (the “Underwriter”), and the Borrowers, setting forth certain terms and conditions upon which the Underwriter will purchase all of the Bonds from the Department and the Department will sell the Bonds to the Underwriter; and

WHEREAS, the Board has examined proposed forms of (a) the Indenture, the Loan Agreements, the Regulatory Agreements, the Disbursement Agreements, the Official Statement and the Bond Purchase Agreement (collectively, the “Issuer Documents”), all of which are attached to and comprise a part of this Resolution and (b) the Bond Mortgages and the Notes; has found the form and substance of such documents to be satisfactory and proper and the recitals contained therein to be true, correct and complete; and has determined, subject to the conditions set forth in Article I, to authorize the issuance of the Bonds, the execution and delivery of the Issuer Documents, the acceptance of the Bond Mortgages and the Notes and the taking of such other actions as may be necessary or convenient in connection therewith;

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

ARTICLE 1

ISSUANCE OF BONDS; APPROVAL OF DOCUMENTS

Section 1.1 Issuance, Execution and Delivery of the Bonds. That the issuance of the Bonds is hereby authorized pursuant to the Act, including particularly Section 2306.353 thereof, and Chapter 1371, Texas Government Code, all under and in accordance with the conditions set forth herein and in the Indenture, and that, upon execution and delivery of the Indenture, the Authorized Representatives of the Department named in this Resolution are each hereby authorized to execute, attest and affix the Department's seal to the Bonds and to deliver the Bonds to the Attorney General of the State (the "Attorney General") for approval, the Comptroller of Public Accounts of the State for registration and the Trustee for authentication (to the extent required in the Indenture), and thereafter to deliver the Bonds to or upon the order of the initial purchaser thereof pursuant to the Bond Purchase Agreement.

Section 1.2 Interest Rate, Principal Amount, Maturity and Price. That the Chair or Vice Chair of the Board or the Executive Director of the Department are hereby authorized and empowered, in accordance with Chapter 1371, Texas Government Code, to fix and determine the interest rate, principal amount and maturity of, the redemption and tender provisions related to, and the price at which the Department will sell to the Underwriter, the Bonds, all of which determinations shall be conclusively evidenced by the execution and delivery by the Chair or Vice Chair of the Board or the Executive Director of the Department of the Indenture and the Bond Purchase Agreement; provided that the initial interest rate on the Bonds shall not exceed 2% subject to adjustment or provided in the Indenture; (ii) the aggregate principal amount of the Bonds shall not exceed \$13,500,000; (iii) the final maturity of the Bonds shall occur not later than December 1, 2018; and (iv) the price at which the Bonds are sold to the initial purchaser thereof under the Bond Purchase Agreement shall not exceed 100% of the principal amount thereof.

Section 1.3 Approval, Execution and Delivery of the Indenture. That the form and substance of the Indenture are hereby approved, and that the Authorized Representatives each are hereby authorized to execute the Indenture, and to deliver the Indenture to the Trustee.

Section 1.4 Approval, Execution and Delivery of the Loan Agreements. That the form and substance of the Loan Agreements are hereby approved, and that the Authorized Representatives each are hereby authorized to execute the Loan Agreements, and to deliver the Loan Agreements to the Borrowers.

Section 1.5 Approval, Execution and Delivery of the Regulatory Agreements. That the form and substance of the Regulatory Agreements are hereby approved, and that the Authorized Representatives each are hereby authorized to execute, attest and affix the Department's seal to the Regulatory Agreements, and to deliver the Regulatory Agreements to the applicable Borrower and the Trustee and to cause the Regulatory Agreements to be filed of record in the real property records of Bexar County, Texas.

Section 1.6 Approval, Execution and Delivery of the Bond Purchase Agreement. That the sale of the Bonds to the Underwriter pursuant to the Bond Purchase Agreement is hereby approved, that the form and substance of the Bond Purchase Agreement are hereby approved, and that the Authorized Representatives each are hereby authorized to execute the Bond Purchase Agreement and to deliver the Bond Purchase Agreement to the Borrowers and the Underwriter, as appropriate.

Section 1.7 Approval, Execution and Delivery of the Disbursement Agreements. That the form and substance of the Disbursement Agreements are hereby approved, and that the Authorized Representatives each are hereby authorized to execute the Disbursement Agreements, and to deliver the Disbursement Agreements to the HUD Lender, the Trustee and the applicable Borrower.

Section 1.8 Acceptance of the Notes and the Bond Mortgages. That the form and substance of the Notes and the Bond Mortgages are hereby accepted by the Department and that the Authorized

Representatives each are hereby authorized to endorse and deliver the Notes to the order of the Trustee without recourse.

Section 1.9 Approval, Execution, Use and Distribution of the Official Statement. That the form and substance of the Official Statement and its use and distribution by the Underwriter in accordance with the terms, conditions and limitations contained therein are hereby approved, ratified, confirmed and authorized; that the Chair and Vice Chair of the Board and the Executive Director of the Department are hereby severally authorized to deem the Official Statement “final” for purposes of Rule 15c2-12 under the Securities and Exchange Act of 1934; that the Authorized Representatives named in this Resolution each are authorized hereby to make or approve such changes in the Official Statement as may be required to provide a final Official Statement for the Bonds; that the Authorized Representatives named in this Resolution each are authorized hereby to accept the Official Statement, as required; and that the use and distribution of the Official Statement by the Underwriter hereby is authorized and approved, subject to the terms, conditions and limitations contained therein, and further subject to such amendments or additions thereto as may be required by the Bond Purchase Agreement and as may be approved by the Executive Director of the Department and the Department’s counsel.

Section 1.10 Taking of Any Action; Execution and Delivery of Other Documents. That the Authorized Representatives are each hereby authorized to take any actions and to execute, attest and affix the Department’s seal to, and to deliver to the appropriate parties, all such other agreements, commitments, assignments, bonds, certificates, contracts, documents, instruments, releases, financing statements, letters of instruction, notices of acceptance, written requests and other papers, whether or not mentioned herein, as they or any of them consider to be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution.

Section 1.11 Power to Revise Form of Documents. That, notwithstanding any other provision of this Resolution, the Authorized Representatives are each hereby authorized to make or approve such revisions in the form of the documents attached hereto as exhibits as, in the judgment of such Authorized Representative, and in the opinion of Bracewell & Giuliani LLP, may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution, such approval to be evidenced by the execution of such documents by the Authorized Representatives.

Section 1.12 Exhibits Incorporated Herein. That all of the terms and provisions of each of the documents listed below as an exhibit shall be and are hereby incorporated into and made a part of this Resolution for all purposes:

- Exhibit B - Indenture
- Exhibit C - Loan Agreements
- Exhibit D - Regulatory Agreements
- Exhibit E - Bond Purchase Agreement
- Exhibit F - Notes
- Exhibit G - Bond Mortgages
- Exhibit H - Official Statement
- Exhibit I - Disbursement Agreements

Section 1.13 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

APPROVAL AND RATIFICATION OF CERTAIN ACTIONS

Section 2.1 Approval and Ratification of Application to Texas Bond Review Board. That the Board hereby ratifies and approves the submission of the application for approval of state bonds to the Texas Bond Review Board on behalf of the Department in connection with the issuance of the Bonds in accordance with Chapter 1231, Texas Government Code.

Section 2.2 Approval of Submission to the Attorney General. That the Board hereby authorizes and approves the submission by the Department’s bond counsel to the Attorney General, for his approval, of a transcript of legal proceedings relating to the issuance, sale and delivery of the Bonds.

Section 2.3 Certification of the Minutes and Records. That the Secretary or Assistant Secretary to the Board hereby is authorized to certify and authenticate minutes and other records on behalf of the Department for the Bonds and all other Department activities.

Section 2.4 Approval of Requests for Rating from Rating Agency. That the action of the Executive Director of the Department or any successor and the Department’s consultants in seeking a rating is approved, ratified and confirmed hereby.

Section 2.5 Authority to Invest Proceeds. That the Department is authorized to invest and reinvest the proceeds of the Bonds and the fees and revenues to be received in connection with the financing of the Development in accordance with the Indenture and to enter into any agreements relating thereto only to the extent permitted by the Indenture.

Section 2.6 Underwriter. That the underwriter with respect to the issuance of the Bonds will be Red Capital Markets, LLC, or any other party identified in the Bond Purchase Agreement.

Section 2.7 Engagement of Other Professionals. That the Executive Director of the Department or any successor is authorized to engage auditors to perform such functions, audits, yield calculations and subsequent investigations as necessary or appropriate to comply with the Bond Purchase Agreement, provided such engagement is done in accordance with applicable law of the State.

Section 2.8 Ratifying Other Actions. That all other actions taken by the Executive Director of the Department and the Department staff in connection with the issuance of the Bonds and the financing of the Development are hereby ratified and confirmed.

ARTICLE 3

CERTAIN FINDINGS AND DETERMINATIONS

Section 3.1 Findings of the Board. That in accordance with Section 2306.223 of the Act and after the Department’s consideration of the information with respect to the Developments and the information with respect to the proposed financing of the Developments by the Department, including but not limited to the information submitted by the Borrowers, independent studies commissioned by the Department, recommendations of the Department staff and such other information as it deems relevant, the Board hereby finds:

(a) Need for Housing Developments.

(i) that the Developments are necessary to provide needed decent, safe, and sanitary housing at rentals or prices that individuals or families of low and very low income or families of moderate income can afford,

(ii) that the financing of the Developments is a public purpose and will provide a public benefit, and

(iii) that the Developments will be undertaken within the authority granted by the Act to the housing finance division and the Borrowers.

(b) Findings with Respect to the Borrowers.

(i) that each Borrower, by operating the applicable Development in accordance with the requirements of the applicable Loan Agreement and the applicable Regulatory Agreement, will supply well-planned and well-designed housing for individuals or families of low and very low income or families of moderate income,

(ii) that each Borrower is financially responsible, and

(iii) that each Borrower is not, and will not enter into a contract for the applicable Development with, a housing developer that (A) is on the Department's debarred list, including any parts of that list that are derived from the debarred list of the United States Department of Housing and Urban Development; (B) breached a contract with a public agency; or (C) misrepresented to a subcontractor the extent to which the developer has benefited from contracts or financial assistance that has been awarded by a public agency, including the scope of the developer's participation in contracts with the agency and the amount of financial assistance awarded to the developer by the Department.

(c) Public Purpose and Benefits.

(i) that each Borrower has agreed to operate the applicable Development in accordance with the applicable Loan Agreement and Regulatory Agreement, which require, among other things, that the applicable Development be occupied by individuals and families of low and very low income and families of moderate income, and

(ii) that the issuance of the Bonds to finance the Developments is undertaken within the authority conferred by the Act and will accomplish a valid public purpose and will provide a public benefit by assisting individuals and families of low and very low income and families of moderate income in the State to obtain decent, safe, and sanitary housing by financing the costs of the Developments, thereby helping to maintain a fully adequate supply of sanitary and safe dwelling accommodations at rents that such individuals and families can afford.

Section 3.2 Determination of Eligible Tenants. That the Board has determined, to the extent permitted by law and after consideration of such evidence and factors as it deems relevant, the findings of the staff of the Department, the laws applicable to the Department and the provisions of the Act, that eligible tenants for the Developments shall be (1) individuals and families of low and very low income, (2) persons with special needs, and (3) families of moderate income, with the income limits as set forth in the Regulatory Agreement.

Section 3.3 Sufficiency of Loan Interest Rate. That the Board hereby finds and determines that the interest rate on each Loan established pursuant to the applicable Loan Agreement will produce the amounts

required, together with other available funds, to pay for the Department's costs of operation with respect to the Bonds and the Developments and enable the Department to meet its covenants with and responsibilities to the holders of the Bonds.

Section 3.4 No Gain Allowed. That, in accordance with Section 2306.498 of the Act, no member of the Board or employee of the Department may purchase any Bond in the secondary open market for municipal securities.

ARTICLE 4

GENERAL PROVISIONS

Section 4.1 Limited Obligations. That the Bonds and the interest thereon shall be special limited obligations of the Department payable solely from the trust estate created under the Indenture, including the revenues and funds of the Department pledged under the Indenture to secure payment of the Bonds, and under no circumstances shall the Bonds be payable from any other revenues, funds, assets or income of the Department.

Section 4.2 Non-Governmental Obligations. That the Bonds shall not be and do not create or constitute in any way an obligation, a debt or a liability of the State or create or constitute a pledge, giving or lending of the faith or credit or taxing power of the State. Each Bond shall contain on its face a statement to the effect that the State is not obligated to pay the principal thereof or interest thereon and that neither the faith or credit nor the taxing power of the State is pledged, given or loaned to such payment.

Section 4.3 Effective Date. That this Resolution shall be in full force and effect from and upon its adoption.

Section 4.4 Notice of Meeting. This Resolution was considered and adopted at a meeting of the Governing Board that was noticed, convened, and conducted in full compliance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, and with §2306.032 of the Texas Government Code, regarding meetings of the Governing Board.

[Execution page follows]

PASSED AND APPROVED this 25th day of February, 2016.

[SEAL]

J. Paul Oxer, Chair

ATTEST:

Secretary

EXHIBIT A

Description of Developments

Borrower: Chisolm TAP 2016, LLC

Development: The Development is a 126-unit affordable multifamily community known as Chisolm Trace Apartments, at 10503 Huebner Road, San Antonio, Texas 78240. It consists of 6 residential apartment buildings with approximately 114,528 net rentable square feet. The unit mix will consist of:

48	one-bedroom/one-bath units
66	two-bedroom/two-bath units
12	three-bedroom/two-bath units
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126	Total Units

Unit sizes will range from approximately 689 square feet to approximately 1,145 square feet.

Borrower: Cheyenne TAP 2016, LLC

Development: The Development is a 60-unit affordable multifamily community known as Chisolm Trace Apartments, at 147 Cheyenne Avenue, San Antonio, Texas 78207. It consists of 12 residential apartment buildings with approximately 53,824 net rentable square feet. The unit mix will consist of:

20	one-bedroom/one-bath units
24	two-bedroom/one-bath units
16	three-bedroom/one and one-half-bath units
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60	Total Units

Unit sizes will range from approximately 714 square feet to approximately 1,192 square feet.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

PUBLIC HEARING
ON
ISSUANCE OF TAX-EXEMPT MULTIFAMILY REVENUE BONDS
RELATING TO
CHISOLM TRACE APARTMENTS

Forest Hills Library
5245 Ingram Road
San Antonio, Texas

Wednesday,
February 3, 2016
6:08 p.m.

BEFORE: SHANNON ROTH, TDHCA Housing Specialist

ON THE RECORD REPORTING
(512) 450-0342

P R O C E E D I N G S

1
2 Good evening. My name is Shannon Roth. I
3 would like to proceed with the public hearing. Let the
4 record show that it is 6:08 p.m., Wednesday, February 3,
5 2016. We are at the Forest Hills Library located at 5245
6 Ingram Road, San Antonio, Texas.

7 I'm here to conduct the public hearing on
8 behalf of the Texas Department of Housing and Community
9 Affairs with respect to an issuance of tax-exempt
10 multifamily revenue bonds for a residential rental
11 community.

12 This hearing is required by the Internal
13 Revenue Code. The sole purpose of the hearing is to
14 provide a reasonable opportunity for interested
15 individuals to express their views regarding the
16 development and the proposed bond issue.

17 No decisions regarding the development will be
18 made at this hearing. The Department's board is scheduled
19 to meet to consider the transaction on February 25, 2016.

20 In addition to providing your comments at this hearing,
21 the public is also invited to provide comment directly to
22 the board at any of their meetings. Department staff will
23 also accept written comments from the public up to 5:00
24 p.m. on February 16, 2016.

25 The bonds for Chisolm Trace Apartments will be

1 issued as tax-exempt multifamily revenue bonds in the
2 aggregate principal amount not to exceed \$9 million and
3 taxable bonds, if necessary, in an amount to be determined
4 and issued in one or more series by the Texas Department
5 of Housing and Community Affairs, the Issuer.

6 The proceeds of the bonds will be loaned to the
7 Chisolm TAP 2016, LLC, or a related person or affiliate
8 entity thereof, to finance the acquisition and
9 rehabilitation of a multifamily housing development
10 described as follows: a 126-unit multifamily residential
11 rental development to be constructed on approximately
12 7.6592 acres of land located at 10503 Huebner Road, San
13 Antonio, Texas. The proposed multifamily rental housing
14 community will be initially owned and operated by the
15 borrower or a related person or affiliate thereof.

16 Let the record show that there are no
17 attendees, and now the meeting is adjourned, and it is
18 6:10 p.m.

19 (Whereupon, at 6:10 p.m., the public hearing
20 was concluded.)


C E R T I F I C A T E

1
2
3 IN RE: Chisolm Trace Apartments

4 LOCATION: San Antonio, Texas

5 DATE: February 3, 2016

6 I do hereby certify that the foregoing pages,
7 numbers 1 through 4, inclusive, are the true, accurate,
8 and complete transcript prepared from the verbal recording
9 made by electronic recording by Joseph M. Schafer before
10 the Texas Department of Housing and Community Affairs.
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 02/05/2016
(Transcriber) (Date)

On the Record Reporting
3636 Executive Ctr Dr., G-22
Austin, Texas 78731

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

PUBLIC HEARING
ON
ISSUANCE OF TAX-EXEMPT MULTIFAMILY REVENUE BONDS
RELATING TO
CHEYENNE VILLAGE APARTMENTS

Forest Hills Library
5245 Ingram Road
San Antonio, Texas

Wednesday,
February 3, 2016
6:11 p.m.

BEFORE: SHANNON ROTH, TDHCA Housing Specialist

ON THE RECORD REPORTING
(512) 450-0342

P R O C E E D I N G S

1
2 Good evening. My name is Shannon Roth. I
3 would like to proceed with the public hearing. Let the
4 record show that it is 6:11 p.m., Wednesday, February 3,
5 2016. We are at the Forest Hills Library located at 5245
6 Ingram Road, San Antonio, Texas.

7 I'm here to conduct the public hearing on
8 behalf of the Texas Department of Housing and Community
9 Affairs with respect to an issue of tax-exempt multifamily
10 revenue bonds for a residential rental community.

11 This hearing is required by the Internal
12 Revenue Code. The sole purpose of the hearing is to
13 provide a reasonable opportunity for interested
14 individuals to express their views regarding the
15 development and the proposed bond issue.

16 No decisions regarding the development will be
17 made at this hearing. The Department's board is scheduled
18 to meet to consider the transaction on February 25, 2016.

19 In addition to providing your comments at this hearing,
20 the public is also invited to provide comment directly to
21 the board at any of their meetings. Department staff will
22 also accept written comments from the public up to 5:00
23 p.m. on February 16, 2016.

24 The bonds for Cheyenne Village Apartments will
25 be issued as tax-exempt multifamily revenue bonds in the

1 aggregate principal amount not to exceed \$4,500,000 and
2 taxable bonds, if necessary, in an amount to be determined
3 and issued in one or more series by the Texas Department
4 of Housing and Community Affairs, the Issuer.

5 The proceeds of the bonds will be loaned to the
6 Cheyenne TAP 2016, LLC, or a related person or affiliate
7 entity thereof, to finance the acquisition and
8 rehabilitation of a multifamily housing development
9 described as follows: a 60-unit multifamily residential
10 rental development to be constructed on approximately
11 3.9273 acres of land located at 147 Cheyenne Avenue, San
12 Antonio, Texas. The proposed multifamily rental housing
13 community will be initially owned and operated by the
14 borrower or a related person or affiliate thereof.

15 Let the record show that there are no
16 attendees; therefore, the meeting is adjourned, and the
17 time is 6:12 p.m.

18 (Whereupon, at 6:12 p.m., the public hearing
19 was concluded.)

C E R T I F I C A T E


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IN RE: Cheyenne Village Apartments

LOCATION: San Antonio, Texas

DATE: February 3, 2016

I do hereby certify that the foregoing pages, numbers 1 through 4, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Joseph M. Schafer before the Texas Department of Housing and Community Affairs.

 02/05/2016
(Transcriber) (Date)

On the Record Reporting
3636 Executive Ctr Dr., G-22
Austin, Texas 78731

5f

Appeals Timely Filed

5g

BOARD REPORT ITEM
MULTIFAMILY FINANCE DIVISION
FEBRUARY 25, 2016

Report and Possible Action to Address a State Representative Vacancy and its Impact on Obtaining a Scoring Letter Under §11.9(d)(5)

Scoring criteria for Community Support from State Representative is provided in 10 Texas Administrative Code ("TAC") §11.9(d)(5) of the Qualified Allocation Plan. An application may receive up to eight (8) points or have deducted up to eight (8) points for letters to be submitted as part of the full application. In the 2016 Competitive Application Round, letters are due on the full application deadline of March 1, 2016.

State Representative Ruth Jones McClendon resigned her office for House District 120 effective January 31, 2016. Governor Abbott has called a special election for May 7, 2016 in order to fill the vacancy. Staff has received a question from Applicants who submitted a pre-application for a potential development in House District 120, regarding their inability to get a letter of support prior to the full application deadline. If the full application is submitted without a letter of support, it is unlikely that it will be competitive in the region.

If a full application is submitted for a proposed development in House District 120 that appears it would be competitive but for the lack of a Representative support letter, the applicant may request relief from the Board, such as a waiver extending the deadline for submission of the representative's letter.

6

BOARD ACTION REQUEST

LEGAL DIVISION

FEBRUARY 25, 2016

Presentation, Discussion, and Possible Action on appeal of recommendation to debar Charles Miller for a period of ten years

RECOMMENDED ACTION

WHEREAS, Charles Miller is the President and Director of CVM Interests, Inc., the general partner of Southmore Park Apartments, Ltd;

WHEREAS, Charles Miller has a history of serious noncompliance for Southmore Park Apartments in Pasadena, Harris County, Texas (HTC 94004/ CMTS 1204);

WHEREAS, the Executive Director issued a Report to the Board on December 17, 2015, regarding a recommended administrative penalty and TDHCA's intention to initiate a contested case hearing with respect to new uncorrected compliance violations identified during 2015;

WHEREAS, TDHCA adopted HUD's Uniform Physical Condition Standards ("UPCS") pursuant to 10 Tex. Admin. Code §10.621(a) to determine compliance with property condition standards and utilizing a scoring system calculated according to the type of damage for each item inspected and the level of severity, with a perfect score being 100 and a failing score being 50 or less;

WHEREAS, Tex. Gov't. Code §2306.0504(c) indicates that the department shall debar a person from participation in a department program if the person materially or repeatedly violates any condition imposed by the department in connection with the administration of a department program, including a material or repeated violation of a land use restriction agreement ("LURA") regarding a development supported with a housing tax credit allocation;

WHEREAS, 10 Tex. Admin. Code §2.401(c) defines material and repeated violations of a LURA, with a person considered to have materially violated a LURA if they control a development that has, on more than one occasion scored 50 or less on a UPCS inspection;

WHEREAS, Southmore Park Apartments scored a 46 during the UPCS inspection conducted on April 14, 2009, and a 42.23 during the UPCS inspection conducted on March 26, 2015;

WHEREAS, Charles Miller received a Notice of Debarment Determination and timely submitted a written appeal to the Board;

WHEREAS, a debarment term of 10 years is appropriate given the factors identified 10 TEX. ADMIN. CODE §2.401(j); and

WHEREAS, consistent with direction from the Department's Enforcement Committee and the requirements of TEX. GOV'T. CODE §2306.0504 and 10 TEX. ADMIN. CODE §2.401, the Executive Director presents this Report to the Board.

NOW, therefore, it is hereby

RESOLVED, that the Board orders the debarment of Charles Miller for a ten year term.

BACKGROUND

Southmore Park Apartments, Ltd. received an allocation totaling \$2,375,230 in low income housing tax credits in 1994 for the rehabilitation of a 93-unit apartment complex in Pasadena, Harris County. Southmore Park Apartments is in material noncompliance with the applicable Land Use Restriction Agreement ("LURA") and the associated statute and rules. The property has been consistently noncompliant for over ten years despite repeated monitoring by the Compliance Division and action by the Department's Enforcement Committee ("Committee").

TDHCA and Southmore Park Apartments, Ltd. settled a previous administrative penalty contested case hearing scheduled with SOAH via an Agreed Final order that was approved by the Board on February 19, 2015. The administrative penalty was paid and Mr. Miller continues to submit monthly payments toward delinquent annual owner's compliance fees, with the final lump sum payment due February 16, 2016, but acceptable file and UPCS corrective documentation has not been submitted, constituting a violation of the Agreed Final Order.

A subsequent administrative penalty referral was submitted to the Enforcement Committee after Southmore Park Apartments, Ltd. failed to fully correct violations identified during a physical inspection conducted on March 26, 2015. A Notice of Report to Board was ultimately submitted to the Board on December 15, 2015, recommending the maximum potential administrative penalty in the amount of \$13,250. The Compliance Division also referred the property owner, Charles Miller, for debarment due to the property's failure to score above 50 during multiple UPCS inspections.

Charles Miller is also associated with Campbell Road Apartments (HTC 70023/ CMTS 888), which was removed from the program after Mr. Miller chose to give up the property to the mortgage lender via a deed in lieu of foreclosure in January of 2012. There was substantial noncompliance at Campbell Road Apartments at the time that the deed in lieu was signed and it was never resolved. The purchaser at foreclosure did not wish to continue participating in the housing tax credit program, but did comply with the 3-year safe harbor requirements under the land use restriction agreement, which terminated in January of 2015.

Tex. Gov't. Code §2306.0504(c) indicates that the department shall debar a person from participation in a department program if the person materially or repeatedly violates any condition imposed by the department in connection with the administration of a debarment program, including a material or repeated violation of a LURA regarding a development supported with a housing tax credit allocation. Tex. Admin. Code §2.401(c) defines material and repeated violations of a LURA, with a person considered to have materially violated a LURA if they control a development that has, on more than one occasion scored 50 or less on a UPCS inspection. The score is determined according to the type of damage for each item inspected and the level of severity, with a perfect score being 100 and a failing score being 50 or less. Southmore Park Apartments scored a 46 during the UPCS inspection conducted on April 14, 2009, and 42.23 during the UPCS inspection conducted on March 26, 2015. This failure on multiple UPCS inspections constitutes a material violation of the LURA under 10 Tex. Admin Code §2.401(c). Accordingly, the department must debar Mr. Miller.

The Enforcement Committee held an informal conference and recommended debarment for a term of 10 years. A Notice of Debarment Determination was sent to Mr. Miller on December 30, 2015. On January 22, 2016, Mr. Miller's attorney submitted a written request for appeal to the Board. 10 TEX. ADMIN. CODE §2.401(l) provides that, "The Board reserves the discretion to impose longer or shorter debarment periods than those recommended by staff based on its finding that such longer or shorter periods are appropriate when considering all factors and/or for the purposes of equity or other good cause."

This term is appropriate under the factors defined at 10 Tex. Admin. Code §2.401(j).



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

To: TDHCA Governing Board
From: Timothy K. Irvine, Executive Director
Date: February 11, 2016
Subject: Report to the Board

The Enforcement Committee has recommended a 10 year debarment term against Charles Miller, owner of Southmore Park Apartments (HTC 94004/ CMTS 1204) ("Property") for scoring below 50 on two UPCS inspections. I have, in my capacity as Executive Director of the Department, made the following **PRELIMINARY DETERMINATIONS:**

I. JURISDICTION:

1. On November 20, 1996, Southmore Park Apartments, Ltd., owner of the Property, was awarded an allocation of Low Income Housing Tax Credits by the Governing Board ("Board") of the Texas Department of Housing and Community Affairs ("TDHCA" or the "Department"), in the amount of \$237,523.00 to build and operate Southmore Park Apartments ("Property") (HTC File No. 94004 / CMTS No. 1204 / LDLD No. 141).
2. Southmore Park Apartments, Ltd. signed a land use restriction agreement ("LURA") regarding the Property. The LURA was effective November 20, 1996, and filed of record at Document Number S250798 of the Official Public Records of Real Property of Harris County, Texas ("Records"), as amended by a First Amendment executed on April 5, 2004.
3. Southmore Park Apartments, Ltd. 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.
4. Charles Miller is the President and Director of CVM Interests, Inc., the general partner of Southmore Park Apartments, Ltd. Mr. Miller has also been designated by Southmore Park Apartments Ltd. as the primary contact for TDHCA.

II. MATERIAL VIOLATIONS SUBJECT TO DEBARMENT:

1. Property scored 46 during the UPCS inspection conducted on April 14, 2009.
2. Property scored 42.23 during the UPCS inspection conducted on May 26, 2015. Multiple violations remain unresolved, and an administrative penalty is being pursued.



III. LAW/RULE VIOLATIONS:

1. Pursuant to TEX GOV'T CODE Chapter 2306, Subchapter DD and TEX GOV'T CODE §2306.185, TDHCA is authorized to make Housing Tax Credit Allocations for the State of Texas and is required to monitor to ensure compliance;
2. Pursuant to Internal Revenue Code ("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;
3. Southmore Park Apartments violated 10 TEX. ADMIN. CODE §60.116¹ in 2009, by failing to comply with HUD's Uniform Physical Condition Standards ("UPCS")² when major violations were discovered and not timely corrected.
4. Southmore Park Apartments violated 10 TEX. ADMIN. CODE §10.621 in 2015, by failing to comply with UPCS when major violations were discovered and not timely corrected.
5. Pursuant to Tex. Gov't. Code §2306.0504(c), the Department shall debar a person from participation in a Department program if the person materially or repeatedly violates any condition imposed by the department in connection with the administration of a debarment program, including a material or repeated violation of a LURA regarding a development supported with a housing tax credit allocation;
6. Pursuant to 10 Tex. Admin. Code §2.401(c), a person is considered to have materially violated a LURA if they control a development that has, on more than one occasion scored 50 or less on a UPCS inspection.

IV. RECOMMENDED DEBARMENT TERM:

Pursuant to Tex. Admin. Code §2.401R(j), recommended periods of debarment are to be based upon material factors such as the following:

1. **Repeated occurrences:** Southmore Park has had continuous reporting, file monitoring, and UPCS compliance problems for years, with Mr. Miller failing to fully correct violations dating back as far as 2006, as further demonstrated in the attached list of violations that have been referred for an administrative penalty.
2. **Seriousness of underlying issues:** As the 2009 and 2015 UPCS inspection scores show, Mr. Miller has failed to improve conditions at the Property despite efforts by the Department. The number of L3 violations - the most serious category - are very high, are not timely resolved, and are of detrimental impact to residents of the property. Mr. Miller is not taking the appropriate measures at the Property to keep it consistently above the scoring threshold of 50. He does not appear to be engaged with the Property and does not respond to TDHCA correspondence.

¹References 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.

² TDHCA adopted HUD's Uniform Physical Condition Standards ("UPCS") pursuant to 10 Tex. Admin. Code 10.621(a) to determine compliance with property condition standards. HUD's Uniform Physical Condition Standards are the standards adopted by TDHCA pursuant to 10 TEX. ADMIN. CODE 10.621(a)

3. **Presence or absence of corrective action, including corrective action to install new responsible persons and ensure they are qualified and properly trained:** Southmore Park Apartments, Ltd is controlled by Charles Miller and he is the original owner who applied for TDHCA funding. He is responsible for the declining condition over the years and has failed to ensure that his staff is qualified to operate the Property. Mr. Miller has hired multiple property management companies over the years, but has made little effort to oversee those property managers, ensure that they are properly trained, or to fix the underlying problems with respect to property condition and repeated communication failures. The current property manager attended the most recent informal conference in October 2015, along with Mr. Miller's attorney. The manager has been at the property for three years and admitted that she has never attended HTC Compliance Training or First Thursday Training and has no prior tax credit experience. She also stated to the Enforcement Committee that she thought that 10% of the Property's units were at market income and rent limits; however, the Property is 100% restricted under the housing tax credit program.

Furthermore, Mr. Miller signed an Agreed Final Order with the Department in February 2015, agreeing to pay an administrative penalty and resolve all past noncompliance, settling an administrative penalty contested case hearing that was pending with the State Office of Administrative Hearings. Mr. Miller submitted the required administrative penalty and continues to submit monthly payments toward delinquent annual owner's compliance fees, with the final lump sum payment due February 16, 2016, but failed to submit acceptable file or UPCS corrective documentation required under the Order. The Property was then referred for an administrative penalty for new violations, The Enforcement Committee recommended the maximum potential administrative penalty in the amount of \$13,250, and the Executive Director submitted a Report to the Board on December 17, 2015, regarding the Department's intention to pursue a contested case hearing with respect to that penalty recommendation.

In accordance with 10 TEX. ADMIN. CODE §2.401(k), a Notice of Debarment Determination was sent on December 30, 2015. On January 22, 2016, Mr. Miller's attorney submitted a written request for appeal to the Board, a copy of which is attached. 10 TEX. ADMIN. CODE §2.401(l) provides that, "The Board reserves the discretion to impose longer or shorter debarment periods than those recommended by staff based on its finding that such longer or shorter periods are appropriate when considering all factors and/or for the purposes of equity or other good cause."

The debarment term of 10 years is appropriate under the debarment factors outlined above. UPCS violations have occurred repeatedly, are serious, have not been timely resolved, and remain unresolved today despite efforts by the Compliance Division, Legal Division, and Enforcement Committee to obtain corrective action and compliance.

Accordingly, after consideration of the factors set out in TEX. GOV'T CODE §2306.0504 and 10 TEX. ADMIN. CODE §2.401, the Enforcement Committee has recommended a debarment term of 10 years.

VIOLATIONS PREVIOUSLY REFERRED FOR AN ADMINISTRATIVE PENALTY:

Annual Owner's Compliance Fee Violations:

Delinquency for the years 2006 through 2013: Mr. Miller has partially complied with a payment plan under the 2015 Agreed Final Order. The final lump sum payment is due February 16, 2016 and has not yet been paid. He also failed to submit the fee that came due for 2015.

Annual Owner's Compliance Report Violations:

Violation	Original Deadline	Date of Correction
2006 Annual Owner's Compliance Report	4/30/2007	11/27/2009
2007 Annual Owner's Compliance Report	4/30/2008	11/27/2009
2008 Annual Owner's Compliance Report	4/30/2009	9/21/2009
2010 Annual Owner's Compliance Report	4/30/2011	9/15/2014
2011 Annual Owner's Compliance Report	4/30/2012	9/15/2014

UPCS Violations:

Violation	Original Deadline	Date of Correction
2/2/2006 UPCS Inspection	9/15/2009	3/4/2011
4/14/2009 UPCS Inspection	5/24/2010	3/4/2011
3/9/2012 UPCS Inspection	7/12/2012	Unresolved.
3/26/2015 UPCS Inspection	7/2/2015	Unresolved. Partial corrections received 5/12/2015, but did not resolve all violations.

File Monitoring Violations:

2/18/2009 File Monitoring Review:

Violation	Original Deadline	Date of Correction
- Failure to meet minimum set-aside requirement	9/15/2009	1/10/2010
- Collecting gross rents that exceeded income limits for 45 units as a result of an unsupported \$25 application fee	9/15/2009	1/10/2010
- Collecting gross rents that exceeded income limits for 9 units as a result of a mandatory unallowable \$75 redecoration fee	9/15/2009	1/10/2010
- Collecting gross rents that exceeded income limits for 2 units as a result of an incorrect utility allowance	9/15/2009	1/10/2010
- Failure to provide an affirmative marketing plan	9/15/2009	3/4/2011
- Failure to ensure that household incomes were within prescribed limits upon initial occupancy for 13 units	9/15/2009	9 units corrected 10/31/2010. 4 units unresolved

3/15/2012 File Monitoring Violations:

Violation	Original Deadline	Date of Correction
- Failure to ensure that household incomes were within prescribed limits upon initial occupancy for 10 units	6/13/2012	Unresolved
- Failure to provide an affirmative marketing plan	6/13/2012	Unresolved
- Failure to properly calculate utility allowance	6/13/2012	Unresolved
- Failure to submit pre-onsite documentation	6/13/2012	Unresolved

Violations that remain unresolved:

- 3/15/2012 UPCS violations;
- 3/26/2015 UPCS violations;
- Household income above limit upon initial occupancy for 10 units (units 107, 112, 120, 201, 203, 204, 409, 418, 503, 702, 703, 801, 805, 813)
- Failure to affirmatively market;
- Failure to properly calculate utility allowance;
- Failure to pay annual owner's compliance fees;
- Failure to submit pre-onsite documentation.

COPY OF WRITTEN APPEAL:

OMB

O'CONNOR, MASON & BONE, P.C.
ATTORNEYS AT LAW

1816 S. Voss, Suite 200
Houston, Texas 77057

Telephone: (713) 647-7511
Facsimile: (713) 647-7512

January 22, 2016

Texas Department of Housing
and Community Affairs
Attention: Legal - YK
P.O. Box 13941
Austin, Texas 78711-3941

Via First Class Mail

RE: Property File Number: IHTC 94004
Case Number: CMTS 1204
Property Name: Southmore Park Apartments (the "Apartments")

To Whom It May Concern:

The undersigned attorney and law firm represent the Apartments with respect to the above-referenced matters. Per the December 30, 2015 Notice of Debarment Determination, the purpose of this letter is to serve as Mr. Charles Miller's written appeal to the TDHCA Governing Board of its decision of December 27, 2015. Please allow this letter to serve as Mr. Miller's written appeal per 10 Tex. Admin. Code § 2.401(k), so that this recommendation may be brought to the next board meeting.

In any event, if you have any questions or comments regarding this matter, please do not hesitate to contact the undersigned.

Very truly yours,

O'CONNOR, MASON & BONE,
A Professional Corporation

By: Robert E. Bone
Robert E. Bone

ENFORCEMENT ACTION AGAINST
CHARLES MILLER

§
§
§
§
§

BEFORE THE
TEXAS DEPARTMENT OF
HOUSING AND
COMMUNITY AFFAIRS

FINAL ORDER

General Remarks and official action taken:

On this 25th day of February, 2016, the Governing Board (“Board”) of the Texas Department of Housing and Community Affairs (“TDHCA” or “Department”) considered the matter of whether enforcement action should be taken against **CHARLES MILLER**, president and director of CVM Interests, Inc., the general partner of Southmore Park, for activity at Southmore Park Apartments (HTC 94004 / CMTS 1204).

This Agreed Order is executed pursuant to the authority granted in the Texas Government Code, Chapter 2306.0504, which requires the Board to adopt a policy providing for the debarment of a person from participation in Department programs on the basis of a person’s past failure to comply with conditions imposed by the Department in the administration of its programs. The policy was adopted by the Board and is set forth in 10 TEX. ADMIN. CODE §2.401.

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

FINDINGS OF FACT

Jurisdiction:

1. On November 20, 1996, Southmore Park Apartments, Ltd., owner of the Property, was awarded an allocation of Low Income Housing Tax Credits by the Governing Board (“Board”) of the Texas Department of Housing and Community Affairs (“TDHCA” or the “Department”), in the amount of \$237,523.00 to build and operate Southmore Park Apartments (“Property”) (HTC File No. 94004 / CMTS No. 1204 / LDLD No. 141).
2. Southmore Park Apartments, Ltd. signed a land use restriction agreement (“LURA”) regarding the Property. The LURA was effective November 20, 1996, and filed of record at Document Number S250798 of the Official Public Records of Real Property of Harris County, Texas (“Records”), as amended by a First Amendment executed on April 5, 2004.

3. Southmore Park Apartments, Ltd. 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.
4. Charles Miller is the President and Director of CVM Interests, Inc., the general partner of Southmore Park Apartments, Ltd. Mr. Miller has also been designated by Southmore Park Apartments Ltd. as the primary contact for TDHCA.

Material Violations Subject To Debarment:

1. Property scored 46 during the UPCS inspection conducted on April 14, 2009.
2. Property scored 42.23 during the UPCS inspection conducted on May 26, 2015. Multiple violations remain unresolved, and an administrative penalty is being pursued.

CONCLUSIONS OF LAW

1. Pursuant to TEX GOV'T CODE Chapter 2306, Subchapter DD and TEX GOV'T CODE §2306.185, TDHCA is authorized to make Housing Tax Credit Allocations for the State of Texas and is required to monitor to ensure compliance;
2. Pursuant to Internal Revenue Code ("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;
3. Southmore Park Apartments violated 10 TEX. ADMIN. CODE §60.116¹ in 2009, by failing to comply with HUD's Uniform Physical Condition Standards ("UPCS")² when major violations were discovered and not timely corrected.
4. Southmore Park Apartments violated 10 TEX. ADMIN. CODE §10.621 in 2015, by failing to comply with UPCS when major violations were discovered and not timely corrected.
5. Pursuant to Tex. Gov't. Code §2306.0504(c), the Department shall debar a person from participation in a Department program if the person materially or repeatedly violates any condition imposed by the department in connection with the administration of a debarment program, including a material or repeated violation of a LURA regarding a development supported with a housing tax credit allocation;
6. Pursuant to 10 Tex. Admin. Code §2.401(c), a person is considered to have materially violated a LURA if they control a development that has, on more than one occasion scored 50 or less on a UPCS inspection.

¹References 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.

² TDHCA adopted HUD's Uniform Physical Condition Standards ("UPCS") pursuant to 10 Tex. Admin. Code 10.621(a) to determine compliance with property condition standards. HUD's Uniform Physical Condition Standards are the standards adopted by TDHCA pursuant to 10 TEX. ADMIN. CODE 10.621(a)

Based upon the foregoing findings of fact and conclusions of law, and an assessment of the material factors set forth in 10 Tex. Admin. Code §2.401(j) to be considered for a recommended period of debarment, 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 debarred from future participation in all programs administered by the Department for a period of ten years, to commence upon the date this Order is approved by the Board.

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

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7a

BOARD ACTION REQUEST
COMMUNITY AFFAIRS DIVISION
FEBRUARY 25, 2016

Presentation, Discussion, and Possible Action on the Reprogramming of Program Year ("PY") 2015 Community Services Block Grant ("CSBG") Discretionary and Administrative Funds

RECOMMENDED ACTION

WHEREAS, CSBG funds are awarded annually to the State of Texas by the U.S. Department of Health and Human Services ("HHS");

WHEREAS, upon the Department's receipt of the State's annual award of CSBG funds, it reserves 90% of the allotment for CSBG eligible entities to provide services/assistance to the low-income population in all 254 counties; 5% for state administration expenses; and the remaining 5% for state discretionary use;

WHEREAS, on February 19, 2015, the Board approved a biennial focus of the 2015-2016 CSBG Discretionary ("CSBG-D") funds on investing in the network so that the Eligible Entities can be supported in implementation of regulations and on operational improvements and provided for specific funding activities;

WHEREAS, the funding activities identified in February 2015 have not resulted in the full utilization of CSBG-D funds;

WHEREAS, the Department has determined that there remain approximately \$575,000 in unexpended PY 2015 CSBG Administrative funds;

WHEREAS, the Department wishes to expend the funds prior to the funds' expiration on September 30, 2016, and therefore warrant prompt reprogramming; and

WHEREAS, 11 subrecipients recommended in this action have achieved expenditure rates of 90% or greater within the original contract period;

NOW, therefore, it is hereby

RESOLVED, that the Board approves of the reprogramming of remaining 2015 CSBG-D funds and 2015 unexpended CSBG administrative funds to provide funds to the eleven CSBG eligible entities enumerated in this action for the provision of services to low-income individuals and communities;

FURTHER RESOLVED, that the Executive Director and his designees each of them be and they hereby are, authorized, empowered, and directed, for and on behalf of the Department, to issue contracts for these funds, consistent with the policy noted herein and conditioned on EARAC approval; and

FURTHER RESOLVED, that should any funds designated for these or other 2015 CSBG-D activities remain unused after a reasonable period, those funds, along with

any additional unused CSBG-D or CSBG Administrative funds from 2015 or prior years, may also be redistributed to these projects in accordance with Community Affairs Division policy.

BACKGROUND

Funds from CSBG-D are used each year for an identified focus, as noted above, but are also used to fund several ongoing efforts which the Department supports, and intends to continue. At the board meeting of February 19, 2015, the Board had approved utilizing \$1,600,000 in CSBG-D funds for the following:

- Network Operational Investments - \$500,000
- Intensive Community Action Agency Support Assessments - \$150,000
- Network Transitions Fund - \$150,000
- Peer-to-Peer Collaborations Fund - \$100,000
- Network Training and Technical Assistance Fund - \$200,000
- Migrant Seasonal Farm Worker and Native American Populations Education and Employment Initiative (“MSFW”) - \$200,000
- Housing Voucher Program Support Fund - \$150,000
- Disaster Recovery Fund \$150,000

At the January 2016 Board meeting awards were made for some of these activities. Funds in some of the categories are also still needed, but in a lesser degree and are being reduced for ongoing use but at an estimated lower amount needed. These reductions include still leaving \$50,000 in Network transition funds to accommodate the recent award of new counties to the Community Services of Northeast Texas, and the potential need to assist temporary CEAP providers in the area surrounding Dallas-Fort Worth, and still leaving funds in a reduced amount for ongoing training initiatives and voucher support. The table below reflects the use, reduction and pooling of funds by each category. A subsequent table reflects the final revised summary of use of the CSBG-D funds in total. It should be emphasized that while Disaster Recovery is reduced for the 2015 funds, community action agencies in need of access to Disaster Recovery funds have access to 2016 CSBG-Discretionary through a separate board action item at this meeting.

	Original Plan Feb 2015	Contracted/ Committed	Still For Use	Pooled for Reprogramming
Network Operational Investments	\$500,000	\$291,018	NA	\$208,982
Intensive CAA Assessments	\$150,000	\$150,000	\$0	\$0
Network Transitions Fund	\$150,000	NA	\$50,000	\$100,000
Peer to Peer	\$100,000	Used for extra MSFW award	\$0	\$0
Training and TA	\$200,000	NA	\$50,000	\$150,000
MSFW	\$200,000	\$300,000	\$0	\$0
Voucher Support	\$150,000	NA	\$150,000	\$0
Disaster Recovery	\$150,000	NA	\$0	\$150,000
				\$608,982

In addition to the \$608,982 in CSBG-D funds, there is an estimated \$575,000 in PY 2015 Department CSBG Administrative Funds unexpended resulting in a total amount being reprogrammed of approximately \$1,183,982.

CSBG-D funds allow flexibility and can be utilized for addressing special projects and populations and Department needs consistent with the purpose of the CSBG Act. The projects and activities that are proposed for funding meet the purpose of the CSBG Act.

Proposed Use of Unexpended CSBG-D and Administrative Funds

Staff recommends re-programming the \$1,183,982 to provide funds to CSBG eligible entities that expended 90% or more of their contracted PY2015 CSBG funds by their original contract end date and had their previous participation approved pursuant to 10 TAC, Chapter 1, Subchapter C, §1.302 to be utilized for the provision of services to low-income individuals and communities with the requirement that full expenditure of the funds must be achieved by July 31, 2016. In the event that any funds remain after July 2016, the funds may be again redistributed among this pool.

Revised Use of 2015 CSBG Discretionary Funds	
Network Additional Services including Direct Client Assistance	\$608,982
Network Operational Investments	\$291,018
Intensive Community Action Agency Support Assessments	\$150,000
Network Transition Funds	\$50,000
Network Training and Technical Assistance Fund	\$50,000
Migrant Seasonal Farm Worker and Native American Populations Education and Employment Initiative	\$300,000
Housing Voucher Program Support Fund	\$150,000
Disaster Recovery Fund	0
Total CSBG Discretionary Estimate	\$1,600,000

Use of 2015 CSBG Administrative Funds	
Network Additional Services including Direct Client Assistance	\$575,000

In the event that any CSBG-D or CSBG Administrative funds remain uncommitted, the Department will reprogram the funds from one of the eligible categories into another category approved with this action.

Subrecipient	Amount
Aspermont Small Business Development Council	\$ 31,310
Big Bend Community Action Agency	\$ 31,310
Fort Worth, City of	\$ 346,574
City of San Antonio	\$ 392,291
Combined Community Action	\$ 40,608
Community Action Social Services and Education	\$ 31,662
Economic Action Committee of the Gulf Coast	\$ 31,310
Panhandle Community Services	\$ 110,858
South Plains Community Action Assoc.	\$ 55,077
Texoma Council of Governments	\$ 48,422
Tri County Community Action	\$ 64,561
	\$ 1,183,982

7b

BOARD ACTION REQUEST
COMMUNITY AFFAIRS DIVISION
FEBRUARY 25, 2016

Presentation, Discussion, and Possible Action regarding Program Year 2015 Low-Income Home Energy Assistance Program ("LIHEAP") Reprogramming of Unused Funds

RECOMMENDED ACTION

WHEREAS, the Department received Federal Fiscal Year ("FFY") 2015 Low Income Home Energy Assistance Program ("LIHEAP") funds from the U.S. Department of Health and Human Services ("USHHS") in the amount of \$117,472,748, which were previously contracted and awarded;

WHEREAS, the Department has now identified \$4,150,954 in remaining FFY 2015 LIHEAP funds which includes reallocation funding, balances unutilized under existing contracts, and administration funds, and those funds are available to assist eligible low income households with utility assistance;

WHEREAS, the administration funds are not needed for Department administrative use as the Department has now received the FFY 2016 LIHEAP funds, and can access the FFY 2016 funds for eligible Department expenses;

WHEREAS, at the Department's Board meeting on January 28, 2016, staff reported to the Board that it would be extending 2015 Comprehensive Energy Assistance Program ("CEAP") and Weatherization Assistance Program ("WAP") contracts to accommodate full utilization of funds among the network of providers and adhere to the federal grant requirements as set forth during the recent HHS monitoring and this action further supports such efforts;

WHEREAS, the LIHEAP Act of 1981 (42 USC §§8623-8624) allows LIHEAP funds to be utilized to provide energy assistance, low-cost weatherization assistance and other cost-effective energy-related home repairs, as well as 10% for planning and administration; and

WHEREAS, the LIHEAP funds are allocated based on the formula detailed in 10 TAC §5.403, Distribution of CEAP Funds;

NOW, therefore, it is hereby

RESOLVED, that the Board approves of the reprogramming of the remaining FFY 2015 LIHEAP funds in the amount of \$4,150,954 in the amounts reflected herein, or as may be adjusted as provided for herein, to be provided through amendment to the CEAP network to provide additional client services to accommodate full utilization of funds; and

FURTHER RESOLVED, that in the event a subrecipient fails to meet the conditions for award, the amount designated for that subrecipient shall be redistributed to the other subrecipients in accordance with the formula, adjusted for that change, and staff is authorized to take any and all action necessary to effectuate such redistribution.

BACKGROUND

LIHEAP allows for funding to pay utility bills and weatherization activities. The Department administers LIHEAP funds through the CEAP and LIHEAP WAP. The program year runs from January through December for both programs.

Last year, the Department received an award of FFY 2015 LIHEAP funds from USHHS in the amount of \$117,472,748. The Department is authorized to utilize 10% for administrative costs. Of that, the Department retains 4% for Department needs and passes on the remaining 6% to the LIHEAP network for their administrative costs in administering the federal programs. Because of the large amount of funds, in many years these administrative funds do not get fully utilized and staff historically has reprogrammed those administrative into service delivery funds through the network. The Department only takes those actions after it has access to subsequent year administrative funds; for instance, the Department has now received the FFY 2016 LIHEAP funds to support its administrative expenses, and can now make the FFY 2015 unused balances available to provide additional client services.

Historically, staff would have aggregated the administrative balances with any other unutilized balances from the previous program year into awards for the entire network through the formula contained in the Texas Administrative Code. This year that is not occurring – only the administrative funds are being released this way. Due to a recent interpretation by U.S. HHS, unutilized balances from previous program year contracts are being handled through extensions, which were reported to the Board at the meeting of January 28, 2016.

If approved, the Board action allocates the unused PY 2015 funds to the CEAP network through formula and amends existing contracts that are previously approved through previous participation pursuant to 10 TAC, Chapter 1, Subchapter C, §1.302 to accommodate full utilization of funding. These awards were approved by EARAC on February 12 and 17, 2016; however, one of the awards, for Community Services, Inc. (“CSI”), is conditioned on Department’s receipt of disallowed costs totaling \$199,006.86 no later than March 5, 2016. If that amount is not repaid by that date, the amount of funds reflected as awarded to CSI in the table below will not be awarded to CSI and will instead be reallocated among all of the other listed awardees and award amounts adjusted accordingly.

2015 Unused LIHEAP CEAP Awards	Amount
Aspermont Small Business Development Council	\$ 28,751
Bexar Co. Community and Development Services	\$ 272,132
Big Bend Community Action Agency	\$ 33,651
Brazos Valley Community Action Agency	\$ 136,241
Central Texas Opportunities	\$ 44,404
Fort Worth, City of	\$ 202,651
Lubbock, City of, Community Development	\$ 47,603
Combined Community Action	\$ 30,029
Community Action Committee of Victoria, Texas	\$ 51,660
Community Action Corporation of South Texas	\$ 45,879
Community Action Inc. of Central Texas	\$ 28,343
Community Council of South Central Texas	\$ 138,223
Community Services Agency of South Texas	\$ 33,103
Community Services Inc.**	\$ 172,699
Community Services Northeast Texas	\$ 88,358
Concho Valley Community Action Agency	\$ 56,416
County of Hidalgo Community Services Agency	\$ 195,586
Dallas County Department of HHS	\$ 333,220
Economic Action Committee of the Gulf Coast	\$ 8,850
Economic Opportunities Advancement Corporation	\$ 77,207
El Paso Community Action Program	\$ 188,262
Galveston County Community Action Council	\$ 104,273
Greater East Texas Community Action Program	\$ 149,635
Hill Country Community Action Association	\$ 70,380
Kleberg County Human Services	\$ 22,624
Neighborhood Centers, Inc.	\$ 530,167
Nueces County Community Action Agency	\$ 64,822
Panhandle Community Services	\$ 111,942
Pecos County Community Action Agency	\$ 22,073
Greater East Texas Community Action Program (new service area)	\$ 84,490
Rolling Plains Management Corporation	\$ 92,456
South Plains Community Action Association Inc.	\$ 53,551
South Texas Development Council	\$ 34,831
Texas Neighborhood Services	\$ 52,630
Texoma Council Of Governments	\$ 32,768
Travis County Health and Human Services	\$ 123,738
Tri-County Community Action Inc.	\$ 67,194
Webb County Community Action Agency	\$ 55,358
West Texas Opportunities	\$ 110,711
Opportunities of Williamson-Burnet Co. Inc.	\$ 28,557
Community Action Corporation of South Texas (new service area)	\$ 125,486
Total Award	\$ 4,150,954

** Approved as conditioned above.

7c

BOARD ACTION REQUEST
COMMUNITY AFFAIRS DIVISION
FEBRUARY 25, 2016

Presentation, Discussion, and Possible Action on the Use of Program Year 2016 Community Services Block Grant ("CSBG") Discretionary Funds

RECOMMENDED ACTION

WHEREAS, CSBG funds are awarded annually to the State of Texas by the U.S. Department of Health and Human Services ("HHS");

WHEREAS, upon the Department's receipt of the State's annual award of CSBG funds, it reserves 90% of the allotment for CSBG eligible entities to provide services/assistance to the low-income population in all 254 counties; 5% for state administration expenses; and the remaining 5% for state discretionary use;

WHEREAS, the amount of CSBG Discretionary ("CSBG-D") funds for 2016 is approximately \$1.6 million and is proposed to be programmed as reflected herein;

WHEREAS on February 19, 2015, the Board approved a biennial focus of the 2015 and 2016 CSBG Discretionary ("CSBG-D") funds on investing in the network so that the Eligible Entities can be supported in implementation of regulations and on operational improvements and provided for specific funding activities;

WHEREAS, these Eligible Entities will benefit from a variety of types of assistance to help ensure their success in serving the needs of local households; and

WHEREAS, to make these 2016 CSBG-D funds available for this priority area and for the ongoing support of historically supported uses, it may be necessary for staff to utilize one or more Notices of Funding Availability, Requests for Proposals, or Requests for Applications;

NOW, therefore, it is hereby

RESOLVED, that the 2016 CSBG-D funds be allocated for the historically based uses and the focus areas identified in this resolution as reflected in Table 1, and that the Executive Director and his designees each of them be and they hereby are, authorized, empowered, and directed, for and on behalf of the Department, to cause one or more Notices of Funding Availability ("NOFA"), Requests for Proposal or Requests for Application ("RFP/A") to be issued for some or all of the 5% state discretionary funds, consistent with the policy noted herein;

FURTHER RESOLVED, that should one or more respondents or applicants for funds require federal approvals, staff is authorized to make submission to those appropriate federal entities of those selected respondents prior to presentation to the

Board, with the condition that all commitments made with 2016 CSBG-D funds are presented to the Board for ratification; and

FURTHER RESOLVED, that should any funds designated for particular activities remain unused after a reasonable period, those funds, along with any additional unused CSBG-D or CSBG Administrative funds from 2016 or prior years, may be distributed to the same network of agencies.

BACKGROUND

Funds from CSBG-D are used each year for an identified focus, as noted above, but are also used to fund several ongoing efforts that the Department supports and intends to continue, such as employment and education programs for migrant and seasonal farm workers and Native Americans, some staff costs for administration of the Section 8 Housing Choice Voucher Program, Disaster Relief, and Network Transition funds.

Current Biennium Objective for CSBG-D

The recommended focus for the 2015-2016 biennium as previously directed by the Board is operational improvement in the statewide networks of agencies that administer the primary programs overseen by the Community Affairs Division, with an emphasis on assisting these agencies as they prepare to meet the requirements of the CSBG Organizational Standards developed by HHS. These Organizational Standards of Excellence complement the need for improved systems that may be derived from adherence to the new OMB Omni Circular, Texas Uniform Grant Management Standards, or review of single audits.

This comprehensive set of organizational standards, developed by the CSBG Organizational Standards Center of Excellence, has been established to ensure that all CSBG Eligible Entities have the capacity to provide high-quality services to low-income individuals and communities. The standards will provide a baseline for organizational management and leadership capacity and are focused in nine core organizational capacity areas:

- Leadership
- Governance
- Strategic Planning
- Financial Management
- Human Resources
- Community Assessment
- Consumer Input
- Community Engagement
- Data and Analysis

In some cases, the ability to achieve these standards may pose a challenge for some subrecipients, in which case the Department also intends to support impacted subrecipients in identifying and carrying out successful strategies such as partnerships, and other forms of cooperation or linkage among organizations that allow for the continued service to clients as well as provide for third party assessments that may assist in this effort.

In support of these issues, the Department has set aside approximately \$1,600,000 of its 2016 annual CSBG allocation for state discretionary use. With the funds designated as identified in this request, the Department will ensure that for Program Year 2016, the commitment to the historic uses of these funds will be retained, while ensuring that Eligible Entities have the training, technical assistance, and financial support to fund improvements necessary for their organization to meet the requirements of each of the nine core organizational capacity areas. The State's allocation has not been finalized by HHS at the time of Board posting so all figures are estimates.

With the 2016 CSBG-D funds staff suggests programming funds as described below and as further depicted in the table. Activities will include \$300,000 targeted for Migrant and Seasonal Farm Worker populations and Native American populations for employment and education programs for which the Department will issue a NOFA and/or RFP/A. Also, consistent with funding last year \$150,000 will be held to support disaster recovery; and \$150,000 will be held to support issuance of Department-administered housing vouchers for persons with disabilities. In all cases these amounts are unchanged from the amounts programmed for these activities last year.

To support the focus of the funds into network investment, four different types of activities are identified that will focus on different aspects of the assistance an Eligible Entity may need.

- \$550,000 will be targeted to Network Operational Investments that focus on assisting agencies within the statewide network as they prepare to meet the requirements of the CSBG Organizational Standards. In 2015 these funds were requested through a NOFA process. For 2016, staff anticipates that each CSBG eligible entity will have an earmarked amount that they will have access to upon their identification of the clearly defined and measurable deliverables that can be clearly associated with one or more of the Organizational Standards and that can be confirmed as being successfully implemented. Examples of how this may be used might include funds to institute recommendations that may generate from an organization's assessments (noted below), from single audit findings, or from Quality Improvement Plans; consolidating excessive field offices; and modernization of accounting and performance reporting tools. The Department will require submission documents from each entity, for support prior to presentation to the Department's Board at a subsequent time for the actual award of these contracts.
- \$150,000 will support an intensive assessment of four or more network agencies' operations and procedures through the use of a previously procured assessment and training entity for organizations that may be identified by the Department; and/or the assessment may be requested by an agency. It is anticipated that these funds will be released through a Notice of Funding Availability or other fund release tool, but may also include identification of an agency by the Department.
- \$150,000 will be held to provide support for transitional costs agencies may incur if they choose to merge and absorb programs from other agencies.
- \$150,000 will be held to support comprehensive regional training and technical assistance activities provided by the Department or by entities that may be procured for this purpose. This may include some funds being used to support Results Oriented Management and Accountability ("ROMA") training initiatives and supporting the coordination of National Certified ROMA Trainers in Texas.

With the exception of the Migrant and Seasonal Farm Worker populations and Native American populations, the Department does not intend to release funds competitively but this approval authorizes the release of a NOFA and/or RFP/A if needed.

TABLE 1	
Network Operational Investments	\$550,000
Intensive Community Action Agency Support Assessments	\$150,000
Network Transitions Fund	\$150,000
Network Training and Technical Assistance Fund	\$150,000
Migrant Seasonal Farm Worker and Native American Populations Education and Employment Initiative	\$300,000
Housing Voucher Program Support Fund	\$150,000
Disaster Recovery Fund	\$150,000
Total CSBG Discretionary Estimate	\$1,600,000

If approved by the Board, any applicable NOFAs, RFPs or RFAs will be released with applications targeted to be due in May 2016. It is anticipated that final award recommendations will be presented to the Board in June or July 2016.

In the event that the Department does not have sufficient eligible applications to fund in one or more categories, or should other uncommitted CSBG-D funds remain, the Department will at the discretion of the Executive Director reprogram the funds from one of the eligible categories into another category approved with this action to award additional funds, with subsequent ratification by the Board.