

2011 Competitive Housing Tax Credit (HTC) Challenges

The attached table titled, **Status Log of 2011 Competitive Housing Tax Credit Challenges Received and Determinations Made as of June 15, 2011** (“Status Log”), summarizes the status of challenges received on or before June 15, 2011. The challenges were made against Applications in the 2011 Application Round. Behind the Status Log, all imaged challenges are provided in project number order. This PDF document has been bookmarked by application number for quick access.

All challenges are addressed pursuant to §49.10(e) of the 2011 Qualified Allocation Plan and Rules (“QAP”), which states, “the Department will address information or challenges received from unrelated entities to a specific 2011 active Application, utilizing a preponderance of the evidence standard, as stated in paragraphs (1) – (4) of this subsection, provided the information or challenge includes a contact name, telephone number, fax number and e-mail address of the person providing the information or challenge and is received by the Department no later than June 15, 2011:

(1) Within fourteen (14) business days of the receipt of the information or challenge, the Department will post all information and challenges received (including any identifying information) to the Department’s website.

(2) Within seven (7) business days of the receipt of the information or challenge, the Department will notify the Applicant related to the information or challenge. The Applicant will then have seven (7) business days to respond to all information and challenges provided to the Department.

(3) Within fourteen (14) business days of the receipt of the response from the Applicant, the Department will evaluate all information submitted and other relevant documentation related to the investigation. This information may include information requested by the Department relating to this evaluation. The Department will post its determination summary to its website. Any determinations made by the Department cannot be appealed by any party unrelated to the Applicant.

(4) Nothing herein shall serve to limit the authority of the Board to apply discretion for good cause to the fullest extent lawfully permitted.

Please note that a challenge is not eligible pursuant to this section if it is not made against a specific active 2011 HTC Application. If an Application is no longer active because the Development has been awarded tax credits by the Texas Department of Housing and Community Affairs’ (the “Department”) Board, challenges relating to the awarded/inactive Application are not eligible under this section.

To the extent that the Applicant related to the challenge responds to the eligible challenge(s), point reductions and/or terminations could possibly be made administratively. In these cases, the Applicant will be given an opportunity to appeal pursuant to §49.10(d) of the 2011 QAP, as is the case with all point reductions and terminations. To the extent that the evidence does not confirm a challenge, a memo will be written to the file for that Application relating to the challenge. The table attached reflects a summary of all such challenges received and determinations made as of June 15, 2011.

TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Status
11045	Lexington Villa	Gilbert M. Piette	<p>The challenge is regarding points under §49.9(a)(5), Commitment of Funding by Governmental Instrumentality. The Challenger questions the support of a local government instrumentality because the City of Corpus Christi has not supported these applications with any funds. The City Council passed a resolution supporting the Palms at Leopard, #11166, on February 22, 2011. The Challenger has submitted minutes from the April 16, 2011, Corpus Christi City Council meeting at which the Palms at Leopard was recommended for funding in the amount of \$865,000. In the meeting minutes it was noted that initially both Dolphin's Landing and Palms at Leopard were recommended equally. However, the minutes state that staff has "checked with the Department and it was determined that the City essentially needs to support one project so the project may receive the points for the tax credits." The Challenger added that none of the other applications have obtained consent as evidenced by an Inter-Local Agreement.</p> <p>The Challenger further asserts that the applications for Dolphin's Landing, #11227, Lexington Vista, #11045, Palm Gardens, #11050, and 11115, Castle Manor have included the HOME funds as part of their financial feasibility and that without the commitment of The City of Corpus Christi funding, the applications are not financially feasible.</p>	<p>Analysis: Pursuant to §49.9(a)(5) of the 2011 QAP, up to 18 points may be awarded for the commitment of development funding by a Governmental Instrumentality. In accordance with this section of the QAP, if not already provided, at the time the executed (TDHCA) Commitment is required to be submitted, the Applicant must provide evidence of a commitment approval by the Governing Body of the Unit of General Local Government, or its designee or agent, for the Development Funding to the Department. Documentation of the interlocal agreement is not required at the time of application. Due to the many variables associated with the financing of tax credit developments, Applicants are allowed to substitute funding sources for this particular scoring item after an application is submitted to the Department, without the request of staff.</p> <p>Resolution: The Department has evaluated the challenge pursuant to the methodology outlined in the §49.9(a)(5) of the 2011 QAP and has determined no action is required, <u>at this time</u>.</p>

TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Status
11050	Palm Gardens	Gilbert M. Piette	<p>The challenge is regarding points under §49.9(a)(5), Commitment of Funding by Governmental Instrumentality. The Challenger questions the support of a local government instrumentality because the City of Corpus Christi has not supported these applications with any funds. The City Council passed a resolution supporting the Palms at Leopard, #11166, on February 22, 2011. The Challenger has submitted minutes from the April 16, 2011, Corpus Christi City Council meeting at which the Palms at Leopard was recommended for funding in the amount of \$865,000. In the meeting minutes it was noted that initially both Dolphin's Landing and Palms at Leopard were recommended equally. However, the minutes state that staff has "checked with the Department and it was determined that the City essentially needs to support one project so the project may receive the points for the tax credits." The Challenger added that none of the other applications have obtained consent as evidenced by an Inter-Local Agreement.</p> <p>The Challenger further asserts that the applications for Dolphin's Landing, #11227, Lexington Vista, #11045, Palm Gardens, #11050, and 11115, Castle Manor have included the HOME funds as part of their financial feasibility and that without the commitment of The City of Corpus Christi funding, the applications are not financially feasible.</p>	<p>Analysis: Pursuant to §49.9(a)(5) of the 2011 QAP, up to 18 points may be awarded for the commitment of development funding by a Governmental Instrumentality. In accordance with this section of the QAP, if not already provided, at the time the executed (TDHCA) Commitment is required to be submitted, the Applicant must provide evidence of a commitment approval by the Governing Body of the Unit of General Local Government, or its designee or agent, for the Development Funding to the Department. Documentation of the interlocal agreement is not required at the time of application. Due to the many variables associated with the financing of tax credit developments, Applicants are allowed to substitute funding sources for this particular scoring item after an application is submitted to the Department, without the request of staff.</p> <p>Resolution: The Department has evaluated the challenge pursuant to the methodology outlined in the §49.9(a)(5) of the 2011 QAP and has determined no action is required, <u>at this time</u>.</p>

TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Status
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11051	Sweetwater Bend	W. Barry Kahn	<p>The challenge is regarding points under §49.9(a)(8), Cost per Square Foot. The Challenger contends that the Applicant is not eligible for the points for three reasons: costs of \$90.76 exceed the \$87 psf allowed for First Tier counties; not all buildings are 4-stories as required; and the Applicant erroneously included common area square footage in calculation of Net Rentable Area(which is not allowed).</p>	<p>Analysis: Pursuant to §49.9(a)(7) of the 2011 QAP, 10 points may be awarded for the direct hard costs per net rentable area. The documentation in the application indicated total direct hard costs of \$7,304,360 per total NRA of 80,476 square feet exceeded the \$87 requirement for First Tier Counties. The QAP does allow for SRO, Elderly, high rise or four-story building developments to use common area space in the calculation of cost per square foot. The development is not an SRO or elderly development and does not contain all four story buildings. Staff did not award points for the item. The Applicant has responded that the decision is being formally appealed.</p>
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Resolution: The Department has evaluated the challenge pursuant to the methodology outlined in the §49.9(a)(8) of the 2011 QAP. Points were not awarded; however, an appeal on this item is pending.

TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Status
11051	Sweetwater Bend	W. Barry Kahn	<p>The challenge is regarding points under §49.9(a)(13), Community Revitalization Plan. The basis of the challenge brings into question whether the 3-year consolidated plan for the City of Galveston meets the definition of Community Revitalization Plan. The Challenger contends that if the Plan could be deemed appropriate to serve as a plan, it does not meet the intended purpose because the Galveston plan is intended for disaster recovery and not revitalization. Additionally, the plan specifically references the word "revitalization" of non-housing community development activities. Finally, if the plan could be deemed to target specific areas, they would be CDBG Target Areas which serve areas with 51% or more low-to moderate-income residents. The proposed development is located in an area that is 151% of MSA median family income.</p>	<p>Analysis: Pursuant to §49.9(a)(13) of the QAP, 3 points may be awarded to an application proposing New Construction in an area that is part of a Community Revitalization Plan. The application includes a copy of the 2010-2012 City of Galveston Strategic Plan. Strategic Plans are generally broad in nature; however, some plans do cover revitalization. The Galveston plan is such a plan with specific target areas. The Applicants admits that the development is not located in one of the target areas.</p>

Resolution: The Department has evaluated the challenge pursuant to the methodology outlined in the §49.9(a)(13) of the 2011 QAP and has determined that the application is not eligible for the point item. Therefore, the points originally awarded will be rescinded and a revised scoring notice will be issued.

TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Status
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11051	Sweetwater Bend	W. Barry Kahn	<p>The challenge is regarding §49.4(b)(11), Application Ineligibility. The basis for the challenge is that there is more than 50% of the developer fee being deferred. Challenger contends that the one year loan from Strategic Housing Finance Corporation (included on the permanent side of the sources and uses exhibit) will be paid from developer fee and that this loan should be included in the calculation of deferred developer fee. By including that loan in the calculation it will increase developer fee from \$108,847 to \$736,752 or more than 50% of total, thus making application ineligible for consideration.</p>	<p>Analysis: Pursuant to §49.4(b)(11) of the QAP an application is ineligible if more than 50% of the Developer Fee is deferred as reflected in the Sources and Uses exhibit or in the commitments from the lender or syndicator. The application’s financing structure includes a \$627K permanent loan from Strategic Housing Finance Corporation with a 1 year term. It was confirmed that this source of funding would be prepaid in one year from developer fee. Therefore, this amount should have been included in the application test to determine if more than 50% of the developer fee is being deferred. The Applicant has since responded that after discussions with the Department it was determined that Strategic Housing Finance Corporation is no longer able to provide funding. The Applicant wants to substitute the source with an interim loan (1 year minimum term with interest rate at AFR) from Capital Area Housing Finance Corporation for §49.9 (a)(5), Commitment of Development Funding By Governmental Instrumentality points.</p>
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The QAP does allow Applicants to substitute funding sources for this particular scoring item after an application is submitted to the Department, without the request of staff. However, in this case the Applicant is doing so to avoid termination of the application.

Resolution: The Department has evaluated the challenge pursuant to the methodology outlined in the §49.9(a)(11) of the 2011 QAP and has determined that the application is ineligible. The application was terminated and the Applicant has appealed which is still pending.

TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Status
11051	Sweetwater Bend	W. Barry Kahn	<p>The challenge is regarding omissions under §49.7(a)(2), Administrative Deficiencies. The basis of the challenge is the Applicant omitted two exhibits from the Application including the required financing narrative and debt service for the 2nd mortgage amount from Strategic Site Partners. The commitment from Strategic Site Partners calls for an eighteen year term and 30-year amortization; this implies a loan that will be repaid over 18 years. This would cause DCR to fall below TDHCA 1.15 minimum DCR.</p>	<p>Analysis: The application documentation did not include the Financing Narrative. The omission was clarified via the Administrative Deficiency process. The information was received by the Department. The DCR would have met the Department's requirements.</p> <p>Resolution: The Department has evaluated the challenge pursuant to the methodology outlined in the §49.7(a)(2)) of the 2011 QAP and has determined no action is required.</p>

TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Status
11057	The Mercer	Cynthia Bast on behalf of Colby Denison	<p>The challenge is regarding points under §49.9(a)(2), Quantifiable Community Participation. The Challenger questions the award of QCP points to the Booneville Town Center Neighborhood Association because no person/residents live within the association's boundaries; therefore, the organization should not qualify for points. The organization identified 3 residential properties within the boundaries; however, none of the individuals identified in the submission live within the boundaries. The Challenger contends that participation is restricted by residential owners actually having to file an instrument in the real property records of the county. The Challenger contends this is an extraordinary burden for single family homeowners and none of the 3 residential owners identified by the association have made such a filing in real property records, thus none of the residential owners participated in the decision to support the application.</p>	<p>Analysis: Pursuant to §49.9(a)(2) of the 2011 QAP, 24 points may be awarded for written statements of support received by March 1, 2011 from Neighborhood Organizations on record with the state or county in which the Development is to be located and whose boundaries contain the proposed Development site. Staff originally attempted to contact the residents listed in the boundaries of the organization but did not attend the meeting of the Booneville Town Center Neighborhood Association. Subsequent to this challenge, staff has verified that no persons "live" within the boundaries of the organization. Therefore, the organization does not qualify for participation in QCP.</p> <p>Resolution: The Department has evaluated the challenge pursuant to the methodology outlined in the §49.9(a)(2) of the 2011 QAP and has determined that the application is not eligible for the point item. Therefore, the points originally awarded will be rescinded and a revised scoring notice will be issued.</p>

TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Status
11057	The Mercer	Thomas F. Vettters	<p>The challenge is regarding §49.9(a)(2), Quantifiable Community Participation (QCP). The basis for the challenge is questioning the qualification of the organization and the support letter submitted by the Neighborhood Organization. Mr. Vettters states that he recently became aware of the newly formed neighborhood association and that the property he owns at 2430 Boonville Road is included within its boundaries. He would like to clarify that he does not live at 2430 Boonville Road and Ms. Barbara Coker does not live at her property located at 2416 Boonville Road. Further, Dr. Donald Coker is deceased and the property at 2422 Boonville Road is owned by Ms. Barbara Coker. Mr. Vettters noted that he is not aware of any residents that actually live within the Association's boundaries. Mr. Vettters states that both he and Ms. Coker strongly oppose the project.</p>	<p>Analysis: Pursuant to §49.9(a)(2) of the 2011 QAP, 24 points may be awarded for written statements of support received by March 1, 2011 from Neighborhood Organizations on record with the state or county in which the Development is to be located and whose boundaries contain the proposed Development site. Staff originally attempted to contact the residents listed in the boundaries of the organization but did not attend the meeting of the Booneville Town Center Neighborhood Association. Subsequent to this challenge, staff has verified that no persons "live" within the boundaries of the organization. Therefore, the organization does not qualify for participation in QCP.</p> <p>Resolution: The Department has evaluated the challenge pursuant to the methodology outlined in the §49.9(a)(2) of the 2011 QAP and has determined that the application is not eligible for the point item. Therefore, the points originally awarded will be rescinded and a revised scoring notice will be issued.</p>

TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Status
11073	Cypress Run	Cynthia Bast on behalf of Granger MacDonald	The challenge is regarding §49.8(8), Site Control. The basis for the challenge is discrepancies throughout application regarding amount of acreage to be purchased. This is critical for determining the purchase price for TDHCA underwriting purposes.	<p>Analysis: The site acreage is stated as 6.95 acres in Volume 3, Tab 1, Specifications and Amenities, 6.95 on the Site Plan, and approximately 6 acres in The Contract for Purchase of Real Estate in Volume 3, Tab 2. An Administrative Deficiency was issued during the Threshold review to clarify the acreage and Exhibit A to the Contract for Purchase was found to contain 6.95 acres. Staff has reviewed the documentation in the challenge and the Applicant's response and has determined that the Applicant fulfilled the requirements of the QAP with regard to site control.</p> <p>Resolution: The Department has evaluated the challenge pursuant to the methodology outlined in the §49.8(8) of the 2011 QAP and has determined no action is required.</p>
11073	Cypress Run	Cynthia Bast on behalf of Granger MacDonald	The challenge is regarding §49.8(8), Site Control. The basis of the challenge is that the Applicant did not include accurate information related to all sellers of the property for 36 months prior to first day of Application Acceptance; therefore, the Applicant did not meet threshold criteria, as required by §49.8(8).	<p>Analysis: The Applicant's statement regarding the ownership within the application is that "Frank Barron and/or his estate have been in control of the site for the last 36 months". The Applicant has responded that Frank Barron is stated on the Title Commitment as the owner since May 23, 2008. Prior to May 23, 2008, Austex, Inc. is listed as the owner. The Applicant contends that Austex, Inc. is "now an inactive Texas corporation that was controlled by Frank Barron, Adrian Barron, and Stan Barron". The Applicant provided a Business Organization search from the Texas Secretary of State for Austex, Inc. which indicated Stan Barron, Adrian Barron, and Frank Barron as principals of the forfeited corporation. With this clarification, the applicant has met the requirement of the QAP.</p> <p>Resolution: The Department has evaluated the challenge pursuant to the methodology outlined in the §49.8(8) of the 2011 QAP and has determined no action is required.</p>

TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Status
11073	Cypress Run	Cynthia Bast on behalf of Granger MacDonald	The challenge is regarding points under §49.9(a)(1), Financial Feasibility. The basis for the challenge is the assertion that the construction and permanent lender are related parties to the Developer and Applicant and are providing loans for the development. The Challenger contends while there is not a prohibition for related parties to lend monies to a development, the award of the additional eight points for the lender's review of Applicant's financial position is a conflict of interest and is inconsistent with the intent of this rule. Additionally, the conflict of interest concern exists because Pedcor Bancorp, the parent company of International City Bank (ICB), is under a Consent Order from the Office of Comptroller of the Currency. The Challenger noted that a Consent Order orders the bank to reduce its direct and indirect investments and restricts the bank's ability to pay money or extend credit to its affiliates.	<p>Analysis: Pursuant to §49.9 (a)(1)(D) of the 2011 QAP, 8 additional points may be awarded if the commitment letter from the permanent or construction lender indicates they have reviewed the Applicant's financial position and credit worthiness. The Applicant has responded that the Department was contacted prior to application submission to verify whether related party loans could be utilized for the point item. The Applicant added that the Underwriting Report states that Pedcor Funding Corporation and Pedcor Bancorp have the "significant financial capacity." Further, the Applicant states that Pedcor Bancorp and Pedcor Funding Corporation are the providers of the funding and that these entities have "no limitations from regulatory authorities."</p>

The Real Estate Analysis Underwriting Report states that the related financing parties have "significant financial capacity and resources, which mitigate risk of changes in the lending and equity markets." However, the report also lists a potential risk because the "related nature of the lender, syndicator, owner, developer, and management company removes the benefits of third party asset management and compliance oversight."

Resolution: At the present time there is no restriction on the ability of an applicant to achieve points under §49.9 (a)(1)(D) even if there is an identity of interest in the lending institution as long as the institution is an active commercial lender providing construction for permanent financing.

TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Status
11073	Cypress Run	Cynthia Bast on behalf of Granger MacDonald	The challenge relates to points under §49.9(a)(13), Community Revitalization. The basis of the challenge questions the utilization of the city's zoning ordinance to qualify as Community Revitalization Plan. The Challenger asserts that if a zoning ordinance is allowed to qualify as a Community Revitalization Plan then every application in a zoned municipality would qualify for these points.	<p>Analysis: Pursuant to §49.9(a)(13) of the QAP, 3 points may be awarded to an application proposing New Construction in an area that is part of a Community Revitalization Plan. Staff originally did not award points for this scoring item because the Zoning Ordinance could not be tied to any area being re-zoned for the expressed purpose of revitalization. The Applicant appealed staff's determination stating that the Zoning Ordinance fits the QAP definition of a Community Revitalization Plan because it is a published document that was approved by the local governing body. The Applicant added that the "Zoning Ordinance created target zoning overlay districts for the purposes of redevelopment and revitalization." The appeal was granted by the Executive Director and the points were awarded because a letter from the city was submitted that confirmed the city's intent to revitalize the area by encouraging this type of development in the proposed area.</p> <p>Resolution: The Department has evaluated the challenge pursuant to the methodology outlined in the §49.9(a)(13) of the 2011 QAP and has determined no action is required.</p>
11073	Cypress Run	Cynthia Bast on behalf of Granger MacDonald	The challenge relates to points under §49.9(a)(23). Sponsor Characteristics. The Challenger contends that the original application submission did not include the Historically Underutilized Business (HUB) certificate and that there was no evidence that the HUB will materially participate in the development. No points should have been awarded.	<p>Analysis: Pursuant to §49.9(a)(23)(B) of the QAP, in order to qualify for 2 points a certification from the Texas Comptroller of Public Accounts that the Person is a HUB at the close of the Application Acceptance Period must be submitted. The HUB Certificate was not included in the original application submission. However, the HUB was indicated in Volume 1, Tab 5, ownership chart, Volume 4, Tab 1, Self Score, and on the Volume 4, Tab 23 exhibits. The omission of the HUB certification was clarified during the Selection review via the Administrative Deficiency process.</p>

TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Status
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Resolution: The Department has evaluated the challenge pursuant to the methodology outlined in the §49.9(a)(5) of the 2011 QAP and has determined no action is required.

TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Status
11073	Cypress Run	Cynthia Bast on behalf of Granger MacDonald	The challenge relates to points under §49.9(a)(27), 3rd Party Funding Outside of a Qualified Census Tract (QCT). The basis of the challenge is that the Application Manual indicates funding can't come from a commercial lender. The Challenger contends that the commitment is from Michael F. Petrie, who is a Certified Mortgage Banker and co-founder of P/R Investment & Mortgage Corp. in Carmel, Indiana; therefore, the points should not be awarded.	<p>Analysis: Pursuant to §49.9(a)(27) of the QAP, applications may qualify to receive 1 point for this item. Evidence required is committed Third-Party funding sources and the Development must be located outside of a Qualified Census Tract serving 10% of households at 30% AMGI or less. The provider of the funds must attest that they are not the Applicant, the Developer, Consultant, Related Party, or an individual or entity acting on behalf of the application. The commitment of funds must be equal to or greater than 2% of the Total Development Costs.</p> <p>The application documentation includes a firm commitment letter from Mr. Petrie that meets the requirements of the QAP. The Applicant's response is that Mr. Petrie is not acting as a broker or commercial lender for the application. The Applicant stated that Mr. Petrie is providing the loan as an individual.</p> <p>The application includes a commitment letter from Mr. Petrie. Mr. Petrie attests that he is participating in this development as an individual not a commercial lender. Staff has reviewed the challenge and the Applicant's response and has determined that the commitment letter met the requirements of the 2011 QAP for the point item.</p> <p>Resolution: The Department has evaluated the challenge pursuant to the methodology outlined in the §49.9(a)(27) of the 2011 QAP and has determined that no action is required.</p>

TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Status
11074	The Villas of Tuscany	John Shackelford on behalf of client	<p>The challenge relates to points under §49.9(a)(13), Community Revitalization Plan. The basis for the challenge questions whether the Lubbock Consolidated Plan qualifies as a Community Revitalization Plan. The Challenger contends that the Consolidated Plan does not implement its objectives, nor does it specifically target areas for revitalization. The Challenger states if a city's broadly written, HUD mandated consolidated plan qualified as a CRP, then every development located in a city with a consolidated plan would automatically qualify for these points. The clear intent is to reward only those developments located in areas specifically targeted to be revitalized under a plan specifically addressing housing. Further, if the consolidated plan does qualify, the only targeted areas are CDBG Target Areas and the proposed development is not located within one of these areas. The Lubbock Consolidated plan, together with the Action Plan, constitute a Community Revitalization Plan. The Action Plan specifies both where funds go and the areas targeted for revitalization. The proposed development is not located in either the current target areas or the eligible areas set forth in the Action Plan either.</p> <p>Finally, there is no evidence that the Plan utilized for this point request was adopted by the local Governing Body by ordinance, resolution or specific vote. This constitutes an omission not curable by deficiency and points should not be awarded for this item.</p>	<p>Analysis: Pursuant to §49.9(a)(13) of the QAP, 3 points may be awarded to an application proposing New Construction in an area that is part of a Community Revitalization Plan. The documentation submitted in the application includes a Certificate of Consistency from the Mayor of the City of Lubbock. The letter states that the proposed development is located within the boundaries of an area covered by the Consolidated Plan and that the Plan acts as its concerted Community Revitalization Plan. The letter also states that the proposed development contributes to the revitalization objectives of the consolidated plan. However, the Applicant agrees that the Development is not located in a "Target" Area. Therefore, the development is not eligible for the points.</p> <p>Resolution: The Department has evaluated the challenge pursuant to the methodology outlined in the §49.9(a)(13) of the 2011 QAP and has determined that the application is not eligible for the point item if it is not located within the target areas of revitalization outlined in the City of San Angelo's Consolidated Plan. A revised Scoring Notice will be issued.</p>

TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Status
11077	Main Street Commons	Robert H. Voelker, Munsch, Hardt, Kopf, & Harr	The challenge is regarding points under §49.9(a)(13), Community Revitalization. The basis of the challenge as reflected in the documentation is that the Applicant submitted only a city comprehensive plan and not a community revitalization plan. The Challenger contends that a Revitalization Plan is a “distinct plan that is adopted by a municipality that specifically describes in detail a community’s intention for revitalization and redevelopment.” The Challenger also contends that the Applicant did not provide evidence that shows the plan was adopted by the local Governing Body by ordinance, resolution or specific vote. The Challenger does not believe points should be awarded for 49.9(a)(13).	<p>Analysis: Pursuant to §49.9(a)(13) of the QAP, 3 points may be awarded to an application proposing New Construction in an area that is part of a Community Revitalization Plan. The documentation submitted in the application includes a letter from the City of Taylor indicating that the City's Comprehensive Plan acts as its Community Revitalization Plan. Additionally, the letter and the Comprehensive Plan itself identifies the geographical planning area to include the city limits of Taylor and the one-mile ETJ. Therefore, the proposed development is located within the targeted area identified in the City of Taylor's Comprehensive Plan.</p> <p>Resolution: The Department is currently re-evaluating this conclusion</p>

TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Status
11077	Main Street Commons	Robert H. Voelker, Munsch, Hardt, Kopf, & Harr	The challenge is regarding points under §49.9(a)(26), Leveraging of Private, State, and Federal Resources. The basis of the challenge reflected in the challenge documentation is: points should not be awarded because the only evidence presented was a brief letter addressed to TDHCA and not a legally binding contract between the Applicant and the provider of the funds.	<p>Analysis: Pursuant to §49.9(a)(26) of the QAP, 1 point may be awarded for providing evidence of funding from a private, state, or federal resource. Acceptable evidence may include “a commitment of funds or a copy of the application to the funding entity and a letter from the funding entity indicating that the application was received.” Staff has reviewed the documentation provided by the Applicant and has determined that the Applicant met the requirements of the QAP for the purpose of these points.</p> <p>Resolution: The Department has evaluated the challenge pursuant to the methodology outlined in the §49.9(a)(26) of the 2011 QAP and has determined that no action is required.</p>

TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Status
11077	Main Street Commons	Robert H. Voelker, Munsch, Hardt, Kopf, & Harr	The challenge is regarding points under §49.9(a)(27), Third Party Funding Outside of Qualified Census Tracts. The basis of the challenge reflected in the challenge documentation is: points should not be awarded because the letter submitted does not amount to a commitment of funds and is not addressed to the Applicant.	<p>Analysis: Pursuant to §49.9(a)(27) of the QAP, 1 point may be awarded for providing evidence of a firm commitment of funds and the Development must be located outside of a Qualified Census Tract. The documentation submitted with the application clearly states that a formal commitment of funds is in place and outlines the terms of the loan to meet the requirements of the QAP. Staff has reviewed the documentation provided the Applicant and has determined that the Applicant met the requirements of the QAP for the purposes of these points.</p> <p>Resolution: The Department has evaluated the challenge pursuant to the methodology outlined in the §49.9(a)(27) of the 2011 QAP and has determined that no action is required.</p>

TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Status
11077	Main Street Commons	Robert H. Voelker, Munsch, Hardt, Kopf, & Harr	The challenge relates to 10 TAC §53.80, HOME Match Funds Requirement. The basis of the challenge as presented is: the party offering the matching funds is a consultant for the Applicant and will financially benefit from the development. The Challenger contends that the HOME rules specify that the match must originate from a source other than the development owner, developer, consultant, or building contractor.	<p>Analysis: Pursuant to the HOME Program Rule at 10 TAC §53.80, Match equal to 2% of the HOME award must be provided. The HOME Program guidelines state that professional services can be donated and counted as Match if those services were not part of a contract. Staff has not completed the review of the HOME portion of the application. The Applicant would be allowed to substitute or correct the provider through the Department's Administrative Deficiency process.</p>

Resolution: The Department has evaluated the challenge pursuant to the methodology outlined in the §49.10(e) of the 2011 QAP and has determined that no action is required, at this time.

TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Status
11077	Main Street Commons	Robert H. Voelker, Munsch, Hardt, Kopf, & Harr	The challenge is regarding the Development Cost Schedule exhibit submitted in the application. The basis of the challenge regarding bond fees as presented in the documentation is: the Development Cost Schedule indicates that the project fund uses include "Credit Enhancement Fees" and a "Bond Premium" but that it is not a bond transaction. The Challenger asserts these costs are associated with tax-exempt bond developments and result in an overstatement of eligible basis for the development. Therefore, the request for credits should be reduced which will render the development financially infeasible.	<p>Analysis: The Applicant has responded by stating that the "Credit Enhancement Fee" included in the Development Cost Schedule is a fee that Herman & Kittle (a member of the Applicant) collects from the LP/taxpayer for providing payment, performance, completion, and repayment guaranty to the construction lender. The Applicant also states that the "Bond Premium Fee" included in the Development Cost Schedule is the projected cost of having to bond the AIA construction contract. Staff has not completed a Threshold or Real Estate Analysis, at this time. The Applicant will have the opportunity to explain the cost associated with the development with the REA staff to determine the financial feasibility.</p> <p>Response: The Department has evaluated the challenge pursuant to the methodology outlined in the §49.10(e) of the 2011 QAP and has determined that no action is required, <u>at this time</u>.</p>
11077	Main Street Commons	Robert H. Voelker, Munsch, Hardt, Kopf, & Harr	The challenge is regarding Threshold criteria in §49.8(C)(IV)(iii). The basis of the challenge is the Applicant failed to meet the Threshold requirement. The Challenger states a commitment from the syndicator was not provided in the application. The Challenger contends that the letter or commitment from the syndicator is a mandatory requirement pursuant to §49.8(C)(IV)(iii) of the 2011 QAP. The Challenger further asserts that per the 2011 QAP §49.7(a)(2) , "if exhibits and other information required under §49.8 of this chapter (relating to Threshold criteria) are not originally submitted in the Application then staff will recommend termination of the Application."	<p>Analysis: Pursuant to §49.8(C)(IV)(iii) a term sheet or letter of commitment from a syndicator is required. The Applicant's response to the challenge is that the omission of the syndicator letter does not constitute a Material Deficiency as defined in the 2011 QAP because the "information related to the financing commitment as a whole was submitted" and that "enough information related to the financing commitment was submitted." Staff has reviewed the documentation included in the challenge as well as the Applicant's response and determined that the issue would be addressed via the Administrative Deficiency process during the Threshold review. A Threshold review has not been conducted at this time.</p>

TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Status
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				<p>Response: The Department has evaluated the challenge pursuant to the methodology outlined in the §49.10(e) of the 2011 QAP and has determined that no action is required, <u>at this time</u>.</p>
11077	Main Street Commons	Robert H. Voelker, Munsch, Hardt, Kopf, & Harr	<p>The challenge is regarding points under §49.9(a)(2), Quantifiable Community Participation (QCP). The basis of the challenge as reflected in the challenge documentation is that points should not be awarded because the neighborhood organization was formed solely for purposes of receiving points for QCP. The Challenger asserts that the neighborhood organization was formed on February 9, 2011, at a meeting, afterwhich the developer had made a presentation about the proposed development. The Challenger further contends that the only evidence of the existence of the organization was the minutes of the February 9 meeting.</p>	<p>Analysis: Pursuant to §49.9(a)(2) of the 2011 QAP, 24 points may be awarded for written statements of support received by March 1, 2011 from Neighborhood Organizations on record with the state or county in which the Development is to be located and whose boundaries contain the proposed Development site. There was a meeting held on February 9, 2011 for the purpose of forming the neighborhood organization and providing a letter of support for the development. A member of the development team was present to discuss the proposed development with the community members that were present. Staff reviewed the submission of this QCP and determined, although it is not the intent of QCP to form an organization for the sole purpose as to garner points for the application, the QAP does not prohibit the action either. Therefore, the points were awarded.</p> <p>Resolution: The Department has evaluated the challenge pursuant to the methodology outlined in the §49.9(a)(2) of the 2011 QAP and has determined that no action is required.</p>

TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Status
11080	Hidden Valley Estates	Randall Ackerman on behalf of client	The challenge relates to points under §49.9(a)(13), Community Revitalization. The challenge questions whether the development is located in an area covered by the plan provided. The City of Houston Consolidated Plan directs their housing efforts to Low to Moderate Income Areas. The Challenger asserts the development is not located within the LMI area as claimed.	Pending: Challenge being processed pursuant to §49.10(e) of the 2011 QAP.
11080	Hidden Valley Estates	Randall Ackerman on behalf of client	The challenge relates to points under §49.9(a)(23), Sponsor Characteristics. The challenge questions the two points awarded for having a HUB as 51% owner of general partner. The Challenger contends that the HUB ownership structure has an expired certificate and, upon further review on Comptroller's website, the HUB is inactive. The Challenger believes the application should not receive points for the item.	<p>Analysis: Pursuant to §49.9(a)(23) of the QAP, a maximum of 2 points may be awarded for Sponsor Characteristics. The application reflects that Option B was originally selected to receive 2 points. The Applicant had originally submitted a HUB certificate and plan to utilize a Historically Underutilized Business. The Applicant changed to Option A in response to an Administrative Deficiency because the HUB certificate appeared to have expired. The item received 1 point under Option A for the submittal of a plan to utilize a Historically Underutilized Business.</p> <p>Resolution: The Department has evaluated the challenge pursuant to the methodology outlined in the §49.9(a)(23) of the 2011 QAP and has determined that no action is required.</p>

TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Status
11087	Tidwell Lakes Ranch	Randall Ackerman on behalf of client	<p>The challenge relates to points under §49.9(a)(13), Community Revitalization. The Challenger questions whether being consistent with the goals of a Consolidated Plan is the same as being consistent with the goals of a Community Revitalization Plan. Additionally, the site is not located in one of Harris County's Consolidated Plan Target Areas or the specific Revitalization Area. The Challenger submitted pages of the Harris County Consolidated Plan Neighborhood Revitalization Strategies to illustrate that the only area indicated in the Plan for revitalization is the Airline Improvement District. The proposed site is not located within the boundaries of this area. The Challenger added that the Applicant states that the site lies within a state enterprise zone but does not provide evidence that the Governing Body has "lawfully assigned responsibility for oversight of communication or activities to a body created or sponsored by that Governing Body."</p>	<p>Analysis: Pursuant to §49.9(a)(13) of the QAP, 3 points may be awarded to an application proposing New Construction in an area that is part of a Community Revitalization Plan. The development is located within an unincorporated area of Harris County and is therefore subject to the Harris County Consolidated Plan. The Harris County's Plan targets areas of low-and moderate-income. In addition, the 2011 Action Plan, which uses the concentration of low-income persons as a criterion to determine priorities, includes a map that identifies areas with 51% or greater low-income population. However, Harris County confirmed that the development is not located within the target area for Harris County as published.</p> <p>Resolution: The Department has evaluated the challenge pursuant to the methodology outlined in the §49.9(a)(13) of the 2011 QAP and has determined that the application is not eligible for the point item. Therefore, the points originally awarded will be rescinded and a revised scoring notice will be issued.</p>

TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Status
11115	Castle Manor	Gilbert M. Piette	<p>The challenge relates to points under §49.9(a)(5), Commitment of Funding by Governmental Instrumentality. The Challenger questions the support of a local government instrumentality because The City of Corpus Christi has not supported this application with any funds. The City Council passed a resolution supporting the Palms at Leopard, #11166, on February 22, 2011. The Challenger has submitted minutes from the April 16, 2011 Corpus Christi City Council meeting at which the Palms at Leopard was recommended for funding in the amount of \$865,000. In the meeting minutes it was noted that initially both Dolphin's Landing and Palms at Leopard were recommended equally. However, the minutes state that staff has "checked with the Department and it was determined that the City essentially needs to support one project so the project may receive the points for the tax credits." The Challenger added that none of the other applications has obtained consent as evidenced by an Inter-Local Agreement.</p> <p>The Challenger further asserts that the applications for Dolphin's Landing, #11227, Lexington Vista, #11045, Palm Gardens, #11050, and 11115, Castle Manor have included the HOME funds as part of their financial feasibility and that without the commitment of The City of Corpus Christi funding, the applications are not financially feasible.</p>	<p>Analysis: Pursuant to §49.9(a)(5) of the 2011 QAP, up to 18 points may be awarded for the commitment of development funding by a Governmental Instrumentality. In accordance with this section of the QAP, if not already provided, at the time the executed (TDHCA) Commitment is required to be submitted, the Applicant must provide evidence of a commitment approval by the Governing Body of the Unit of General Local Government, or its designee or agent, for the Development Funding to the Department. Documentation of the interlocal agreement is not required at the time of application. Due to the many variables associated with the financing of tax credit developments, Applicants are allowed to substitute funding sources for this particular scoring item after an application is submitted to the Department, without the request of staff.</p> <p>Resolution: The Department has evaluated the challenge pursuant to the methodology outlined in the §49.9(a)(5) of the 2011 QAP and has determined no action is required, <u>at this time</u>.</p>

TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Status
11124	People's El Shaddai	A.C. Gonzalez, Assistant City Manager, City of Dallas	The challenge is related to points under §49.9(a)(5), Commitment of Development Funding by Governmental Instrumentality. The basis of the challenge as reflected in the challenge documentation is: the Dallas City Council voted not to support the project. The Challenger contends that the Applicant has requested funds from Capital Area Housing Finance Corporation and that the corporation's by-laws require the consent of the applicable Local Political Subdivision as evidenced by an executed Interlocal Agreement. The Challenger contends that the City of Dallas does not intend to execute such an Interlocal Agreement.	<p>Analysis: Pursuant to §49.9(a)(5) of the 2011 QAP, up to 18 points may be awarded for the commitment of development funding by a Governmental Instrumentality. In accordance with this section of the QAP, if not already provided, at the time the executed (TDHCA) Commitment is required to be submitted, the Applicant must provide evidence of a commitment approval by the Governing Body of the Unit of General Local Government, or its designee or agent, for the Development Funding to the Department. Due to the many variables associated with the financing of tax credit developments, Applicants are allowed to substitute funding sources for this particular scoring item after an application is submitted to the Department, without the request of staff. The Applicant has requested to substitute the source of funds with a Development Based Rental Subsidy submitted with the application in response to the challenge.</p> <p>Staff has concerns whether this, in fact, constitutes local support as contemplated by this provision; however, the source does not need to be confirmed until Commitment.</p> <p>Resolution: The Department has evaluated the challenge pursuant to the methodology outlined in the §49.9(a)(5) of the 2011 QAP and has determined no action is required, <u>at this time</u>.</p>

TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Status
11124	People's El Shaddai	State Representative Barbara Mallory Caraway	The challenge is related to points under §49.9(a)(5), Commitment of Funding by Governmental Instrumentality. The basis for the challenge questions the support of the project by a local governmental instrumentality because the City of Dallas voted to deny the project and does not intend to execute the Interlocal Agreement required by Capital Area Housing Corporation.	<p>Analysis: Pursuant to §49.9(a)(5) of the 2011 QAP, up to 18 points may be awarded for the commitment of development funding by a Governmental Instrumentality. In accordance with this section of the QAP, if not already provided, at the time the executed (TDHCA) Commitment is required to be submitted, the Applicant must provide evidence of a commitment approval by the Governing Body of the Unit of General Local Government, or its designee or agent, for the Development Funding to the Department. Due to the many variables associated with the financing of tax credit developments, Applicants are allowed to substitute funding sources for this particular scoring item after an application is submitted to the Department, without the request of staff. The Applicant has requested to substitute the source of funds with a Development Based Rental Subsidy submitted with the application in response to the challenge.</p> <p>Staff has concerns whether this, in fact, constitutes local support as contemplated by this provision; however, the source does not need to be confirmed until Commitment.</p> <p>Resolution: The Department has evaluated the challenge pursuant to the methodology outlined in the §49.9(a)(5) of the 2011 QAP and has determined no action is required, <u>at this time</u>.</p>

TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Status
11136	Sphinx at Lawnview	Kristian Teleki	The challenge relates to points under §49.9(a)(16), Development Location. The basis for the challenge questions whether the development qualifies as a high opportunity area. The building elevations and site plan indicate the development is one story and does not include detached garage spaces. Additionally, the Area Median Gross income (AMGI) for the census tract is not greater than the AMGI for the area, and the project's census tract does not have greater than 10% poverty population.	This application has been withdrawn from consideration by the applicant.

Resolution: The Department has evaluated the challenge pursuant to the methodology outlined in the §49.9(a)(5) of the 2011 QAP and has determined no action is required.

TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Status
11140	Villas of Giddings	Robert H. Voelker, Munsch, Hardt, Kopf, & Harr	The challenge relates to points under §49.9(a)(18), Developments in Census Tracts with No Other Existing Same Type Developments Supported By Tax Credits. The basis to the challenge as reflected in the documentation submitted is that the Applicant requested points for being in a census tract where no other existing same type developments are located. The Challenger contends that the Reference Manual indicates that a development of the same type does exist within the census tract and that points should not be awarded.	<p>Analysis: Pursuant to §49.9(a)(18) of the QAP, 4 points may be awarded if the proposed Development is located in a census tract in which no other existing Developments are supported by Housing Tax Credits. The census tracts are outlined in the 2011 Housing Tax Credit Demographic Characteristics Report. The Applicant submitted an explanation that while there is another Development within the census tract serving the general population the proposed Development will “provide single-family housing units for larger families.” Staff has reviewed the documentation included in the challenge as well as the Applicant’s response and has determined that the census tract for the Development is not eligible if the application proposes to serve the general population.</p> <p>Resolution: The Department has evaluated the challenge pursuant to the methodology outlined in the §49.9(a)(18) of the 2011 QAP and has determined that the Application is not eligible for points under §49.9(a)(18), Developments in Census Tracts with no Other Existing Same Type Developments Supported By Tax Credits.</p>

TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Status
11140	Villas of Giddings	Robert Voelker on behalf of client	The challenge relates to 10 TAC §53.80, HOME Funds Match Requirement. The basis for the challenge questions whether the application will receive HOME funds because the source of the match was not identified and there is not a commitment for the matching funds included in the application. The Challenger asserts that the source of the match is probably ineligible.	<p>Analysis: Pursuant to the HOME Program Rule at 10 TAC §53.80, Match equal to 2% of the HOME award must be provided. The HOME Program guidelines state that professional services can be donated and counted as Match if those services were not part of a contract. The Applicant's response appears to acknowledge that a firm commitment was omitted in error. Staff has not completed the review of the HOME portion of the application. The Applicant would be allowed to correct the provider's information through the Department's Administrative Deficiency process.</p> <p>Resolution: The Department has evaluated the challenge pursuant to the methodology outlined in the §49.10(e) of the 2011 QAP and has determined that no action is required, <u>at this time</u>.</p>

TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Status
11163	The Grove at Elm Park	John Shackelford on behalf of client	<p>The challenge relates to points under §49.9(a)(13), Community Revitalization Plan. The basis of the challenge questions the Lubbock Consolidated Plan qualifying as a Community Revitalization Plan. The Challenger asserts that the Consolidated Plan does not implement its objectives nor does it specifically target areas for revitalization. If a city's broadly written HUD mandated consolidated plan qualified as a CRP, then every development located in a city with a consolidated plan would automatically qualify for these points when clear intent is to reward only those developments located in areas specifically targeted to be revitalized. Further, if consolidated plan is eligible, the only targeted areas are CDBG Target Areas and the proposed development is not located within one of these areas. The Lubbock Consolidated plan, together with the Action Plan, constitute a Community Revitalization Plan. The Action Plan specifies both where funds go and the areas targeted for revitalization. The proposed development is not located in either the current target areas or the eligible areas set forth in the Action Plan either.</p> <p>Finally, there is no evidence that the Plan utilized for this point request was adopted by the local Governing Body by ordinance, resolution or specific vote. This constitutes an omission not curable by deficiency and points should not be awarded for this item.</p>	Pending: Challenge being processed pursuant to §49.10(e) of the 2011 QAP.

TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Status
11169	Merritt Bryan Station Senior Development	Mark Musemeche	<p>The challenge relates to points under §49.9(a)(2), Quantifiable Community Participation. The basis of the challenge questions whether the neighborhood organization was formed by an agent of the Applicant. Managing Members of the entity that is the seller of the site for the project, and the broker representing the seller, appear to serve as a Registered Agent , Director, and Secretary of Old Reliance Neighborhood Association. The Challenger asserts that the October 16, 2010 edition of the Austin American Statesman includes an article titled, "Investors form neighborhood groups to help get public financing for housing." Several of the persons stated as being involved in the Old Reliance Neighborhood Organization were indicated as being organizers of four neighborhood associations in order to get QCP participation support for the proposed projects.</p>	<p>Analysis: Pursuant to §49.9(a)(2) of the 2011 QAP, 24 points may be awarded for written statements of support received by March 1, 2011 from Neighborhood Organizations on record with the state or county in which the Development is to be located and whose boundaries contain the proposed Development site. The Department received separate responses from the Applicant, Gary A. Welch, Chair of Old Reliance Neighborhood Association, and Mr. Blake Rue, Director of Old Reliance Neighborhood Association. Mr. Benton is the real estate broker for the land seller and Mr. Rue is the land seller for the proposed property. The Applicant asserts that Mr. Rue and Mr. Benton took the initiative to form the Neighborhood Organization on behalf of the neighborhood, but that once the paperwork was completed the members elected officers and directors for the Organization and Mr. Rue and Mr. Benton were replaced. Although there may be appearances of "agency", the QAP does not currently prohibit the land owner from forming a neighborhood organization.</p>

Resolution: The Department has evaluated the challenge pursuant to the methodology outlined in the §49.9(a)(2) of the 2011 QAP and has determined no action is required.

TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Status
11217	The Overlook at Plum Creek	Kenneth Lewis	<p>The challenge relates to points under §49.(a)(13), Community Revitalization. The basis of the challenge questions the use of the City of Kyle's Comprehensive Plan as a Community Revitalization Plan. The Challenger asserts that although the letter from the City of Kyle verifies that the site is within the area covered by the Comprehensive Plan, the site is not located within the target area of revitalization. The area of revitalization includes downtown Kyle but the site is located in the North Ranch District. The North Ranch District is in a new development district and there is no indication in the Plan of revitalization in that area. The Challenger further contends that Comprehensive plans are general and are intended to "cover visionary planning and growth objectives" while a Revitalization Plan "targets specific areas for revitalization and redevelopment."</p>	<p>Analysis: Pursuant to §49.9(a)(13) of the QAP, 3 points may be awarded to an application proposing New Construction in an area that is part of a Community Revitalization Plan. The application documentation includes a letter from the Mayor of the City of Kyle that states the Overlook at Plum Creek development site is located within the area covered by the City of Kyle Comprehensive plan. The letter also states that the City of Kyle's Comprehensive Plan acts as a community revitalization plan. The site is located in North Ranch District, which is targeted for development in the Plan.</p> <p>Resolution: The Department has evaluated the challenge pursuant to the methodology outlined in the §49.9(a)(13) of the 2011 QAP and has determined that no action is required.</p>

TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Status
11227	Dolphin's Landing	Paul Patierno	<p>The challenges relate to points under §49.9(a)(26), Leveraging of Private, State, and Federal Resources and §49.9(a)(27), Third Party Funding Outside of Qualified Census Tracts. The basis for the challenge questions whether a Principal of the source of the funds has a direct relationship to the General Partner and Developer of the Applicant. The Challenger contends that Tom McVay is President of Arlington Capital Corporation, the funding source. A Dun and Bradstreet report was submitted to illustrate that Tom McVay is an officer and owner of Arlington Capital Corporation. The Challenger asserts that Mr. Richard Whaley, a Board Member/Trustee of Atlantic Housing Foundation, Inc., a member of the Applicant ownership structure, is listed as an officer of the funding source in the Dun and Bradstreet report. Further, the Challenger submitted a Dun and Bradstreet report that lists Tom McVay and Richard Whaley as officers for MAS Apartment Corporation, dba MAS properties. The Challenger believes the points should not be awarded.</p>	<p>Analysis: Pursuant to §49.9(a)(26) and §49.9(a)(27) one point may be awarded for leveraging private, state, and federal resources and for a third party funding source outside of a qualified census tract, respectively. The application reflects the source of the funding for both point items is Arlington Capital Corporation. Mr. Whaley is an owner of Arlington Capital Corporation and is a Board member of the Applicant non-profit. This would appear to be an identity of interest and not represent a true third party source of funding.</p>

Resolution: The Department has evaluated the challenge pursuant to the methodology outlined in the §49.9(a)(26) and (27) of the 2011 QAP and has determined that the application is not eligible for the point item. Therefore, the points originally awarded will be rescinded and a revised scoring notice will be issued.

TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Status
11227	Dolphin's Landing	Gilbert M. Piette	<p>The challenge relates to points under §49.9(a)(5), Commitment of Funding by Governmental Instrumentality. The Challenger questions the support of a local government instrumentality because The City of Corpus Christi has not supported this application with any funds. The City Council passed a resolution supporting the Palms at Leopard, #11166, on February 22, 2011. The Challenger has submitted minutes from the April 16, 2011 Corpus Christi City Council meeting at which the Palms at Leopard was recommended for funding in the amount of \$865,000. In the meeting minutes it was noted that initially both Dolphin's Landing and Palms at Leopard were recommended equally. However, the minutes state that staff has "checked with the Department and it was determined that the City essentially needs to support one project so the project may receive the points for the tax credits." The Challenger added that none of the other applications has obtained consent as evidenced by an Inter-Local Agreement.</p> <p>The Challenger further asserts that the applications for Dolphin's Landing, #11227, Lexington Vista, #11045, Palm Gardens, #11050, and 11115 Castle Manor have included the HOME funds as part of their financial feasibility and that without the commitment of The City of Corpus Christi funding, the applications are not financially feasible.</p>	<p>Analysis: Pursuant to §49.9(a)(5) of the 2011 QAP, up to 18 points may be awarded for the commitment of development funding by a Governmental Instrumentality. In accordance with this section of the QAP, if not already provided, at the time the executed (TDHCA) Commitment is required to be submitted, the Applicant must provide evidence of a commitment approval by the Governing Body of the Unit of General Local Government, or its designee or agent, for the Development Funding to the Department. Documentation of the interlocal agreement is not required at the time of application. Due to the many variables associated with the financing of tax credit developments, Applicants are allowed to substitute funding sources for this particular scoring item after an application is submitted to the Department, without the request of staff.</p> <p>Resolution: The Department has evaluated the challenge pursuant to the methodology outlined in the §49.9(a)(5) of the 2011 QAP and has determined that no action is required, <u>at this time</u>.</p>

TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Status
11237	Summer Crest Senior Development	Robert Salas, Director, Neighborhood and Family Services Department, City of San Angelo	The challenge relates to points under §49.9(a)(13), Community Revitalization. The basis of the challenge as reflected in the challenge documentation is that points should not be awarded for Community Revitalization because the Development is not located within the boundaries of an area designated by the city as a community revitalization zone.	<p>Analysis: Pursuant to §49.9(a)(13)(D) of the QAP, up to 3 points may be awarded if the Development is New Construction and is proposed to be located in an area that is part of a Community Revitalization Plan. The Applicant contends that while it is correct that the Development is not located within the City of San Angelo’s targeted revitalization area, the City's Consolidated Plan includes all areas of the city. The Applicant believes that the proposed Development location is in compliance with the requirements of the QAP because the Consolidated Plan qualifies as a Community Revitalization Plan, the Plan includes targeted areas of revitalization, and the Plan includes the entire City of San Angelo. Staff has evaluated the documentation submitted by the Challenger as well as the Applicant's response and has determined that it is the intent of the QAP that if the Consolidated Plan includes specific areas of revitalization, the Development should be located within the boundaries of the targeted area.</p> <p>Resolution: The Department has evaluated the challenge pursuant to the methodology outlined in the §49.9(a)(13) of the 2011 QAP and has determined that the application is not eligible for the point item if it is not located within the target areas of revitalization outlined in the City of San Angelo's Consolidated Plan. A revised Scoring Notice will be issued.</p>

TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Status
11241	Park Hudson	Cynthia Bast on behalf of Colby Dension	<p>The challenge relates to points under §49.9(a)(2), Quantifiable Community Participation (QCP). The Challenger questions whether the organization qualifies as a Neighborhood Organization for the purposes of points. The Challenger asserts that the sole purpose of the Association is to enforce the Restrictive Covenants. There were not reasonable measures taken to allow participation because only the board of directors has operational authority and is not elected by its members. Additionally, the Association did not notify its members of the intent to support the Development until after the letter of support was submitted. The Challenger further contends that there are inconsistencies for the true boundaries of the Association and with the information submitted to the Department. Evidence should be submitted that the site is located within the area described in the covenants or evidence that the covenant has expanded and there is additional acreage should be present.</p>	<p>Analysis: Pursuant to §49.9(a)(2) of the 2011 QAP, an application may receive up to 24 points for statements provided by qualified neighborhood organizations. The Park Hudson Property Owners Association, Inc. has existed for many years and the Association provided the certifications required by the Department in accordance with the QAP. Without evidence to the contrary, staff must presume that they have followed their by-laws even if their method appears less than democratic.</p> <p>Resolution: The Department has evaluated the challenge pursuant to the methodology outlined in the §49.9(a)(2))of the 2011 QAP and and has determined that no action is required.</p>

TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Status
11245	Bar T Apartments		<p>The challenge relates to a potential violation of the §49.5(b), \$2 Million Cap Limit. The Challenger asserts there are related parties between the principals of applications for 11245, 11246, and 11248 and there is a violation of the \$2 million credit limit cap. The basis of the challenge is: the principals of the referenced applications operate as one development company, Pinnacle Housing Group, LLC, and as such are related parties that should be subject to the \$2 million cap. The principals did not disclose that they are related parties and changed the names of the managing General Partners in each application to remove any reference to Pinnacle Housing Group, LLC.</p>	<p>Analysis: Pursuant to §49.5(b) of the 2011 QAP, the Department shall not allocate more than \$2 million of tax credits in any given Application Round to any Applicant, developer, Related Party, Affiliate or Guarantor. These applications are still under review by the Department and until final recommendations for awards are solidified, the \$2 million test will not be finalized.</p> <p>Resolution: The Department has evaluated the challenge pursuant to the methodology outlined in the §49.5(b) of the 2011 QAP and has determined that no action is required, <u>at this time</u>.</p>
11246	Tylor Grand			
11248	Singing Oaks			
11258	Brook Village Apartments	A.C. Gonzalez, Assistant City Manager, City of Dallas	<p>The challenge relates to points under §49.9(a)(5), Commitment of Development Funding by Governmental Instrumentality. The basis of the challenge as reflected in the challenge documentation is: the Dallas City Council voted not to support the project. The Challenger contends that the Applicant has requested funds from Capital Area Housing Finance Corporation and that the corporation's by-laws require the consent of the applicable Local Political Subdivision as evidenced by an executed Interlocal Agreement. The Challenger contends that the City of Dallas does not intend to execute such an Interlocal Agreement.</p>	<p>Analysis: Pursuant to §49.9(a)(5) of the 2011 QAP, up to 18 points may be awarded for the commitment of development funding by a Governmental Instrumentality. In accordance with this section of the QAP, if not already provided, at the time the executed (TDHCA) Commitment is required to be submitted, the Applicant must provide evidence of a commitment approval by the Governing Body of the Unit of General Local Government, or its designee or agent, for the Development Funding to the Department. Due to the many variables associated with the financing of tax credit developments, Applicants are allowed to substitute funding sources for this particular scoring item after an application is submitted to the Department, without the request of staff. The Applicant's response refers to §49.9(a)(5)(ix) and states there is time to "continue working with the neighborhood, City Council, and City staff to garner support for the application."</p>

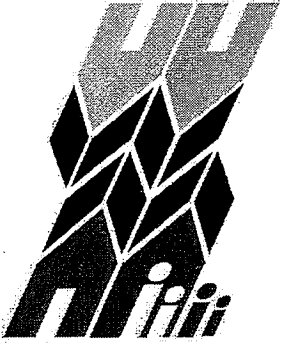
TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Status
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Staff has reviewed the documentation included in the challenge as well as the Applicant's response and has determined that the Applicant submitted the appropriate documentation at the time of application and because the QAP allows for a substitution, the Applicant has until the time of Commitment to provide an appropriate substitution of funds.

Resolution: The Department has evaluated the challenge pursuant to the methodology outlined in the §49.9(a)(5) of the 2011 QAP and has determined that no action is required, at this time.

TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Status
11258	Brook Village Apartments	Kristian Teleki	<p>The challenge relates to points under §49.9(a)(16), Development Location. The basis of the challenge is that points should not be awarded because the Development does not meet the requirements of an urban core. The zoning information provided does not show adjacent block groups zoned to accommodate a mix of medium high density residential and commercial uses. The Challenger submitted census tract and aerial photographs as evidence that the project is located in Census Tract 78.18, which is 100% 1,2, and 3 story multifamily. The surrounding census tracts are as follows: Census tract 78.19 is zoned commercial and currently has one-story retail and parking lots, Census Tract 78.15 is primarily a middle school, and Census Tract 78.16 is entirely 1, 2, and 3 story multifamily. The Downtown Dallas 360 Plan was submitted as evidence that high density areas are considered developments with 10 or more stories and 100 or more units per acre. The Challenger asserts that the Development does not qualify for the points.</p>	This application has been withdrawn from consideration by the applicant.

Housing and Community Services, Inc.



8610 North New Braunfels, Suite 500
San Antonio, Texas 78217-6397

Phone 210.821.4300
Fax 210.821.4303 • Toll Free 888.732.3394
Email: gilp@hcscorp.org

Gilbert M. Piette
*Executive Director
and CEO*

Board of Directors

John Longoria
President

Eugenie A. Blaskovitz
Vice President

George H. Rodriguez
Secretary

Marvin Melson
Treasurer

BJ Burns
Joan Cortinas
Perry Deckard
Gloria Flores
Carl Forinash
Diamantina Garcia
Nancy Hard
Adolph D. Jacobson
Lucy Martinez
Anthony Nanes
Rafael Torres
Ernestine Trujillo

June 14, 2011

Robbye Meyer
Director of Multifamily Finance
Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, Texas 78711-3941

Re: Low Income Housing Tax Credit Applications:
11227 Dolphin's Landing Apartments
11115 Castle Manor Apartments
11045 Lexington Vista
11050 Palm Gardens
Clarification QAP -- 49.9(a)(5) Commitment of Development Funding
by Units of General Local Government Clarification of economic
viability

Dear Ms. Meyer:

The purpose of this letter is to request clarification and justification for the points awarded to the above noted applications under 49.9(a)(5) and to inquire how these applications are economically viable without an award of Corpus Christi HOME funds. Region 10 of the 2011 Texas Qualified Allocation Plan incorporates the City of Corpus Christi where six of the project applications are located.

First and foremost, the City of Corpus Christi has not supported the above four referenced applications with any funds. On February 22, 2011 the City Council of Corpus Christi passed a resolution supporting tax credit application 11166, The Palms at Leopard (see Exhibit 1). Further emphasizing this project as a priority for the City, on April 26, 2011 the Corpus Christi City Council awarded all of its 2011 funding for housing (HOME funds) to tax credit application 11166, The Palms at Leopard as it meets multiple housing priorities for the City (see Exhibit 2), including but not limited to, building a new project in an area targeted for redevelopment, transferring residents from an obsolete property which in turn will be torn down, and transferring the project based

section 8 subsidy to the new location. Consequently, none of the above four referenced applications have local funding nor are they a priority for the City.

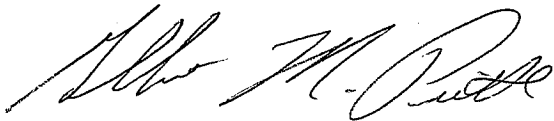
Second, none of the four referenced applications have obtained consent from the applicable Unit of General Local Government as evidenced by an executed Inter-local Agreement. The City of Corpus has not executed an Inter-local Agreement and does not intend to execute one that would allow another application to circumvent the 2011 top priority established by the Corpus Christi City Council at its meeting on February 22, 2011.

In addition, please verify the financial feasibility of applications 11227, 11045 and 11050 each of which included funding from the City of Corpus Christi as part of their financial feasibility. It appears that without funding from the City of Corpus Christi these applications are not financially feasible.

We respectfully request that you deduct the 18 points for the commitment of development funding by units of general local government as the local Governing Body (City of Corpus Christi) where the four referenced projects are located has not provided 2011 general local government support. If these points are deducted from these applications then tax credit application 11166 The Palms at Leopard, which the City of Corpus Christi has designated as its highest priority, would be the top application in Region 10 and would qualify for tax credit funding.

Your earliest consideration of this matter would be greatly appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Gilbert M. Piette". The signature is fluid and cursive, with the first name being the most prominent.

Gilbert M. Piette
Executive Director

Attachments: Exhibits 1 and 2

EXHIBIT 1

**City of Corpus Christi
Council Resolution**

RESOLUTION

DECLARING THE CITY OF CORPUS CHRISTI'S SUPPORT OF THE DEVELOPMENT OF THE PALMS AT LEOPARD STREET

WHEREAS, The Palms at Leopard Street, Ltd. Has proposed a development for affordable rental housing on a tract of land on Palm Avenue between Lipan Street and Leopard Street named The Palms at Leopard Street in the City of Corpus Christi, Texas; and,

WHEREAS, The Palms at Leopard Street, Ltd. Intends to submit an application to the Texas Department of Housing and Community Affairs (TDHCA) for 2011 Housing Tax Credits funds; and,

WHEREAS, The Palms at Leopard Street is intended to serve as a replacement site for the units at the existing Northside Manor Apartments which is in dire need of demolition and relocation of families due to substandard living conditions and deterioration of the neighborhood; and,

WHEREAS, the development of The Palms at Leopard Street will bring much needed reinvestment to a major Urban Core area of the City marked by a medium and high density residential and commercial uses;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CORPUS CHRISTI, TEXAS THAT:

Section 1. The City of Corpus Christi supports the development of The Palms at Leopard Street as its first priority application in the Region 10-Urban area designated by the State of Texas that includes the City.

DULY adopted at a regular meeting of the City Council of the City on the 22nd day of February, 2011.

ATTEST:

CITY OF CORPUS CHRISTI

By: Armando Chapa
Armando Chapa
City Secretary

By: Joe Adame
Joe Adame, Mayor

028973

APPROVED AS TO LEGAL FORM:

FEBRUARY 17, 2011

By:

Carlos Valdez

Carlos Valdez, City Attorney

Corpus Christi, Texas

22nd day of February, 2011

The above Resolution was passed by the following vote:

Joe Adame	<u>Aye</u>
Chris N. Adler	<u>Aye</u>
Larry R. Elizondo, Sr.	<u>Aye</u>
Kevin Kieschnick	<u>Aye</u>
Priscilla Leal	<u>Aye</u>
John E. Marez	<u>Aye</u>
Nelda Martinez	<u>Aye</u>
Mark Scott	<u>Absent</u>
Linda Strong	<u>Aye</u>

028973

EXHIBIT 2

Excerpts from Corpus Christi City Council Meeting – 4/26/2011 Award of HOME Funds to The Palms at Leopard

MINUTES

CITY OF CORPUS CHRISTI, TEXAS
Regular Council Meeting
April 26, 2011 - 12:00 p.m.

PRESENT

Mayor Joe Adame
Mayor Pro Tem Nelda Martinez

Council Members:

Chris Adler
Larry Elizondo, Sr.**
Kevin Kieschnick
John Marez
Mark Scott
Linda Strong*

City Staff:

Interim City Manager Margie C. Rose
City Attorney Carlos Valdez
City Secretary Armando Chapa

ABSENT

Priscilla Leal

*Arrived at 12:32 p.m.

**Arrived at 1:38 p.m.

Mayor Adame called the meeting to order in the Council Chambers of City Hall.

The invocation was delivered by Council Member Martinez and the Pledge of Allegiance to the United States flag was led by Council Member Marez.

City Secretary Chapa called the roll and verified that the necessary quorum of the Council and the required charter officers were present to conduct the meeting.

Mayor Adame called for approval of the minutes of the Workshop meeting of April 12, 2011 and the regular Council meeting of April 19, 2011. A motion was made and passed to approve the minutes as presented.

Mayor Adame called for consideration of the consent agenda (Items 2 - 18). There were no comments from the public. Council members requested that Items 4, 5, 7, 8, 12 and 15 be pulled for individual consideration. City Secretary Chapa polled the Council for their votes as follows:

2. MOTION NO. 2011-096

Motion approving a supply agreement with Ferguson Enterprises, Corpus Christi, Texas for approximately 3,755 non-shear flexible couplings ranging in size from 3" to 10", in accordance with Bid Invitation No. BI-0030-11, based on low bid, for an estimated annual expenditure of \$76,069.52 of which \$19,017.38 is budgeted for FY10-11. The term of the contract is for twelve months with options to extend for up to two additional twelve-month periods, subject to the approval of the contractor and the City Manager, or designee. These items are purchased into the Warehouse Inventory and charged out to the Wastewater Department.

The foregoing motion was passed and approved with the following vote: Adame, Adler, Kieschnick, Marez, Martinez, and Scott, voting "Aye"; Elizondo, Leal, and Strong were absent.

Minutes – Regular Council Meeting
April 26, 2011 – Page 11

owners were not informed by the City that there were problems with the property at 1414 Leopard and so the property owners concentrated their efforts to demolish the property at 1420 Leopard.

The following topics pertaining to this item were discussed: the date of the last inspection; the anticipated costs to restructure the property; whether the owner has received bids that include a structural analysis; the proposed use for the property; when the property owner would begin improvements to the property if an appeal is granted; concern with the deterioration of the property; and notification to the property owner for 1414 Leopard.

Mayor Adame called for comments from the audience. Abel Alonzo, 1701 Thames, stated that it is not easy to demolish someone's property however based on the presentation by staff the City has no choice but to deny the appeal.

Mr. Kieschnick made a motion to deny the appeal. The motion was seconded by Ms. Martinez. City Secretary Chapa polled the Council for their votes as follows:

23. MOTION NO. 2011-104

Motion to deny an appeal by Mr. Manuel N. Cantu, Jr., of the Building Standards Board's decision to require demolition of a structure(s) located at Lot 4, Block 1, West End, commonly known as 1414 Leopard Street.

The foregoing motion was passed and approved with the following vote: Adame, Adler, Elizondo, Kieschnick, Marez, Martinez, Scott, and Strong, voting "Aye"; Leal was absent.

Mayor Adame opened discussion on Item 25 regarding the Downtown Street (Chaparral) project. Director of Engineering Services Pete Anaya introduced the presentation team including Raymond Gignac with Gignac & Associates and Carl Crull with HDR Engineering. Mr. Anaya explained that this item is for the design of the project and allows the City to go out for bids on Chaparral Street. Mr. Anaya reported that the project would be bid two ways including a complete closure and a partial closure. Mr. Anaya also stated that the City is going to resubmit the U.S. Department Economic Development Administration (EDA) grant in the amount of \$3.7 million. Mr. Gignac referred to a powerpoint presentation including the proposed design for the crosswalks, intersections parking and travel lanes; sidewalk paving; an aerial view; a realistic view of intersection; example of catenary lighting; and the proposed schedule.

The following topics pertaining to this item were discussed: the EDA grant funding; status of the kiosks at the Bayfront Park; start of construction date; and landscaping.

Council Member Martinez requested a future agenda item on the kiosks at the Bayfront Park. There were no comments from the audience. City Secretary Chapa polled the Council for their votes as follows:

25. MOTION NO. 2011-103

Motion authorizing the City Manager or designee to execute Amendment No. 2 to the Contract for Professional Services with Gignac Architects of Corpus Christi, Texas, in the amount of \$407,503, for a total re-stated fee of \$757,883 for the Downtown Street (Chaparral) project. (BOND ISSUE 2008)

The foregoing motion was passed and approved with the following vote: Adame, Adler, Elizondo, Kieschnick, Marez, Martinez, Scott, and Strong, voting "Aye"; Leal was absent.

Minutes – Regular Council Meeting
April 26, 2011 – Page 12

Mayor Adame opened discussion on Item 24 regarding the adoption of the FY2011-2012 Consolidated Annual Action Plan. Director of Neighborhood Services Eddie Ortega reported that the City has received the further estimates from the U.S. Department of Housing and Urban Development with a reduction of 16 ½ % and highlighted the following changes: an additional reduction for CDBG- Program Administration in the amount of \$30,315 for a total funding level of \$401,309; a reduction of CDBG-Code Enforcement Program in the amount of \$25,000; a reduction of \$25,000 for the CDBG- Comprehensive Planning Assistance Program; funding of \$100,000 for the CDBG-Ethel Eyerly Senior Center by eliminating funding from the CDBG-Neighborhood Initiative Program & Model Block Revitalization Program in the amount of \$100,000 (working on the assumption that have available funding from previous years to support this year); reduction of \$25,000 for CDBG-Rehabilitation Services; funding for CDBG-Amistad Community Health Center in the amount of \$31,024; reduction from CDBG-Coastal Bend Alcohol & Drug Rehabilitation Center d/b/a Charlie's Place in the amount of \$31,024; and a reduction of \$5,766 to all of the agencies recommended for funding with the exception of CDBG-Boys and Girls Club which was reduced in the amount of \$5,756.

Mr. Ortega announced that the Emergency Shelter Grant (ESG) program received an additional \$56,424 and each ESG program received an additional \$5,936 with the exception of the ESG-Administrative Costs which received an additional \$2,811. Mr. Ortega announced that the HOME program received an additional \$4,174 and highlighted the following changes: HOME Administration/Technical Assistance receiving an additional \$7,745 for a total of \$156,662; HOME-Major Rehabilitation program receiving a total of \$764,965; HOME-Nueces County Community Action Agency receiving a total of \$300,000; and The Palms at Leopard will be recommended for funding in the amount of \$865,000. Mr. Ortega reported that after the last meeting, staff recommended funding Dolphin's Landing and The Palms at Leopard equally, however, after checking with the Texas Department of Housing and Community Affairs, it was determined that the City essentially needs to support one project so that the project can receive the 16 points for tax credits.

Mayor Adame called for comments from the audience. Abel Alonzo, 1701 Thames, stated that MHMR is extremely grateful for the funding that was provided. Eric Martinez, Association Coordinator for the World Changers Projects, thanked Mr. Ortega and Neighborhood Services employees Diana Garza and Tony Recio for their support of the World Changers Project and the CDBG-Neighborhood Initiative Program & Model Block Revitalization Project. Mr. Martinez asked the Council to continue to support the use of anticipated funds available for the Model Block Program. Therese Perez, Corpus Christi Hope House, expressed gratitude for the funding provided for the shelter. Michael Wynn, Atlantic Housing, spoke on behalf of Dolphin's Landing and thanked the Council for listening to concerns during the April 12th meeting. Council Member Martinez reiterated that staff was not supporting funding for Dolphin's Landing. Jaime Nodarse, Amistad Community Health Center, thanked the Council for their reconsideration for funding CDBG-Amistad Community Health Center. Mark Lechner, Lexington Vista and Palm Gardens, stated that it was hard to argue with staff's recommendation for their support to one HOME project to receive tax credits. Mr. Lechner provided information on both proposed projects and requested that Council consider a mechanism to transfer HOME funds to the project that gets awarded by TDHCA. Jose Mascorro, Housing and Community Services, spoke regarding The Palms at Leopard Project and thanked staff for their hard work on this project and the importance of the City supporting the project 100% to ensure tax funding does come to the City of Corpus Christi.

Mr. Scott made a motion to amend the Consolidated Annual Action Plan to include changes as recommended by staff in today's handout. The motion was seconded by Mr. Elizondo.

Minutes – Regular Council Meeting
April 26, 2011 – Page 13

The foregoing motion was passed and approved with the following vote: Adame, Adler, Elizondo, Kieschnick, Marez, Martinez, Scott, and Strong, voting "Aye"; Leal was absent.

City Secretary Chapa polled the Council for their votes as follows:

24. RESOLUTION NO. 029047

Resolution adopting the Fiscal Year 2011-12 Consolidated Annual Action Plan ("CAAP") which includes the Community Development Block Grant (CDBG), Emergency Shelter Grant (ESG), and Home Programs (HOME); authorizing the City Manager or designee to submit the Fiscal Year 2011-12 CAAP to the U. S. Department of Housing and Urban Development ("HUD"); and authorizing the City Manager or designee to execute all necessary documents to make changes in the Fiscal Year 2011-12 CAAP if required by HUD.

The foregoing resolution was passed and approved as amended with the following vote: Adame, Adler, Elizondo, Kieschnick, Marez, Martinez, Scott, and Strong, voting "Aye"; Leal was absent.

Mayor Adame returned to discussion on Item 8 regarding the acceptance of an anonymous donation for the decorative lighting of the Harbor Bridge project. City Secretary Chapa polled the Council for their votes as follows:

8.a. RESOLUTION NO. 029036

Resolution authorizing the City Manager or designee to accept an anonymous donation in the amount of \$300,000 for support of the decorative lighting of the Harbor Bridge project.

The foregoing resolution was passed and approved with the following vote: Adame, Adler, Elizondo, Marez, Martinez, Scott, and Strong, voting "Aye"; Kieschnick voting "No"; Leal was absent.

8.b. ORDINANCE NO. 029037

Ordinance appropriating \$300,000 from an anonymous donation into the No. 1020 General Fund for support of the decorative lighting of the Harbor Bridge project; changing the FY 2010-2011 Operating Budget adopted by Ordinance No. 028683 to increase revenues and appropriations by \$300,000 each.

An emergency was declared, and the foregoing ordinance was passed and approved with the following vote: Adame, Adler, Elizondo, Marez, Martinez, Scott, and Strong, voting "Aye"; Kieschnick voting "No"; Leal was absent.

Mayor Adame opened discussion on Item 12 regarding the Memorial Coliseum Demolition Project. Director of Engineering Services Pete Anaya provided a project budget showing the construction liquidated damages in the amount of \$70,000 and the \$28,000 for Amendment No. 1 to the contract with R.H. Shackelford, Inc. In response to Council Member Scott, the net savings on the project is approximately \$42,000. City Secretary Chapa polled the Council for their votes as follows:

June 27, 2011

Ms. Raquel Morales
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 7870-2410

RE: Lexington Vista #11045 Challenge

Dear Raquel,

We represent Downing Place, LP, the Applicant for Lexington Vista, TDHCA application #11045. This letter is in response to a challenge submitted by Housing and Community Services, Inc. with respect to our Application located in Corpus Christi, Texas. Below are our responses to the item being challenged.

1. The first item relates to Housing and Community Services, Inc. assertion that Lexington Vista points awarded related 49.9(a)(5) needs justification since the City of Corpus Christi isn't in support of the project and The Palms at Leopard received priority for HOME funds on April 26th, 2011 by the City of Corpus Christi City Council. Per the QAP under 49.9(a)(5)(iii), "an applicant may substitute any source in response to an Administrative Deficiency Notice or after the application has been submitted to the department." If the applicant doesn't receive HOME funds from the City of Corpus Christi, the applicant will request Capital Area Housing Finance Corporation to replace the finance commitment at that time.
2. Secondly, the Housing and Community Services, Inc. argues Lexington Vista has not obtained consent from the applicable Unit of General Local Government as evidenced by an executed Inter-Local Agreement. Per the QAP under 49.9 (a)(5)(ix),"at the time the executed Commitment is required to be submitted, the Applicant or Development Owner must provide evidence of a commitment approved by the Governing Body of the Unit of General Local Government or its designee or agent, for the Development Funding to the Department." The applicant has already been in correspondence with the City of Corpus Christi to have an interlocal agreement to be executed in the month of July.
3. Lastly, Housing and Community Services, Inc. are simply wrong about City of Corpus Christi not supporting the project. The applicant has met with the City multiple times as

a result; the City of Corpus Christi Mayor and Councilmember are in support of project. Please see support letters in Exhibit "A."

We appreciate Housing and Community Services, Inc. comments and concerns regarding our Application, but believe that they have already been appropriately addressed with the Department at this time.

Please do not hesitate to contact me at 502-639-8032 or email at mlechner1@bellsouth.net.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Lechner". The signature is written in a cursive style with a large initial "M".

Mark Lechner
Manager



City of
Corpus
Christi

OFFICE OF THE MAYOR

Joe Adame

PO Box 9277

Corpus Christi

Texas 78469-9277

Phone 361-826-3100

Fax 361-826-3103

www.cctexas.com

April 15, 2011

Senator Juan "Chuy" Hinojosa
TX Senate District 20
P.O. Box 12068
Austin, TX 78711

RE: Local Support for Lexington Vista

Dear Senator *Chuy* Hinojosa,

Please let this letter serve as a letter of support for the proposed Lexington Vista Apartment development.

Our offices and constituency have met with the development team and feel they will fill the need for quality and safe affordable housing for our senior residents of Corpus Christi and surrounding communities.

If you have any questions, please feel free to contact me at 361.826.3100 or via email at joea@cctexas.com

Sincerely,

A handwritten signature in cursive script that reads "Joe Adame".

Joe Adame
Mayor

JA/kd





City of
Corpus
Christi

CITY COUNCIL

Larry Elizondo, Sr.
COUNCIL MEMBER
DISTRICT 5

lreizondosr@hotmail.com

7230 Yaupon Drive

Corpus Christi

Texas 78414

Phone 361-826-3105

www.cctexas.com

Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 7870-2410
RE: Lexington Vista Development
TDHCA Board Members,

May 25, 2011

Dear TDHCA Directors and Staff,

This letter is written to demonstrate the full support of the proposed Lexington Vista Senior Development project by MBL Derby City Development, LLC to be located in Corpus Christi. The City of Corpus Christi, along with Brighton Village Neighborhood Association is excited and anxiously awaiting for the project to be funded by TDHCA.

City of Corpus Christi additionally requests the project to receive a forward commitment for tax credits if the project doesn't receive a 2011 allocation. The City of Corpus Christi is in need of senior affordable housing. The City of Corpus Christi hasn't received a new senior affordable housing for over 10 years. The proposed site is ideal, centrally located near Kindred Hospital and Christus Spohn Memorial Hospital, local library and commercial strip centers.

The City of Corpus Christi thanks the Texas Department of Housing and Community Affairs for its efforts to provide housing for seniors in Corpus Christi. We certainly are optimistic that Lexington Vista be approved by your full Board of Directors and staff.

Please do not hesitate to contact me or my office if you need additional information.

Sincerely,

A handwritten signature in blue ink that reads "Larry D. Elizondo Sr.".

Larry Elizondo, Sr.
City Councilman District 5
City of Corpus Christi



June 27, 2011

Ms. Raquel Morales
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 7870-2410

RE: Palm Gardens #11050 Challenge

Dear Raquel,

We represent Sandra Place, LP, the Applicant for Palm Gardens, TDHCA application #11050. This letter is in response to a challenge submitted by Housing and Community Services, Inc. with respect to our Application located in Corpus Christi, Texas. Below are our responses to the item being challenged.

1. The first item relates to Housing and Community Services, Inc. assertion that Palm Gardens points awarded related 49.9(a)(5) needs justification since the City of Corpus Christi isn't in support of the project and The Palms at Leopard received priority for HOME funds on April 26th, 2011 by the City of Corpus Christi City Council. Per the QAP under 49.9(a)(5)(iii), "an applicant may substitute any source in response to an Administrative Deficiency Notice or after the application has been submitted to the department." If the applicant doesn't receive HOME funds from the City of Corpus Christi, the applicant will request Capital Area Housing Finance Corporation to replace the finance commitment at that time.
2. Lastly. Housing and Community Services, Inc. are simply wrong about City of Corpus Christi not supporting project. The applicant has met with the City multiple times as a result; the City of Corpus Christi Mayor is in support of project. Please see support letter in Exhibit "A."

We appreciate Housing and Community Services, Inc. comments and concerns regarding our Application, but believe that they have already been appropriately addressed with the Department at this time.

Please do not hesitate to contact me at 502-639-8032 or email at mlechner1@bellsouth.net.

Sincerely,



Mark Lechner
Manager



City of
Corpus
Christi

OFFICE OF THE MAYOR

Joe Adame

PO Box 9277
Corpus Christi
Texas 78469-9277
Phone 361-826-3100
Fax 361-826-3103
www.cctexas.com

April 15, 2011

Senator Juan "Chuy" Hinojosa
TX Senate District 20
P.O. Box 12068
Austin, TX 78711

RE: Local Support for Palm Gardens

Dear Senator *Chuy* Hinojosa,

Please let this letter serve as a letter of support for the proposed Palm Gardens Apartment development.

Our offices and constituency have met with the development team and feel they will fill the need for quality and safe affordable housing for our senior residents of Corpus Christi and surrounding communities.

If you have any questions, please feel free to contact me at 361.826.3100 or via email at joea@cctexas.com

Sincerely,

Joe Adame

Joe Adame
Mayor

JA/kd



Locke Lord Bissell & Liddell^{LLP}

Attorneys & Counselors

Cynthia L. Bast
Direct Telephone: 512-305-4707
Direct Fax: 512-391-4707
cbast@lockelord.com

June 14, 2011

VIA HAND DELIVERY

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

Re: Sweetwater Bend, TDHCA No. 11051 (the "Application")

Dear Raquel:

We represent the housing tax credit applicant for Tidwell Lakes Ranch, TDHCA No. 11087 in Urban Region 6 (the "Client"). Contact information for the Client is as follows:

W. Barry Kahn
5325 Katy Freeway
Suite One
Houston, Texas 77007-2257
(713) 871-1916 fax
bkahn@hettig-kahn.com

On behalf of the Client, and in accordance with Section 49.10(e) of the Qualified Allocation Plan, we present the following questions or concerns about the Application referenced above. Capitalized terms used but not defined in this letter will have the meanings given them in the Qualified Allocation Plan.

- (1) The first question is with regard to the request for points under 49.9(a)(8), **The Cost of the Development by Square Foot**. The total direct construction costs listed in the Application are \$7,304,360 and the rentable square footage is 80,476, for costs per square foot of \$90.76. The QAP only allows \$87 per square foot for a family development in a First Tier County. Thus the request for points fails under this section.

We recognize that if a building has four or more stories with interior corridors that are enclosed, heated and/or cooled and otherwise finished, the interior corridor space can be included for purposes of this calculation. However, in Volume 1 Tab 2, the Applicant did not identify any such interior corridor space. Moreover, in Volume 1, Tab 8 and Volume 3, Tab 1, the Applicant identified the maximum number of stories as 3. This is consistent with the elevation drawings, which show the buildings to either be two or three story buildings. While there is an indication there may be some sort of ground floor

elevation, it is not clear as to how high, if any, the buildings are elevated and whether such amount equates to the height of a story. The narrative does not describe the buildings as being elevated. Two of the buildings only have two floors and thus would not qualify as four story buildings under any circumstance. Further if the remaining two buildings were elevated buildings, guard rails (like on the upper floors) would be needed at the first floor stairs and patios. And stairs would be needed on the side entry door shown on the side elevation. Otherwise this apparent maintenance room would be left hanging.

Further, based on the drawings, the corridors are open on the remaining two 3 floor buildings. This is proven on the plan elevations which show no building entry doors (see crosshatching on patio doors and doors shown on side elevation drawings), no windows for upper floor corridor ventilation, stairs that are shown to be visible, open and unprotected, and no enclosure with door for access below the first floor. Thus the exception for four story buildings with enclosed corridors is not met (see Exhibit "A").

It appears that the error made by this Applicant was including the common area in the square footage for the calculation. If the common area identified on Volume 1, Tab 2 is included, the cost per square foot is less than \$87. However, common area is not considered "Net Rentable Area" for purposes of this scoring item. **The ten points should be disallowed.**

- (2) The next question with regard to points is under 49.9(a)(13)(D), **Community Revitalization**. This section awards points for a Development located in an area identified in a published and adopted Community Revitalization Plan. A Community Revitalization Plan is defined as a document that targets specific geographic areas for revitalization and residential development.

The Applicant included the 3-Year Consolidated Plan for the entire City of Galveston for the CDBG and HOME programs in its application (the "Plan"). It is questionable whether the Plan constitutes a Community Revitalization Plan under the definition of the QAP. The Plan is mandated by HUD as part of the City's receipt of CDBG and HOME funds. It is not a document that is intended to target specific geographic areas for revitalization. The applicant tried to equate the disaster recovery efforts outlined in the Plan to revitalization, by making handwritten notations throughout the Plan. Disaster recovery and revitalization are two different things. Moreover, the word "revitalization" is only used in the Plan with reference to non-housing community development activities (see pages 20, 134, and 146) and public housing (see pages 90 and 140).

If the Plan could be deemed to target specific geographic areas, those would be the "CDBG Target Areas" described in the Plan. On page 22 of the Plan, it states the mission of the housing department is to "take the city, especially the CDBG Target Areas and low- to moderate-income residents, beyond pre-like conditions. A CDBG Target Area is described as having 51% or more low- and moderate-income residents. Sweetwater Bend is located in census tract 48167726000 which is deemed an upper income tract with a median income of \$98,444 (see Exhibit "B") which is 151% of the MSA/MD Median Family Income. This is not a CDBG Target Area, and new

development in an upper income neighborhood by its nature is not part of a community revitalization plan.

For all these reasons, we believe the Consolidated Plan delivered to HUD is not a Community Revitalization Plan. But even if it is, the Plan identifies CDBG Target Areas to be benefitted, and Sweetwater Bend is not located in a CDBG Target Area. **The three points should be disallowed.**

- (3) The referenced application appears to be an Ineligible Application under 49.4(b)(11) as **more than 50% of the Developer Fee will have to be deferred.** On Applicant's sources and uses and on the syndicator's listing of financing sources, both attached hereto as Exhibit "C", it is noted that part of the permanent financing is a one year loan from Strategic Housing Finance Corporation. Funding that otherwise would be used for Developer Fee will need to be used to repay this one-year loan in the amount of \$627,905. Thus the deferred developer fee will be increased from \$108,847 to \$736,752 (see Exhibit "C1"). With a total Developer Fee of \$1,270,000, the revised deferred amount would exceed 50% of the Developer Fee and would thus would make the Application **ineligible.**
- (4) The Applicant did not include a required financing narrative, as required for Volume 1, Tab 4, Part B. The Applicant included a syndicator letter, which has a section describing anticipated debt sources and uses, and copies of the commitment letters for those sources, but these items do not constitute a financing narrative.

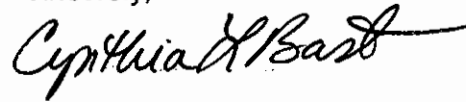
Moreover, the Applicant did not include the debt service of the second mortgage in the 30 year proforma on Volume 1, Tab 2. The commitment for the loan from Strategic Site Partners calls for an 18 year term with a 30 year amortization. This implies that the loan will be repaid in regular installments over 18 years, with a final balloon payment to cover the remainder of the principal. If this additional debt service is added to Volume 1, Tab 2, the DSC in Year 1 is reduced to 1.148, below the Department minimum requirement (see Exhibit "D"), further **disqualifying** the application.

Please note this is a nonconforming third party loan providing 18 year financing at AFR with a 30 year amortization as a second mortgage. If this below market loan does not occur and it would have to be replaced in the open market, the interest rate would be higher, and the DSC will be further reduced.

If the Applicant tries to cure item 3 above by reducing deferred Developer Fee by increasing the debt, then item 4 is more of a problem with an even lower debt service coverage. Vice versa, if the Applicant tries to cure item 4 by decreasing the debt, then the deferred Developer Fee in item 3 would be even higher, and it is already beyond 50%.

In summary, we trust the Department will reduce the points on the referenced Application for the flaws identified in paragraphs (1) and (2) above and, more importantly, terminate the Application for failure to meet threshold requirements if appropriate because of the flaws described in paragraphs (3) and (4) above.

Sincerely,



Cynthia L. Bast

cc: Robbye Meyer
W. Barry Kahn

Exhibit A -- Building elevations and construction
Exhibit B -- Census tract and Consolidated Plan
Exhibit C -- Sources and uses
Exhibit C1 -- Deferred developer fee
Exhibit D -- Debt service

EXHIBIT “A”

EXHIBIT "A-2"

12
4.5

5D

12
4.5

12
4

TRUSS BEARING
EL. 130'-8 3/8"

TYP 7M

3RD FLOOR
EL. 121'-7 1/4"

TYP 6V

TYP 7A

12
4

2ND FLOOR
EL. 110'-9 5/8"

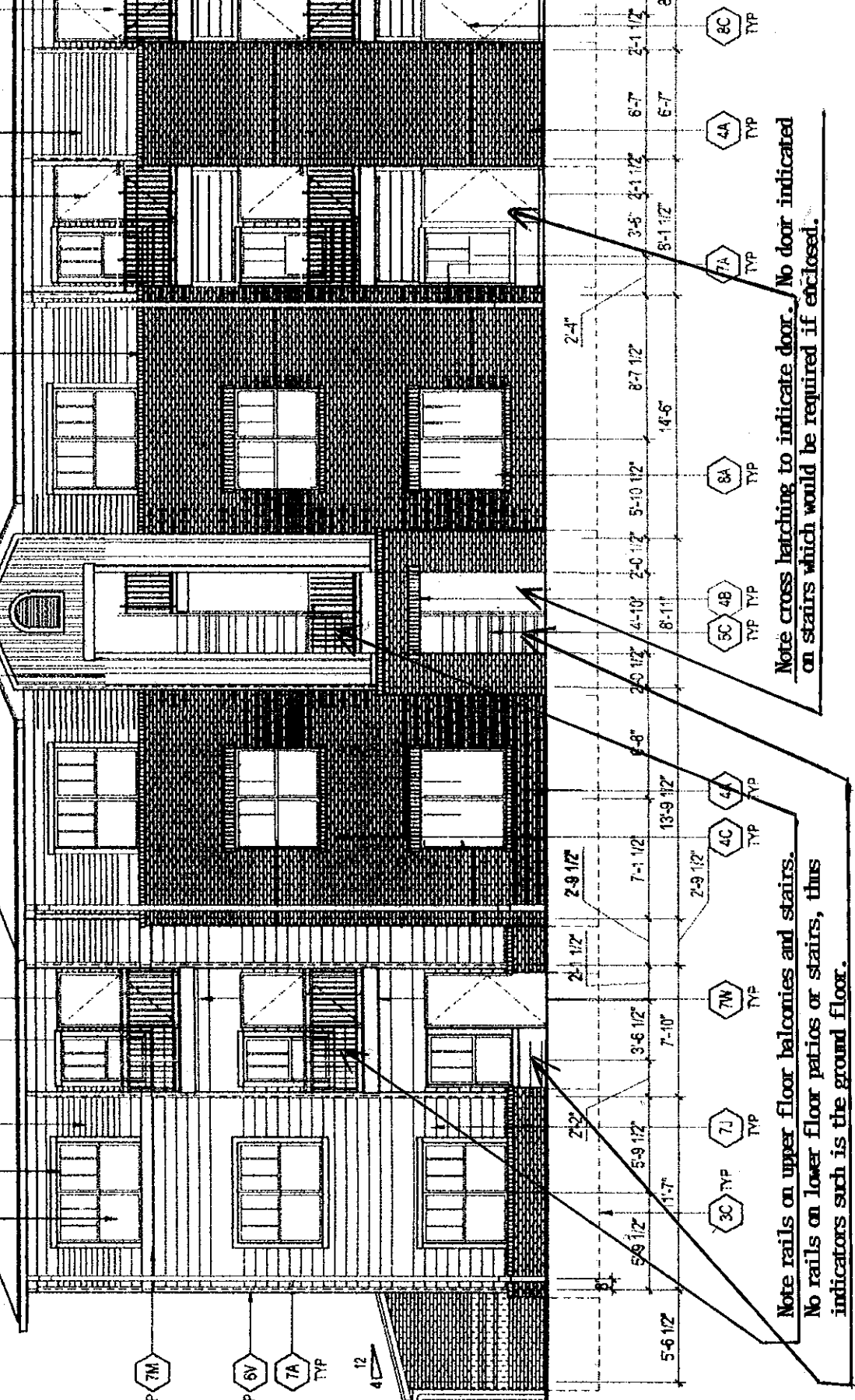
1ST FLOOR
EL. 100'-0"

MASONRY
LEDGE
EL. 99'-9"

9'-1 1/8"

10'-9 5/8"

10'-9 5/8"



Note cross hatching to indicate door. No door indicated on stairs which would be required if enclosed.

Note rails on upper floor balconies and stairs. No rails on lower floor patios or stairs, thus indicators such is the ground floor.

BLDG TYPE #1 FRONT EXTERIOR ELEVATION (BACK O.H.) SCALE: 1/8" = 1'-0"



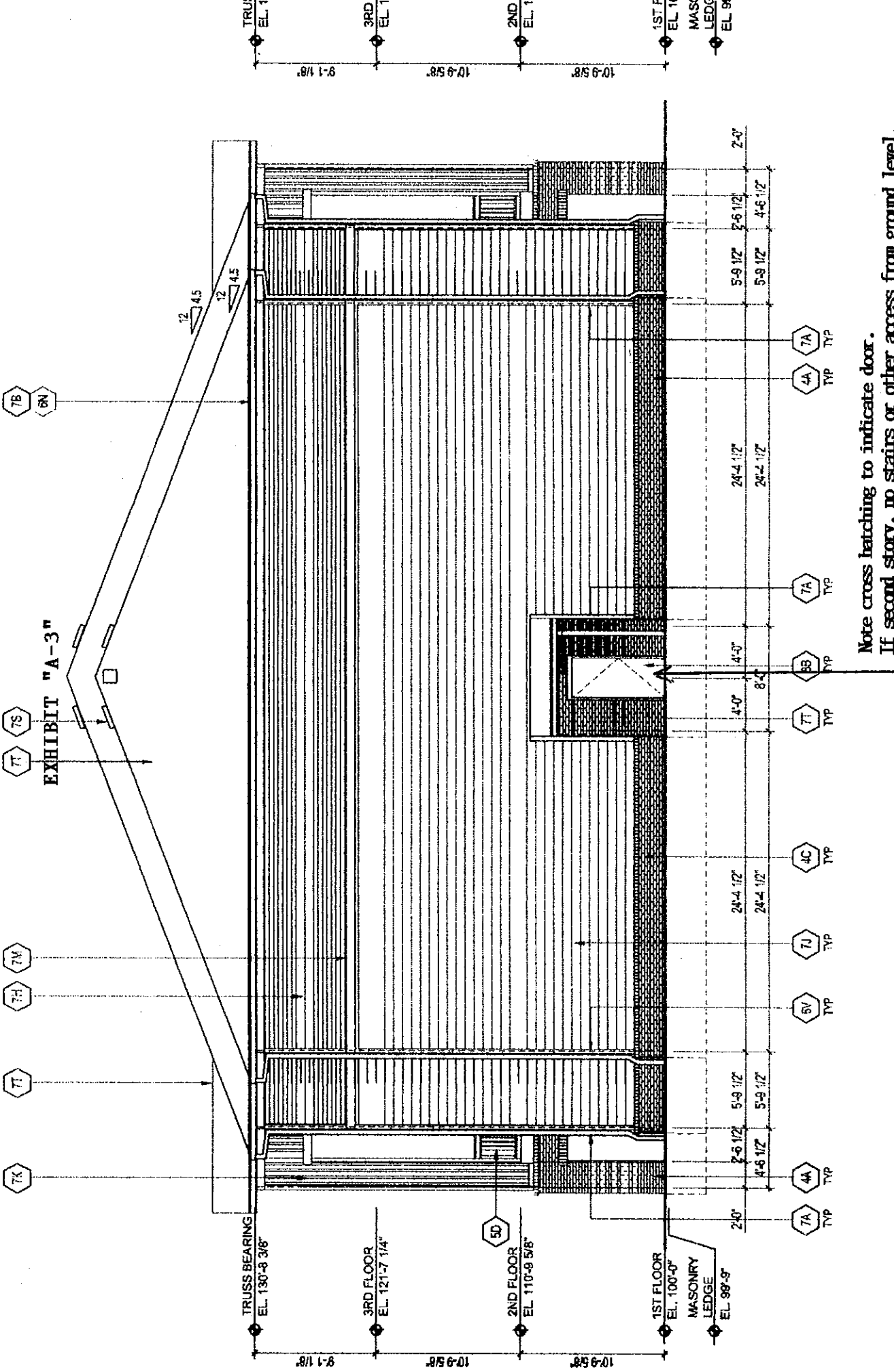


EXHIBIT "A-3"

Note cross hatching to indicate door.
 If second story, no stairs or other access from ground level.

BLDG TYPE #1
LEFT EXTERIOR ELEVATION
 SCALE: 1/8" = 1'-0"



PART B. SPECIFICATIONS AND AMENITIES

SITE ATTRIBUTES (mark with a "x")

Total Acquisition Acreage: 9.24 Development Site Acreage: 9.24 # Units per Acre: 8.225
 Single Site Contiguous Multiple Sites (#) Scattered Sites (# Sites)*

* Note: If Scattered Site, submit evidence of scattered site pursuant to ASPM behind this tab.

DEVELOPMENT ATTRIBUTES Selections must be consistent with submitted architectural plans

of Residential Buildings: 4 Maximum # of Floors: 3 # of Non-Residential Buildings: 1

Configuration:

Duplex Fourplex Townhome Transitional (per §42(i)(3)(B))

>4 units per building Scattered Site Single family construction SRO (per §42(i)(3)(B))

Fire Sprinkler in all residential areas # of Passenger Elevators: Wt. Capacity:

EXTERIOR Selections must be consistent with submitted architectural plans

Subfloor

Wood
 Concrete Slab
 Other

Walls

 % Plywood/Hardboard
 % Vinyl or Aluminum Siding
5 % Masonry Veneer
95 % Fiber Cement Siding
 % Stucco
 % Other (Describe)

Parking

 #Shed or Flat Roof Carport Spaces
 #Detached Garage Spaces
 #Attached Garage Spaces
 #Uncovered Spaces
167 #Parking Garage Spaces

Roofs

Built-Up Tar and Gravel
 Comp. Shingle
 Comp. Roll
 Elastomeric
 Wood Shake
 Other (Describe)

INTERIOR Selections must be consistent with submitted architectural plans

Flooring

60 % Carpet
40 % Resilient Covering
 % Ceramic Tile
 % Light Concrete
 % Other (Describe)

Air System

Forced Air
 Furnace
 Hot Water
 Warm and Cooled Air
 Heat Pump, packaged
 Wall Units
 Other (Describe)

Walls

Drywall
 Plaster
 8 Foot Ceilings

Other

Washer and Dryers onsite (#)
 Fireplace included in all Units
 Fireplace onsite (#)
 Other (Describe)

PART A. RELEVANT DEVELOPMENT INFORMATION FORM

This form, Parts 1 and 2 must be completed by the Applicant in its entirety.

The information will be utilized by the Department to notify officials required under §49.17(a) of the QAP. Note: The Department is not responsible for notifying Applicants if information contained herein is inaccurate. It is the Applicants' sole responsibility to ensure all information contained in this form is accurate and that any errors identified are corrected and proper re-notifications are made.

NOTE: IF A PRE-APPLICATION WAS SUBMITTED, AND THERE HAS BEEN A CHANGE FROM PRE-APPLICATION TO APPLICATION THAT RESULTED IN A TOTAL UNIT INCREASE OF GREATER THAN 10% AND INCREASE OF GREATER THAN 10% FOR ANY GIVEN LEVEL OF AMGL, OR A CHANGE IN POPULATION SERVED (FAMILY, ELDERLY OR INTERGENERATIONAL) THE APPLICANT MUST RE-NOTIFY AS REQUIRED BY §49.8(9)(A).

Development Name: Sweetwater Bend Development City: Galveston

Building/Unit Configuration (place "x" by appropriate boxes):

Duplex Townhome Transitional (per §42(i)(3)(B))

>4 units per building Scattered Site Development SRO (per §42(i)(3)(B))

Maximum # Floors: 3 # Res. Buildings: 4 # Non-Res. Buildings: 1

Elevator Served: No Total Site Acreage: 9.24 # Units per Acre: 8.2

Total Units: 76 Total Market Rate Units: 0 Total LI Units: 76

Tenant Supportive Services:

joint use library center, as evidenced by a written agreement w/local school district GED preparation classes organized team sports or youth programs annual income tax preparation services

weekday after school program English as a second language classes scholastic tutoring monthly transport to community/social events

daily transportation quarterly financial planning courses notary public during regular business hours monthly on-site social events

counseling services (supportive housing only) annual health fair weekly exercise classes caseworker services for seniors & disabled (must be specific & pre-approved- please specify which services will be provided below)

food pantry/common household items (supportive housing only) quarterly health & nutrition courses monthly arts & crafts home chore services for seniors & disabled

Any other program described under Title IV-A of the Social Security Act (42 U.S.C. §§601 et seq.) which enables children to be cared for in their homes or the homes of relatives; ends the dependence of needy families on government benefits by promoting job preparation, work and marriage, prevents and reduced the incidence of out-of-wedlock pregnancies; and encourages the formation and maintenance of two-parent families

Other *If "Other" please describe OR specify which caseworker services for seniors & disabled will be provided:*

Complete all rent information as applicable to this Application:

Average Rent for a 1 bedroom LI Unit: \$ 476.00 Average Rent for a 1 bedroom MR ur: \$ _____

Average Rent for a 2 bedroom LI Unit: \$ 563.00 Average Rent for a 2 bedroom MR ur: \$ _____

Average Rent for a 3 bedroom LI Unit: \$ 613.00 Average Rent for a 3 bedroom MR ur: \$ _____

Average Rent for a 4 bedroom LI Unit: \$ _____ Average Rent for a 4 bedroom MR ur: \$ _____

EXHIBIT “B”

EXHIBIT "B"



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Geocoding System

MSA Code: 26420	State Code: 48	County Code: 167	Tract Code: 7260.00
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Census Income Information

Tract Income Level	Upper	Tract Median Family Income %	151.22
2004 MSA/MD/statewide non-MSA/MD Median Family Income	\$51,431	2000 Tract Median Family Income	\$77,773
2010 HUD Estimated MSA/MD/non-MSA/MD Median Family Income	\$65,100	2010 Estimated Tract Median Family Income	\$98,444
% below Poverty Line	3.97	2000 Tract Median Household Income	\$67,386

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 [INCOME DATA](#) |
 [POPULATION DATA](#) |
 [HOUSING DATA](#)

Last update: 08/04/2010 07:30 AM

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Geocoding System

MSA Code: 26420	State Code: 48	County Code: 167	Tract Code: 7260.00
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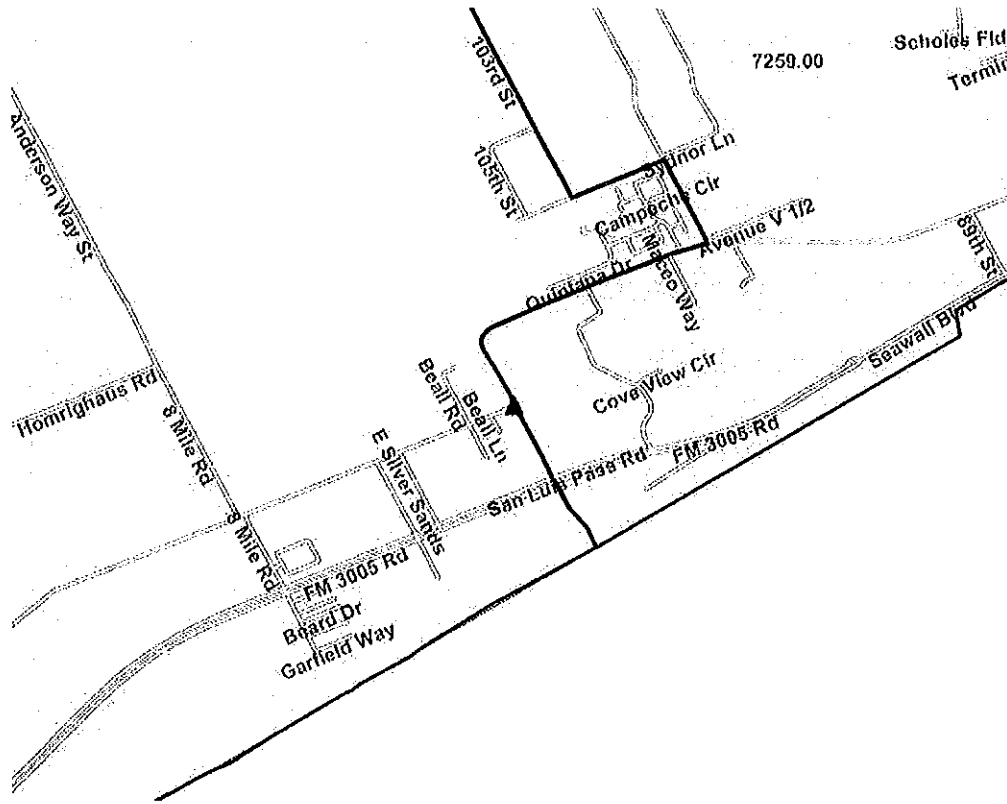
Summary Census Demographic Information

Tract Income Level	Upper	Tract Population	1690
Underserved or Distressed Tract	No	Tract Minority %	15.98
2010 HUD Estimated MSA/MD/non-MSA/MD Median Family Income	\$65,100	Minority Population	270
2010 Est. Tract Median Family Income	\$98,444	Owner-Occupied Units	554
2000 Tract Median Family Income	\$77,773	1- to 4-Family Units	905
Tract Median Family Income %	151.22		

[CENSUS DATA](#) |
 [INCOME DATA](#) |
 [POPULATION DATA](#) |
 [HOUSING DATA](#)




Last update: 08/04/2010 07:30 AM

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2010 Information	
Street Address	STEWART RD & 7 MILE RD
City Name	GALVESTON
State Abbr	TX
Zip Code	77554
MSA/MD Code	26420
State Code	48
County Code	167
Tract Code	7260.00

Legend

-  Highway
-  Tract
-  Street

CITY OF GALVESTON, TEXAS



3 Year Strategic Plan

This document includes Narrative Responses to specific questions that grantees of the Community Development Block Grant, HOME Investment Partnership, Housing Opportunities for People with AIDS and Emergency Shelter Grants Programs must respond to in order to be compliant with the Consolidated Planning Regulations.

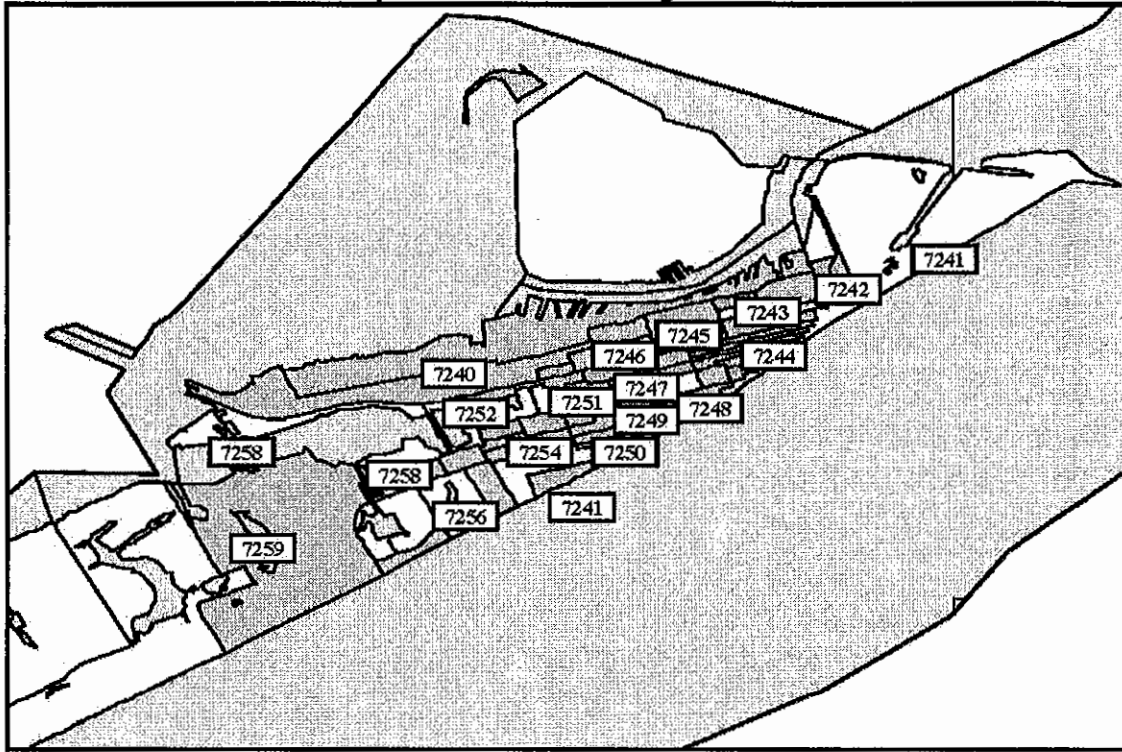
GENERAL

Executive Summary

The Executive Summary is required. Include the objectives and outcomes identified in the plan and an evaluation of past performance.

The City of Galveston, Texas receives funding from the U. S. Department of Housing and Urban Development (HUD) for improving the City's housing, services and community development, particularly for the low- to moderate-income residents. HUD requires the City to complete a multi-year plan outlining the needs and how the City plans to address the needs with HUD funds. The City has developed a 3-Year Plan to begin June 1, 2010 and continue through May 31, 2013. The mission of the City during the next three years is to take the city, especially the CDBG Target Areas and low- to moderate-income residents, beyond pre-Ike conditions. It is to complete the recovery from Hurricane Ike but to then move the city forward to be a more livable environment than it was before the devastation of Ike. Low- to moderate-income households are defined as those with a household income of 80% or less of the area's median income. For HUD-funded services to individuals or households, the beneficiary (ies) must live in Galveston and be of low- or moderate-income. For HUD-funded neighborhood or area-wide improvements, the area served must be a CDBG Target Area, having 51% or more low- to moderate-income households. The following map below shows the location of the CDBG Low-Moderate Income (LMI) Target Areas.

Map 1 - CDBG LMI Target Areas



Priorities and Objectives

To accomplish this mission, the City's Grants and Housing Department has prioritized the needs and developed a number of objectives to address the needs and implement rehabilitation, reconstruction and improvements to reclaim the Island and prevent the level of destruction caused by Ike from occurring again. Eligible HUD Projects and Assigned Priorities for Funding table (on the following pages) show the HUD-eligible projects and the City's rating of High (H), Medium (M) or Low (L) for funding improvements. The priority ratings are based on a number of factors, including:

- Availability of funding
- Quantitative, documented measures of need
- Concurrence with the existing Comprehensive Plan, Galveston Housing Authority's plans and the Long Term Recovery Plan
- Input from other public and nonprofit agencies
- Results of public comments at public hearings and other public forums
- Results of the resident survey

The City of Galveston's major housing and community development objectives to meet the High and Medium priorities include the following:

- Conserving and improving the housing stock;
- Expanding housing development and housing opportunities;
- Providing mechanisms to assist low- and moderate-income renters in buying their first home;
- Providing economic development and anti-poverty assistance;
- Providing essential infrastructure improvements;
- Providing public facility improvements;
- Enhancing the neighborhoods through code enforcement efforts;

regulatory compliance in accordance with HUD Regulations. Staff has the responsibility to ensure that each subrecipient or City department is adhering to their approved scope of service, budget and schedule of service. Each subrecipient or City department must also abide by the regulatory guidelines set forth by HUD in providing benefits to low-moderate income persons and/or eliminating a slum or blighted condition and/or addressing an urgent need that meets HUD's definition and approval. The monitoring process is an on-going process of planning, funding, implementation, communication and follow-up.

Lead-Based Paint

No post-Ike data are available by housing type and age of housing, therefore 2000 Census data are used for the table below.

Table 2 – Estimated Number of Galveston Houses with LBP and LBP Hazards (Prior to Hurricane Ike)

Housing Type	Built '78-'98		Built '60-'77		Built '46-'59		Built '45 & earlier*	
	LBP	LBP Hazard	LBP	LBP Hazard	LBP	LBP Hazard	LBP	LBP Hazard
Single Family	56	56	562	315	1,591	314	4,910	688
Multi-Family	217	110	558	558	460	132	1,840	1,034

**Note: Pre-1940 units with LBP and LBP hazards were estimated based on assuming 100% contain LBP and applying the same Hazard/Paint ratio to pre-1940 from the Westat's report and sample data entitled National Survey of Lead and Allergens in Housing.*

Based on the table above, prior to Hurricane Ike there are approximately 10,194 occupied units with lead-based paint and 3,208 with lead-based paint hazards, defined as deteriorated paint. It is estimated that of these units, 1,727 units were substantially or totally destroyed by Hurricane Ike. Virtually all were built before 1978, with at least half having lead-based paint and 10% having lead-based paint hazards. This brings the estimate housing post-Ike with lead-based paint to 9,330 and those with lead-based paint hazards to 3,035.

The Grants & Housing Department addresses LBP hazards on rehabilitation jobs that they undertake. A risk assessment is conducted on each project, and all LBP hazards are addressed in accordance with HUD's LBP Guidelines. After the rehabilitation work is completed, a clearance exam is performed to ensure the unit has been cleaned properly.

Housing Needs

The condition and availability of housing are important to the livability and quality of life for community residents. The need for affordable sound housing is most critical for the extremely/very low- (<= 30% of area median), low- (31-50% of area median) and moderate-income (51-80% of area median) residents. Galveston has a much lower rate of homeownership than the rest of Texas, coupled with a higher rate of housing with one or more problems. In addition, Hurricane Ike left a large number of housing units uninhabitable or seriously damaged, with the older housing in poorer condition and in lower-income neighborhoods being the hardest hit.

EXHIBIT “C”

EXHIBIT "C"

**Volume I, Tab 4, Funding Request
PART A. Summary of Sources and Uses of Funds**

Describe all sources of funds and total uses of funds. Information must be consistent with the information provided throughout the Application (i.e. Financing Narrative, Commitment Letters and Development Cost Schedule). Where funds such as tax credits, loan guarantees, bonds are used, only the proceeds going into the development should be identified so that "sources" match "uses."

Development Name: Sweetwater Bend

Development City: Galveston

Funding Description	Construction Period		Permanent Period				Financing Participants
	Loan/Equity Amount	Interest Rate (%)	Loan/Equity Amount	Interest Rate (%)	Amort	Term	
DEBT							
Conventional Loan	\$6,640,345	5.00%	\$1,986,000	7.000%	30	15	Sterling Bank
Private Loan	\$250,000	AFR	\$250,000	AFR	30	18	Strategic Site Partners, LLC
Private Loan *	\$627,905	AFR	\$627,905			1	SHFC *
Other (Please Describe)							
Other (Please Describe)							
Third Party Equity							
HTC Syndication Proceeds	\$9,061,318		\$9,061,318				First Sterling Financial, Inc.
Other (Please Describe)							
Grant							
Other (Please Describe)							
Deferred Developer Fee	\$108,847		\$108,847				MBL DerbyCity Development, LLC **
Deferred Developer Fee **							
Other (Please Describe)							
Other							
Please Describe							
Please Describe							
Please Describe							
Please Describe							
TOTAL SOURCES OF FUNDS	\$ 16,688,415		\$ 12,034,070				
TOTAL USES OF FUNDS			\$ 12,034,070				

* This is short-term financing and payment of such will result in developer fee being increased by said \$627,905.
 ** Deferred Developer Fee needs to be modified to \$736,752.

Exhibit "C1"

Sweetwater Bend
Revised Deferred Developer Fee Calculation

Total Development Costs	\$12,034,070
Less Equity	-\$9,061,318
Less Permanent Loan	-\$1,986,000
Less Private Second Mortgage	-\$250,000
Less Short term private loan	<u>-\$627,905</u>
Deferred developer fee per Applicant	\$108,847
Additional deferred developer fees needed to repay short term loan as no other development sources available	<u>\$627,905</u>
Recalculated Deferred Developer Fee	\$736,752
Total developer fees	\$1,270,000
Percentage recalculated deferred developer fee	58.01%

EXHIBIT “D”



Strategic Site Partners, LLC

February 22, 2011

Audrey Martin
TDHCA
PO BOX 13941
Austin, TX 78701

RE: Private Funding Commitment, TDHCA APPLICATION (Sweetwater Bend Apartments)

Dear Ms. Martin:

Per the 2011 QAP please consider this to be a formal commitment of private funds to the above referenced application to be located in Galveston, TX. The commitment amount is \$250,000 or approximately 2 percent of the total development cost of the project contingent upon final allocation of tax credits.

Terms and Conditions:

Financing will be an AFR interest rate at 18 year term and a 30 year amortization. Anticipated closing will occur at closing of transaction with TDHCA.

Please note that I am not the Applicant, the Developer, Consultant, Related Party, or any individual acting on behalf of the proposed Application and that none of funds that I have committed were first provided to me by the applicant, the Developer, Consultant, Related party, or any individual or entity acting on behalf of the proposed Application.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Haas", with a long horizontal flourish extending to the right.

Michael Haas
Managing Department

836 Euclid Avenue, 3rd Floor Lexington, KY 40502
859-335-6333

First Sterling Financial, Inc.



February 24, 2011

Mr. Mark Lechner
1900 Rolling Hills Trail
Fishersville, KY 40023

Re: **Sweetwater Bend Apartments
Galveston, Texas**

Dear Mr. Lechner:

We at First Sterling Financial, Inc. ("First Sterling") are pleased to propose the following business terms set forth in this letter of intent (the "LOI") pursuant to which First Sterling will provide equity capital for the purchase of a limited partner interest in Stewart Crossing, L.P., a Texas limited partnership (the "Partnership"). First Sterling or an assignee (the "Investor Partner") will acquire a 99.98% limited partner interest, and Sterling Corporate Services, Inc. (the "Special Investor Partner"), will retain a 0.01% special limited partner interest in the Partnership. The basic business terms outlined herein will be incorporated into an amended and restated limited partnership agreement (the "Partnership Agreement").

1. **Apartment Development Information and Parties Involved.**

- (a) Sweetwater Bend Apartments (the "Apartment Development") will consist of the new construction of a 76 unit affordable multi-family housing development for family occupancy. The property will include four residential buildings and one clubhouse located at the northwest corner of the intersection of Stewart Road and 7 Mile Road in Galveston, Galveston County, Texas. All of the units will be occupied in compliance with the federal low-income housing tax credit requirements of Section 42 of the Internal Revenue Code.
- (b) The parties involved with the Apartment Development are as follows:
- (i) **Partnership:** Stewart Crossing, L.P., a Texas limited partnership.
 - (ii) **General Partner:** Stewart Crossing GP, LLC, a Texas limited liability company.
 - (iii) **Developer:** MBL Derby City Development, LLC
 - (iv) **Guarantor:** Mark Lechner, subject to First Sterling's review and approval of financial statements.

2. **Debt and Other Sources.** As a condition to First Sterling funding its equity capital contributions, the General Partner will deliver the loan commitments and/or financing sources described in (a)-(d) below. The terms of these loans are subject to First Sterling's consent and all loans will be made from the lender(s) to the Partnership.

(a) Construction Loan:

Loan Type: Conventional
Lender: To Be Determined
Amount: \$6,640,345 (proposed)
Term: 24 months
Interest Rate: Variable rate 5.0% (estimated)
Collateral: First mortgage lien
Type: Non-recourse

(b) Permanent First Mortgage Loan:

Loan Type: Conventional
Lender: To Be Determined
Proposed Amount: \$1,986,000
Term: 30 years
Interest Rate: 7.0%, fixed (estimated)
Amortization: 30 years
Collateral: First mortgage lien
Type: Non-recourse

(c) Second Mortgage Loan:

Loan Type: Conventional
Lender: To Be Determined
Proposed Amount: \$250,000
Term: 30 years
Interest Rate: 3.940% fixed, deferred interest
Amortization: None; principal due at maturity
Collateral: Second mortgage lien
Type: Non-recourse

(d) Third Mortgage Loan:

Loan Type: 5% political subdivision loan
Lender: To Be Determined
Proposed Amount: \$627,905
Term: 1 year
Interest Rate: 3.940% fixed, deferred interest
Amortization: None; principal due at maturity
Collateral: Third mortgage lien
Type: Non-recourse

June 20, 2011

Ms. Raquel Morales
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 7870-2410

RE: Sweetwater Bend #11051 Challenge

Dear Raquel,

I represent Stewart Crossing, LP, the Applicant for Sweetwater Bend, TDHCA application #11051. This letter is in response to a challenge submitted by Mr. Barry Kahn's with respect to our Application located in Galveston, Texas. Below are our responses to the items he has challenged:

1. The first item relates to cost per square foot. Mr. Kahn asserts that the Application is not eligible for points under Section 49.9(a)(8) "The Cost of the Development by Square Foot." This particular item is currently under review with TDHCA through the formal appeal process and is outlined in a letter dated June 8, 2011.(See exhibit "A"). In summary, we believe the plans submitted to the agency clearly show that there are two 4- story buildings in the development and that the cost per square foot for the development is within the cost containment guidelines of the QAP. Additionally the applicant submitted Volume 3 Tab 1 Part B indicating maximum number of floors is four and units are elevator served. (See exhibit "B1")

We concede that the nuances of the architectural details of the buildings were difficult to discern in the elevations submitted with the Application. We have worked with the Department to confirm the details and believe we have proven that the interior hallways are indeed enclosed and air conditioned, and thus are eligible to be considered in the NRA calculation.

2. The second items relates to the 3 points awarded to the application if the Development is New Construction and is proposed to be located in an area that is part of a Community Revitalization Plan.

Mr. Kahn claims that the Sweetwater Bend is not located within the City of Galveston's targeted revitalization area. This is correct. However, points for this scoring item do not state that the development must be located within the targeted revitalization area—the scoring item states that the development is "proposed to be located in an area that is part of a Community Revitalization Plan." This is not the same thing.

First, we believe that the City of Galveston Consolidated Plan meets the definition of "Community Revitalization Plan" because (a) the plan was approved by the governing body and (b) the plan targets specific geographic areas for revitalization and the development of

residential developments. Documentation regarding both of these points was provided to TDHCA in the application.

Second, the scoring item states that the development is "proposed to be located in an area that is part of a Community Revitalization Plan." The City of Galveston Consolidated Plan meets the definition of a Community Revitalization Plan. The Plan covers the revitalization target areas as well as all areas within the city limits. Because the plan covers all of the city limits and the Sweetwater Bend is located within the city limits, we believe that it complies with the language of the QAP that says "located in an area that is part of a Community Revitalization Plan." The QAP language does not say that the site needs to be within a "target area," only that the site is within "an area that is part of" the plan. Because the development is located within the city limits of Galveston and that area is part of the Plan, we believe that this application is eligible for points under this scoring item.

It is important to note that language regarding specific target areas was found in the 2010 QAP and was removed in the 2011 QAP; therefore, we believe that our interpretation of the QAP is consistent with the Department's intent regarding this matter. The 2011 QAP specifically changed with regard to Community Revitalization Plans and removed previous requirements that the development be in a target area. See language from the 2010 QAP below.

2010 QAP Language

Evidence of the Community Revitalization Plan (such evidence must include an ordinance, resolution, or otherwise recorded documentation of a vote taken by the local elected Governing Body specifically adopting the Community Revitalization Plan) and a letter from the chief executive officer or other local official with appropriate jurisdiction of the local Governing Body stating that the Development Site is located within the targeted development areas outlined in the Community Revitalization Plan must be submitted

In summary, based on the language of the QAP, we believe that this application is eligible for points under this scoring item.

3. The third item relates to Mr. Kahn's assertion that more than 50% of the developer fee will have to be deferred, thus making the Application ineligible. This assertion is incorrect. Per prior discussion with TDHCA staff, Strategic Housing Finance Corporation is no longer able to provide the local political subdivision loan. As such, the Applicant will utilize Capital Area Housing Finance Corporation as the lender for the local political subdivision loan and the loan will be used as an interim source of funds not a permanent source. Per the QAP under 49.9(a)(5)(iii), "an applicant may substitute any source in response to an Administrative Deficiency Notice or after the application has been submitted to the department." The interim loan will have a minimum term of the later of one year or the placed in service date, and the interest rate will be at the AFR rate or below at the time of loan closing.

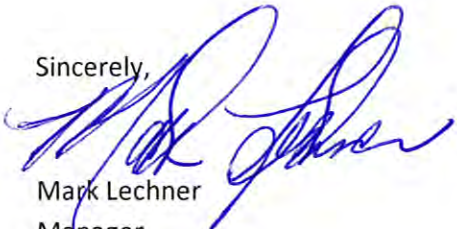
Applicant has notified TDHCA of the change of financing structure caused by the change in subordinate lender. The current financing structure meets the 50% deferred developer fee test, however, Applicant will be happy to answer any additional questions during the underwriting process.

Please see as Exhibit "C1" our new commitment from Capital Area Housing Finance Corporation.

4. The fourth item is the inadvertent omission of the financing narrative and the overall DCR for the project. It should be noted that The applicant submitted Volume 1.Tab 4.Part B Financing Plan during the deficiency process to the TDHCA and the agency accepted such volume on March 21, 2011.(See Exhibit "D") Secondly, through the deficiency process the Applicant submitted a revised Volume 1 Tab 2 Part E and Volume 1 Tab 4 Part A indicating the Strategic Site Partners loan calls for an 18 year term interest only payment with a balloon payment and the debt service of the loan was projected in the 30 year proforma. (See exhibit "D1 and D2")

We appreciate Mr. Kahn's comments and concerns regarding our Application, but believe that they have already been appropriately addressed with the Department at this time. Please do not hesitate to contact me at 502-639-8032 or email at mlechner1@bellsouth.net.

Sincerely,



Mark Lechner
Manager



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - 2011 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Appeal Election Form: 11051, Sweetwater Bend

I am in receipt of my 2011 scoring notice and am filing a formal appeal to the Executive Director on or before Wednesday, June 8, 2011.

If my appeal is denied by the Executive Director,:

I do wish to appeal to the Board of Directors and request that my application be added to the Department Board of Directors meeting agenda. My appeal documentation, which identifies my specific grounds for appeal, is attached. If no additional documentation is submitted, the appeal documentation to the Executive Director will be utilized.

I do not wish to appeal to the Board of Directors.

Note: If you do not wish to appeal this notice, you do not need to submit this form.

Signed [Signature]
Title MANAGER
Date 5/3/11

Please fax or email to the attention of Raquel Morales:
Fax: (512) 475-0764 or (512) 475-1895
Email: <mailto:raquel.morales@tdhca.state.tx.us>

Texas Dept of Housing and Community Affairs
221 East 11th Street
Austin, TX 7870-2410

June 8, 2011

RE: Sweetwater Bend #11051 Appeal of Final Scoring Notice

Dear TDHCA Executive Director and Staff,

This letter serves as an appeal of the final scoring notice issued for Sweetwater Bend, TDHCA #11051. TDHCA came to a difference between points requested by the applicant and points awarded by the department. The following scoring items are being appealed:

- 49.9(a)(7)-Cost per Square Foot(10pts): Applicant incorrectly included common area in calculation. Only developments that are SRO can include common area in this calculation. Applicant selected costs to not exceed \$87 per sq.ft. Total Direct Cost of \$7,304,360/Total NRA=\$90.76
- 49.9(a)(14)-Pre-App Points (6pts): Due to the 10 points loss for Cost per square foot described previously the final adjusted score (165) is more than 5% lower than their final pre-application score. [$175 \times 0.95=166.25$] Therefore Applicant is not eligible for the pre-app points.

The Sweetwater Bend plans identify two four story building types containing 3,872 sq.ft. of elevator served interior corridors. The interior corridor square footage area should be included in the NRA calculation since the buildings are four stories, served by elevators, and interior corridors are heated/cooled finished areas. Please refer to 49.9(a)(8) indicating the NRA of 3,872 sq.ft. should be included in the total NRA calculation. Cost per Square Foot calculation should reflect as follows: TDC of 7,304,360 / Total NRA of 84,348=\$86.5979.

See attached architectural sheets A-104 and A-108 of the original application indicating four story buildings.

Because the Sweetwater Bend Cost per Square Foot is lower than the \$87 per sq.ft. threshold, the application should receive a restoration of the 16 points deducted per the TDHCA scoring notice.

Please do not hesitate to contact me at 502-639-8032 or email at mlechner1@bellsouth.net.

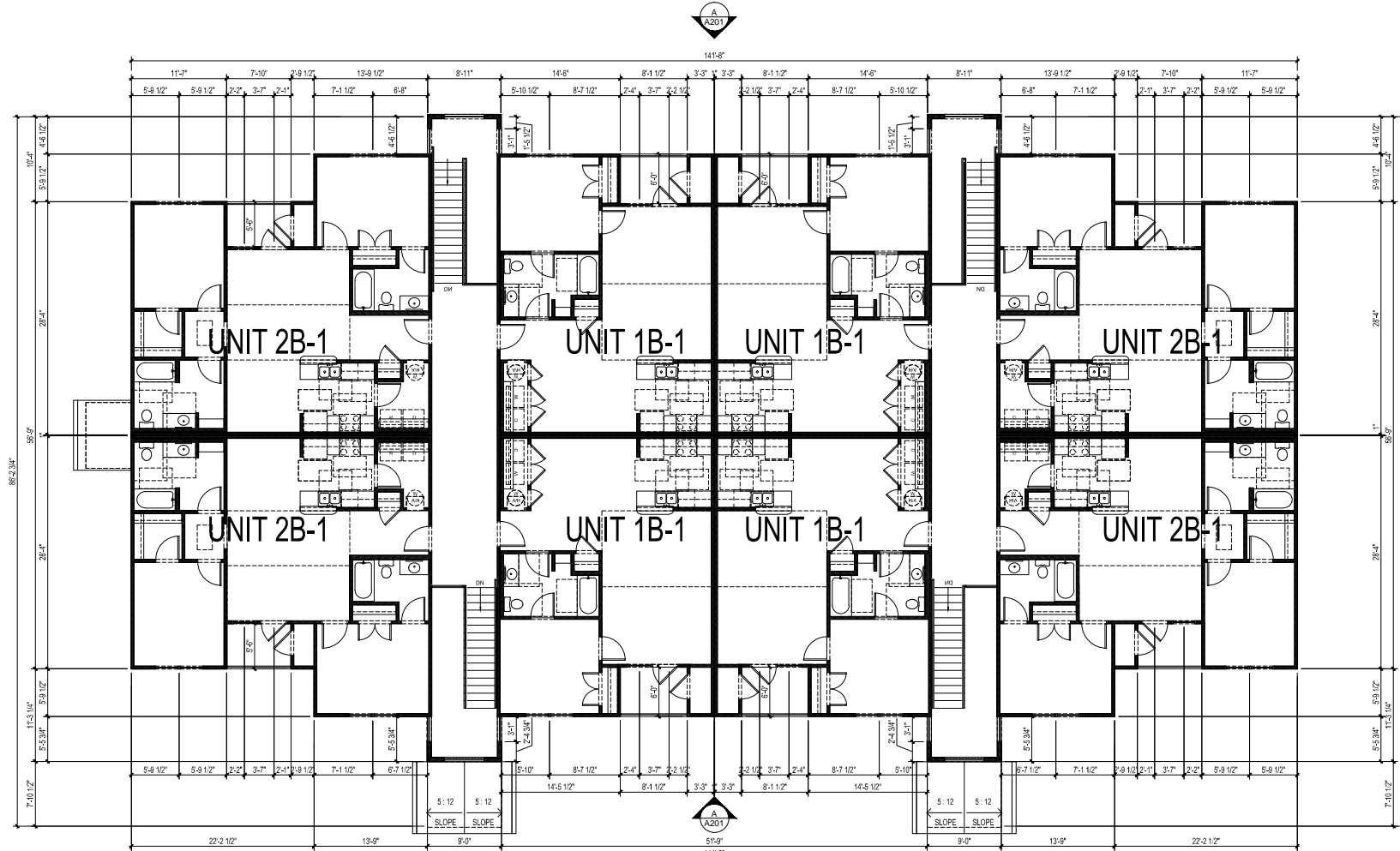
Sincerely,



Mark Lechner
Manager

KEY NOTES:

01. GENERAL REQUIREMENTS: NOT USED
02. SITE WORK: NOT USED
- CONCRETE:
 - 3A. 4" REINFORCED CONCRETE SLAB OVER WATER PROOF MEMBRANE OVER 4" DRAINAGE FILL OVER COMPACTED FILL - REFER TO STRUCTURAL DRGS. FOR ADDITIONAL INFORMATION
 - 3B. CONCRETE FLOOR SLAB SLOPE AWAY FROM BUILDING AT 1/4" PER FOOT. REFER TO CIVIL DRAWINGS FOR ADDITIONAL INFORMATION.
 - 3C. CONCRETE FOOTING. REFER TO STRUCTURAL DRAWING FOR ADDITIONAL INFORMATION.
 - 3D. 3/4" CONCRETE.
 - 3E. CONTINUOUS 1/2" COMPRESSIBLE EXPANSION JOINT WITH SEALANT
 - 3F. CONCRETE SIDEWALK. REFER TO CIVIL DRAWINGS FOR ADDITIONAL INFORMATION.
 - 3G. REINFORCED CONCRETE SLAB OVER 8 MIL POLY VAPOR BARRIER OVER 4" DRAINAGE FILL OVER COMPACTED FILL - REFER TO STRUCTURAL DRGS. FOR THE DETAILS.
 - 3H. 2-1/2" LIGHTWEIGHT CONCRETE TOPPING SLOPED TO MIN. 1/2" AT ALUMINUM T-BAR OVER 8 MIL MEMBRANE OVER SUBSTRATE.
4. MASONRY:
 - 4A. FACE BRICK (RUNNING BOND PATTERN) WITH ADJUSTABLE MASONRY ANCHORS AT 16" O.C. VERTICALLY AND HORIZONTALLY PROVIDE MASONRY CONTROL JOINTS AT 16" FROM INSIDE AND OUTSIDE CORNERS.
 - 4B. SOLIER COURSE FACE BRICK HEADS.
 - 4C. ROWLOCK COURSE FACE BRICK EDGE. SLOPE AT 15 DEGREE ANGLE
 - 4D. CONT. THUR WALL MEMBRANE FLASHING WITH WEEP HOLES @ 24" O.C.
 - 4E. MASONRY GROUT
 - 4F. PRE-CASTED ARCHITECTURAL STONE CAP
5. METALS:
 - 5A. ANCHOR BOLTS. REFER TO STRUCTURAL DRAWINGS FOR ADDITIONAL INFORMATION.
 - 5B. CONTINUOUS STEEL SHELF ANGLE. EXTEND MIN. 8" ON EACH SIDE OF MASONRY OPENING. REFER TO STRUCTURAL DRAWINGS FOR ADDITIONAL INFORMATION.
 - 5C. STEEL ASSEMBLY. REFER TO SIFR DETAILS FOR ADDITIONAL INFORMATION
 - 5D. METAL PICKET GUARD RAILING. REFER TO DETAIL FOR ADDITIONAL INFORMATION
 - 5E. 3/8" THK. STEEL PLATE (PAINTED). EXTEND MIN. 8" BEYOND MASONRY OPENING.
6. WOOD, PLASTICS AND COMPOSITES:
 - 6A. 2X4 WOOD STUD FRAMING @ 16" O.C.
 - 6B. 2X4 WOOD SILL PLATE.
 - 6C. 2X6 WOOD STUD HEADER. REFER TO STRUCTURAL
 - 6D. DOUBLE 2X4 WOOD STUD TOP PLATE.
 - 6E. OPEN WEB WOOD ROOF JOISTS. REFER TO STRUCTURAL DRAWINGS FOR ADDITIONAL INFORMATION.
 - 6F. OPEN WEB WOOD ROOF TRUSSES. REFER TO STRUCTURAL DRAWINGS FOR ADDITIONAL INFORMATION.
 - 6G. 1/2" EXTERIOR GRADE PLYWOOD SHEATHING.
 - 6H. 3/4" TONGUE AND GROOVE PLYWOOD OR OSB SUBSTRATE.
 - 6I. DECORATIVE WOOD BASE. REFER TO FINISH SCHEDULE FOR ADDITIONAL INFORMATION.
 - 6J. DECORATIVE WOOD WINDOW SILL. REFER TO FINISH SCHEDULE FOR ADDITIONAL INFORMATION.
 - 6K. 1X6 WOOD WINDOW CASEMENT. REFER TO FINISH SCHEDULE FOR ADDITIONAL INFORMATION.
 - 6L. CONT. 2X6 EXTERIOR GRADE WOOD BLOCKING.
 - 6M. ALUMINUM WRAPPED 2X6 FASCIA BOARD.
 - 6N. 2 X 8 PRESSURE TREATED DECK FRAMING @ 16" O.C. REFER TO STRUCTURAL FOR ADDITIONAL INFORMATION.
 - 6O. WOOD BEAM. REFER TO STRUCTURAL DRAWINGS FOR ADDITIONAL INFORMATION.
 - 6P. (2) 2 X 8 PRESSURE TREATED HEADERS. REFER TO STRUCTURAL FOR ADDITIONAL INFORMATION.
 - 6Q. 2X4 WOOD STUD FRAMING @ 16" O.C.
 - 6R. LINE OF STUD FRAMING.
 - 6S. 2X6 WOOD ROOF RAFTER. REFER TO STRUCTURAL FOR ADDITIONAL INFORMATION.
 - 6T. CONT. 2X10 TOP PLATE. CUT TO SIZE.
 - 6U. 1/2" EXTERIOR GRADE OSB SHEATHING
 - 6V. 2X4 WOOD SILL PLATE
 - 6W. 6 X 6 ROUGH CUT CEDAR POSTS. ANCHOR POSTS WITH STEEL ANGLES. REFER TO STRUCTURAL FOR ADDITIONAL INFORMATION.
 - 6X. CONT. 2 X 12 ROUGH CUT CEDAR JOISTS ON EACH SIDE OF POSTS. PROVIDE WOOD BLOCKING AS REQUIRED. BOLT TO POST PER STRUCTURAL DRAWINGS.
 - 6Y. 2 X 6 WOOD STUD FRAMING @ 16" O.C.
 - 6Z. 1X6 BEAMS. REFER TO STRUCTURAL DRAWINGS FOR SIZE AND ADDITIONAL INFORMATION.
7. THERMAL AND MOISTURE PROTECTION:
 - 7A. 1/2" X 8" PRE-FINISHED METAL DOWNSPOUT.
 - 7B. 8" WIDE PRE-FINISHED RECTANGULAR METAL GUTTER WITH PERFORATED LEAF GUARD. COLOR TO BE SELECTED BY ARCHITECT.
 - 7C. WATERPROOF MEMBRANE (SHOWN DASHED)
 - 7D. DECORATIVE 3/4" W X 1/2" H HORIZONTAL LOUVER BY FYPON LOUVER MODEL # LV12018
 - 7E. 2" R-15 BATT INSULATION
 - 7F. VAPOR BARRIER (SHOWN DASHED)
 - 7G. CONTINUOUS SEALANT AND BACKER ROD
 - 7H. 4" NOMINAL CEDAR FINISHED FIBER-CEMENT LAP SIDING BOARDS - COLOR TO BE SELECTED BY ARCHITECT.
 - 7I. 8" NOMINAL CEDAR FINISHED FIBER-CEMENT LAP SIDING BOARDS - COLOR TO BE SELECTED BY ARCHITECT.
 - 7J. CEDAR FINISHED FIBER-CEMENT BOARD AND BATTEN SIDING - COLOR TO BE SELECTED BY ARCHITECT.
 - 7K. 4" NOMINAL CEDAR FINISHED FIBER-CEMENT TRIM BOARDS - COLOR TO BE SELECTED BY ARCHITECT.
 - 7L. 4" NOMINAL CEDAR FINISHED FIBER-CEMENT TRIM BOARDS - COLOR TO BE SELECTED BY ARCHITECT.
 - 7M. 4" NOMINAL CEDAR FINISHED FIBER-CEMENT TRIM BOARDS - COLOR TO BE SELECTED BY ARCHITECT.
 - 7N. VENTED VINYL SOFFIT PANELS.
 - 7O. CONT. ALUMINUM DWP EDGE.
 - 7P. CONT. INSULATION BAFFLE.
 - 7Q. DECORATIVE 16 W X 24 H LOUVER BY FYPON LOUVER MODEL # LV1824
 - 7R. PASSIVE ALUMINUM ROOF VENT BOX. COLOR TO BE SELECTED BY ARCHITECT PER MFR. RECOMMENDATIONS
 - 7S. ASPHALT COMPOSITE SHINGLES OVER XOLB ROOF FELT (SHOWN DASHED) OVER 3/4" EXTERIOR GRADE PLYWOOD SHEATHING WITH CHIPS.
 - 7T. DECORATIVE 16" X 30" H CATHEDRAL LOUVER AND TRIM BY FYPON LOUVER MODEL # CLV2031. TRIM MODEL # LV22014(F)
 - 7U. 12" NOMINAL CEDAR FINISHED FIBER-CEMENT TRIM BOARDS - COLOR TO BE SELECTED BY ARCHITECT.
 - 7V. LINE OF HIDDEN ROOF
 - 7W. CONT. PRE-FINISHED ALUMINUM FLASHING. EXTEND OVER ROWLOCK AND EXTEND UP AND SIDING MIN 8"
 - 7X. PERIMETER DRAINAGE MEMBRANE
 - 7Y. R-8 BLOWN IN INSULATION
 - 7Z. METAL ROOF FLASHING. EXTEND UNDER SHINGLES AND UP WALL MIN. 6"
 - 7AA. FIBREGLASS VENT
 - 7AB. 8" NOMINAL CEDAR FINISHED FIBER-CEMENT TRIM BOARDS - COLOR TO BE SELECTED BY ARCHITECT.
8. OPENINGS:
 - 8A. SINGLE-HUNG ALUMINUM CLAD WINDOW UNIT WITH INSULATED GLAZING AND INTERNAL CHANNEL FLASHING - REFER TO WINDOW SCHEDULE FOR ADDITIONAL INFORMATION.
 - 8B. EXTERIOR INSULATED METAL DOOR AND FRAME ASSEMBLY. REFER TO SHEET DOOR SCHEDULE FOR ADDITIONAL INFORMATION.
 - 8C. ALUMINUM CLAD WOOD DOOR AND FRAME ASSEMBLY. REFER TO SHEET DOOR SCHEDULE FOR ADDITIONAL INFORMATION.
 - 8D. ALUMINUM THRESHOLD.
9. FINISHES:
 - 9A. FINISH FLOOR. REFER TO ROOF FINISH SCHEDULE FOR ADDITIONAL INFORMATION
 - 9B. 5/8" TYPE "X" GYPSUM WALL BOARD
 - 9C. 5/8" TYPE "C" GYPSUM BOARD OVER 1/2" RESILIENT CHANNELS @ 12" O.C. (PER UL #151) FOR CEILING AND UL #P33 FOR ROOF
 - 9D. 5/8" FIRE RATED EXTERIOR GYPSUM SOFFIT BOARD OVER 1/2" RESILIENT CHANNELS @ 24" O.C. OVER 5/8" TYPE "C" GYPSUM BOARD (2HR RATED CEILING SIMILAR TO UL #P33 FOR ROOF)
 - 9E. 5/8" GYPSUM WALL BOARD
 - 9F. TWO LAYERS OF 5/8" TYPE "C" GYPSUM BOARD OVER 1/2" RESILIENT CHANNELS @ 12" O.C. OVER 5/8" TYPE "C" GYPSUM BOARD (PER UL #151) FOR CEILING) - 2HR ASSEMBLY
10. SPECIALTIES: NOT USED
11. EQUIPMENT:
 - 11A. METAL MAILBOX UNIT. REFER TO SPECIFICATIONS FOR ADDITIONAL INFORMATION. INSTALL PER MFR. RECOMMENDATIONS.
12. FURNISHINGS: NOT USED
13. SPECIAL CONSTRUCTIONS: NOT USED
14. CONVEYING SYSTEMS: NOT USED
15. MECHANICAL: NOT USED
16. ELECTRICAL: NOT USED



BLDG TYPE #4
FOURTH FLOOR PLAN
SCALE 1/8" = 1'-0"

Unit Type Summary													
Note: All first floor units are adaptable per ANSI A117.1 unless otherwise noted													
Bldg 1							Bldg 2						
Unit Type	# of Units	2nd Floor	3rd Floor	4th Floor	SF per Unit	Unit Description	Unit Type	# of Units	2nd Floor	3rd Floor	4th Floor	SF per Unit	Unit Description
1B-1	11	3	4	4	839 SF	1 Bdr, 1 Bath	1B-1	11	3	4	4	839 SF	1 Bdr, 1 Bath
1B-2	1	1			839 SF	1 Bdr, ADA	1B-2	1	1			839 SF	1 Bdr, ADA
2B-1	12	4	4	4	1,060 SF	2 Bdr, 2 Bath	2B-1	12	4	4	4	1,060 SF	2 Bdr, 2 Bath
2B-2					1,060 SF	2 Bdr, ADA	2B-2					1,060 SF	2 Bdr, ADA
3B-1					1,185 SF	3 Bdr, 2 Bath	3B-1	7	3	4	4	1,185 SF	3 Bdr, 2 Bath
3B-2					1,185 SF	3 Bdr, ADA	3B-2	1	1			1,185 SF	3 Bdr, ADA
Total	34	8	8	8			Total	34	8	8	8		

KEY PLAN

SEAL

ARCHITECT

ARCHITECT OF RECORD

Kentucky Architecture Studio LLC
251 Derwood Road
Louisville, KY 40208
Tel: 502-261-2000 Fax: 502-261-8004

CONSULTANT

PROJECT TITLE

Sweetwater Bend Apartments
Galveston, TX

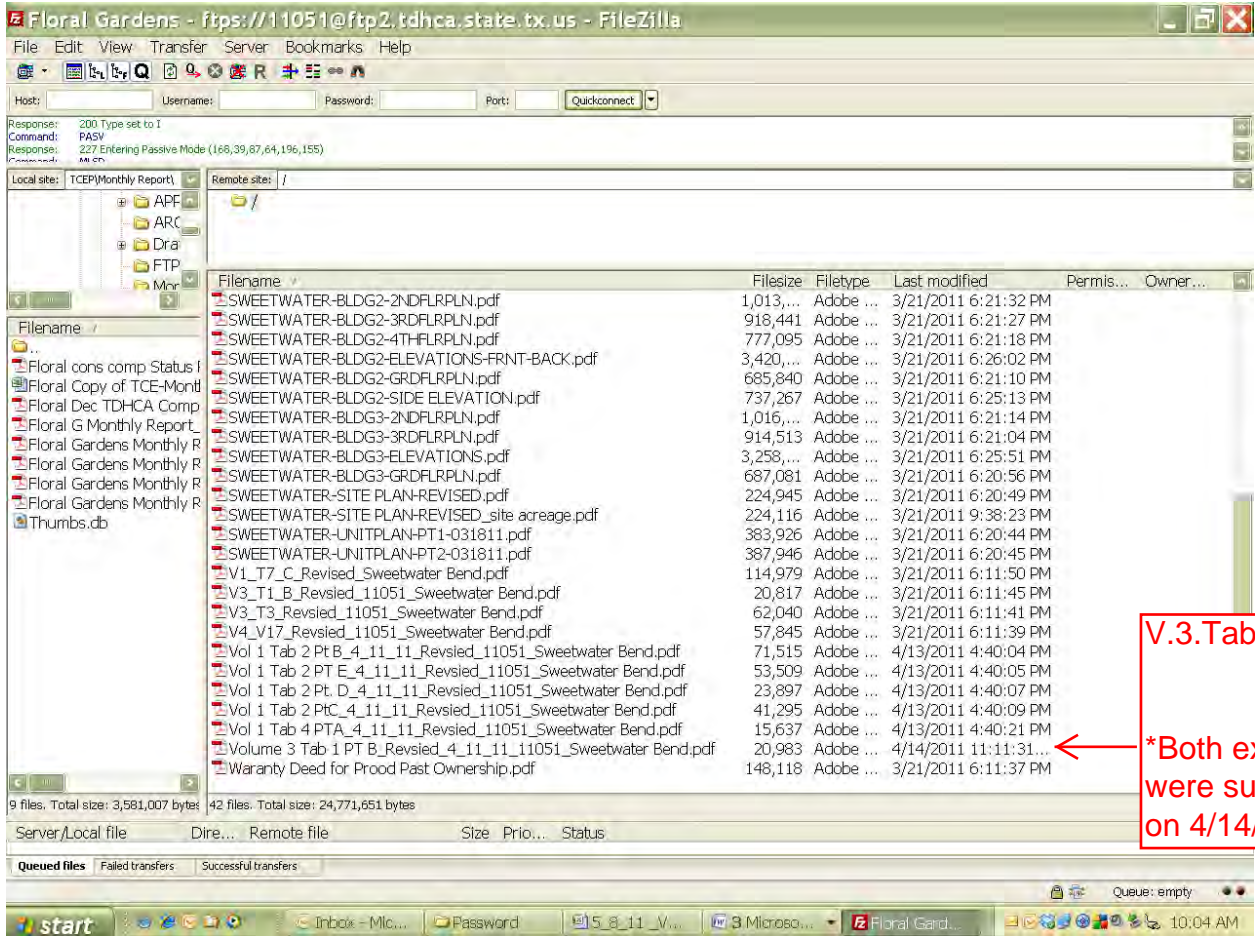
NOT FOR CONSTRUCTION

DESIGNED BY _____ CHECKED BY _____

DRAWN BY _____ DATE 02.25.2011

SHEET TITLE: **BLDG 1 FOURTH FLOOR**

PROJECT NO. STA-11WB06 SHEET NO. **A104**



V.3.Tab 1. B
*Both exhibits were submitted on 4/14/2011

Volume 3, Tab 1

PART B. SPECIFICATIONS AND AMENITIES

SITE ATTRIBUTES (mark with a "x")

Total Acquisition Acreage: 9.24 Development Site Acreage: 9.24 # Units per Acre: 8.225
 Single Site Contiguous Multiple Sites (#) Scattered Sites (# Sites)*

* Note: If Scattered Site, submit evidence of scattered site pursuant to ASPM behind this tab.

DEVELOPMENT ATTRIBUTES *Selections must be consistent with submitted architectural plans*

of Residential Buildings: 4 Maximum # of Floors: 4 # of Non-Residential Buildings: 1

Configuration:

Duplex Fourplex Townhome Transitional (per §42(i)(3)(B))
 >4 units per building Scattered Site Single family construction SRO (per §42(i)(3)(B))
 Fire Sprinkler in all residential areas # of Passenger Elevators: 8 Wt. Capacity: 3,500

EXTERIOR *Selections must be consistent with submitted architectural plans*

Subfloor

Wood
 Concrete Slab
 Other

Walls

 % Plywood/Hardboard
 % Vinyl or Aluminum Siding
5 % Masonry Veneer
95 % Fiber Cement Siding
 % Stucco
 % Other (Describe)

Parking

 #Shed or Flat Roof Carport Spaces
15 #Detached Garage Spaces
 #Attached Garage Spaces
167 #Uncovered Spaces
 #Parking Garage Spaces

Roofs

Built-Up Tar and Gravel
 Comp. Shingle
 Comp. Roll
 Elastomeric
 Wood Shake
 Other (Describe)

INTERIOR *Selections must be consistent with submitted architectural plans*

Flooring

60 % Carpet
40 % Resilient Covering
 % Ceramic Tile
 % Light Concrete
 % Other (Describe)

Air System

Forced Air
 Furnace
 Hot Water
 Warm and Cooled Air
 Heat Pump, packaged
 Wall Units
 Other (Describe)

Walls

Drywall
 Plaster
 8 Foot Ceilings

Other

Washer and Dryers onsite (#)
 Fireplace included in all Units
 Fireplace onsite (#)
 Other (Describe)



June 13, 2011

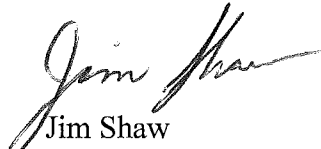
Mr. Mark Lechner
Stewart Crossing LP
1900 Rolling Hills Trail
Fishersville, KY 40023

Re: Sweetwater Bend, Galveston County, TX

Dear Mr. Lechner,

We have received your loan request dated June 13, 2011 for \$627,905.00 for a term of one (1) year or the placed in service date, whichever is longer, at an interest rate of AFR or less. All decisions regarding funding awards will be made by August 1, 2011. We are in the process of evaluating your request, and we will contact you should we have questions concerning your application.

Kind regards,


Jim Shaw
Executive Director

The screenshot shows the FileZilla FTP client interface. The title bar reads "Floral Gardens - ftps://11051@ftp2.tdhca.state.tx.us - FileZilla". The interface includes a menu bar (File, Edit, View, Transfer, Server, Bookmarks, Help), a toolbar, and a status bar at the bottom. The main window is divided into several panes:

- Local site:** TCEP(Monthly Report)
- Remote site:** /
- Local file list:** Shows folders like APF, ARC, Dra, FTP, and files like Floral cons comp Status, Floral Copy of TCE-Mont, Floral Dec TDHCA Comp, Floral G Monthly Report, Floral Gardens Monthly R, Floral Gardens Monthly R, Floral Gardens Monthly R, and Thumbs.db.
- Remote file list:** A table with columns: Filename, Filesize, Filetype, Last modified, Permis..., and Owner... The table contains 42 files, including "Sweetwater Bend Financing Plan.pdf" which is highlighted by a red box and an arrow.
- Queued files:** Failed transfers, Successful transfers

The "Sweetwater Bend Financing Plan.pdf" file is highlighted with a red box and an arrow pointing to it from a larger red box on the right. This larger box contains the text: "Financing Plan Submitted to TDHC on 3/21/2011".

Filename	Filesize	Filetype	Last modified	Permis...	Owner...
..					
Applicant Statement of Governmental Funding by SHFC.pdf	75,824	Adobe ...	3/21/2011 6:12:38 PM		
FileZilla Login-doc.axx	5,838	AxCryp...	2/16/2011 5:15:49 PM		
Galveston UA CHART June 1, 2010.pdf	22,174	Adobe ...	3/21/2011 6:12:26 PM		
Jhartz_credit release.pdf	56,459	Adobe ...	3/21/2011 6:12:15 PM		
Phyllis_Janson Credit Release.pdf	1,143,...	Adobe ...	3/21/2011 6:12:19 PM		
REVISED_Developer Structure_Stewart Crossing.pdf	4,642	Adobe ...	3/21/2011 6:12:06 PM		
Revsied_V1_T5_C_11051_Sweetwater Bend.pdf	90,523	Adobe ...	3/21/2011 6:12:04 PM		
Sweetwater Bend_equity Loi_revised.pdf	252,759	Adobe ...	4/14/2011 12:01:08...		
Sweetwater Bend Financing Plan.pdf	5,637	Adobe ...	3/21/2011 6:11:52 PM		
Sweetwater Bend Perm Insurance Quote_4_11_11.pdf	18,868	Adobe ...	4/13/2011 4:39:57 PM		
Sweetwater Bend PM_Capstone_Statement_4_11_11.pdf	13,843	Adobe ...	4/13/2011 4:39:59 PM		
SWEETWATER-BLDG1-2NDFLRPLN.pdf	906,563	Adobe ...	3/21/2011 6:22:21 PM		
SWEETWATER-BLDG1-3RDFLRPLN.pdf	891,622	Adobe ...	3/21/2011 6:22:19 PM		
SWEETWATER-BLDG1-4THFLRPLN.pdf	886,274	Adobe ...	3/21/2011 6:22:11 PM		
SWEETWATER-BLDG1-ELEVATIONS-FRNT-BACK.pdf	3,735,...	Adobe ...	3/21/2011 6:26:24 PM		
SWEETWATER-BLDG1-GRDFLRPLN.pdf	655,360	Adobe ...	3/21/2011 6:22:00 PM		
SWEETWATER-BLDG1-SIDE ELEVATION.pdf	725,489	Adobe ...	3/21/2011 6:25:58 PM		
SWEETWATER-BLDG2-2NDFLRPLN.pdf	1,013,...	Adobe ...	3/21/2011 6:21:32 PM		
SWEETWATER-BLDG2-3RDFLRPLN.pdf	918,441	Adobe ...	3/21/2011 6:21:27 PM		
SWEETWATER-BLDG2-4THFLRPLN.pdf	777,095	Adobe ...	3/21/2011 6:21:18 PM		
SWEETWATER-BLDG2-ELEVATIONS-FRNT-BACK.pdf	3,420,...	Adobe ...	3/21/2011 6:26:02 PM		
SWEETWATER-BLDG2-GRDFLRPLN.pdf	685,840	Adobe ...	3/21/2011 6:21:10 PM		
SWEETWATER-BLDG2-SIDE ELEVATION.pdf	737,267	Adobe ...	3/21/2011 6:25:13 PM		
SWEETWATER-BLDG3-2NDFLRPLN.pdf	1,016,...	Adobe ...	3/21/2011 6:21:14 PM		
SWFFTWATER-BLDG3-3RDFLRPLN.pdf	914,513	Adobe ...	3/21/2011 6:21:04 PM		

Financing Plan for Sweetwater Bend

Once Stewart Crossing, LP (The Applicant) has received the tax credits from the Texas Department of Housing and Community Affairs (TDHCA), Sterling Bank has agreed to provide the development a construction/permanent loan in the amount of \$6,640,345 for 30 month term during construction and converting to a \$1,986,000 permanent loan at 7.0% rate for 15 years upon conversion. Once the Applicant has closed on the tax credits, a construction lender will provide a letter of credit to guarantee construction. First Sterling Financial agreed to provide approximately \$9,061,318 in tax credit equity or \$.76 per each dollar of Tax Credit. In addition, the applicant will be acquiring a second mortgage from a 3rd party lending institute (Strategic Site Partners, LLC) for \$250,000 as well. Lastly, the applicant has applied for \$630,000 SHFC loan to help finance the cost of the development. After approximately six months of construction, lease up will begin to create revenue for the development. The development is anticipated to go through an intensive six month lease up phase at this time. Once approximately 90% leased for 90 days the property will convert to the permanent loan.

Volume 1, Tab 2. ACTIVITY OVERVIEW

Part E. 30 Year Rental Housing Operating Proforma

The pro forma should be based on the operating income and expense information for the base year (first year of stabilized occupancy using today's best estimates of rental income and expenses), and principal and interest debt service. The Department currently considers an annual growth rate of 2% for income and 3% for expenses to be reasonably conservative estimates. Written explanation for any deviations from these growth rates or for assumptions other than straight-line growth made during the proforma period should be attached to this exhibit.. While the 30-year proforma projects 30 years of data, the Department's standard for financial feasibility is 15 years.

Development Name: Sweetwater Bend City: Galveston											
INCOME	LEASE-UP	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 25	YEAR 30
POTENTIAL GROSS ANNUAL RENTAL INCOME	\$295,608	\$591,216	\$603,040	\$615,101	\$627,403	\$639,951	\$706,558	\$780,097	\$861,290	\$950,934	\$1,049,908
Secondary Income	3,636	7,272	7,417	7,566	7,717	7,871	8,691	9,595	10,594	11,697	12,914
POTENTIAL GROSS ANNUAL INCOME	\$299,244	\$598,488	\$610,458	\$622,667	\$635,120	\$647,823	\$715,249	\$789,692	\$871,884	\$962,630	\$1,062,822
Provision for Vacancy & Collection Loss	22,443	44,887	45,784	46,700	47,634	48,587	53,644	59,227	65,391	72,197	79,712
Rental Concessions	0										
EFFECTIVE GROSS ANNUAL INCOME	\$321,687	\$553,601	\$564,673	\$575,967	\$587,486	\$599,236	\$661,605	\$730,465	\$806,493	\$890,433	\$983,110
EXPENSES											
General & Administrative Expenses	\$12,008	\$ 24,016.00	\$24,736	\$25,479	\$26,243	\$27,030	\$31,335	\$36,326	\$42,112	\$48,820	\$56,595
Management Fee	11,072	22,144	22,808	23,493	24,197	24,923	28,893	33,495	38,830	45,014	52,184
Payroll, Payroll Tax & Employee Benefits	38,000	76,000	78,280	80,628	83,047	85,539	99,163	114,957	133,266	154,492	179,099
Repairs & Maintenance	25,080	50,160	51,665	53,215	54,811	56,456	65,447	75,872	87,956	101,965	118,205
Electric & Gas Utilities	10,700	21,400	22,042	22,703	23,384	24,086	27,922	32,369	37,525	43,502	50,431
Water, Sewer & Trash Utilities	12,832	25,664	26,434	27,227	28,044	28,885	33,486	38,819	45,002	52,170	60,479
Annual Property Insurance Premiums	30,400	60,800	62,624	64,503	66,438	68,431	79,330	91,965	106,613	123,594	143,279
Property Tax	24,700	49,400	50,882	52,408	53,981	55,600	64,456	74,722	86,623	100,420	116,414
Reserve for Replacements	9,500	19,000	19,570	20,157	20,762	21,385	24,791	28,739	33,317	38,623	44,775
Other Expenses:	5,320	10,640	10,959	11,288	11,627	11,975	13,883	16,094	18,657	21,629	25,074
TOTAL ANNUAL EXPENSES	\$179,612	\$359,224	\$370,001	\$381,101	\$392,534	\$404,310	\$468,706	\$543,359	\$629,901	\$730,228	\$846,535
NET OPERATING INCOME	\$142,075	\$194,377	\$194,673	\$194,866	\$194,952	\$194,926	\$192,899	\$187,107	\$176,591	\$160,205	\$136,575
DEBT SERVICE											
	\$79,274	\$158,546	\$158,548	\$158,548	\$158,548	\$158,548	\$158,548	\$158,548	\$158,548	\$158,548	\$158,548
Second Deed of Trust Annual Loan Payment	\$1,727	3,453									
Third Deed of Trust Annual Loan Payment	\$688	1,375	1,375	1,375	1,375	1,375	1,375	1,375	1,375	1,375	1,375
Other Annual Required Payment:											
Other Annual Required Payment:											
NET CASH FLOW	\$60,387	\$31,003	\$34,750	\$34,943	\$35,029	\$35,003	\$32,976	\$27,184	\$16,668	\$282	(\$23,348)
Debt Coverage Ratio	1.74	1.19	1.22	1.22	1.22	1.22	1.21	1.17	1.10	1.00	0.85

Volume 1, Tab 4. Funding Request

PART A. Summary of Sources and Uses of Funds

Describe all sources of funds and total uses of funds. Information must be consistent with the information provided throughout the Application (i.e. Financing Narrative, Commitment Letters and Development Cost Schedule). Where funds such as tax credits, loan guarantees, bonds are used, only the proceeds going into the development should be identified so that "sources" match "uses."

Development Name: Sweetwater Bend

Development City: Galveston

Funding Description	Construction Period		Permanent Period					Financing Participants
	Loan/Equity Amount	Interest Rate (%)	Loan/Equity Amount	Interest Rate (%)	Amort	Term	Syndication Rate (\$)	
DEBT								
Conventional Loan	\$6,343,100	5.00%	\$1,986,000	7.000%	30	15		Sterling Bank
Private Loan	\$250,000	AFR	\$250,000	AFR		18		Strategic Site Partners, LLC
Private Loan	\$627,905	AFR						Capital Area Housing Finance Corp.
<i>Other (Please Describe)</i>								
<i>Other (Please Describe)</i>								
Third Party Equity								
HTC Syndication Proceeds	\$9,657,457		\$9,657,457				\$0.81	First Sterling Financial, Inc.
<i>Other (Please Describe)</i>								
Grant								
<i>Other (Please Describe)</i>								
Deferred Developer Fee								
Deferred Developer Fee	\$140,613		\$140,613					MBL DerbyCity Development, LLC
<i>Other (Please Describe)</i>								
Other								
<i>Please Describe</i>								
<i>Please Describe</i>								
<i>Please Describe</i>								
<i>Please Describe</i>								
TOTAL SOURCES OF FUNDS	\$ 17,019,075		\$ 12,034,070					
TOTAL USES OF FUNDS			\$ 12,034,070					



100 Congress, Suite 300
Austin, TX 78701
Telephone: 512-305-4700
Fax: 512-305-4800
www.lockelord.com

Cynthia L. Bast
Direct Telephone: 512-305-4707
Direct Fax: 512-391-4707
cbast@lockelord.com

June 14, 2011

VIA EMAIL

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

Re: The Mercer, TDHCA No. 11057 (the "Application")

Dear Raquel:

We represent the housing tax credit applicant for Merritt Bryan Station Senior Village, TDHCA No. 11169 in Urban Region 8 (the "Client"). Contact information for the Client is as follows:

Colby Denison
3701 North Lamar
Suite 206
Austin, TX 78705
(512) 732-1276 (fax)
colby@denisondevelopment.com

On behalf of the Client, and in accordance with Section 49.10(e) of the Qualified Allocation Plan, we present the following questions or concerns about the scoring for Quantifiable Community Participation in the Application referenced above. Capitalized terms used but not defined in this letter will have the meanings given them in the Qualified Allocation Plan.

Maximum points were awarded for a letter of support from the Booneville Town Center Neighborhood Association (the "Association"). Our Client questions that award, given the following:

1. Not a Neighborhood Organization. The Association was formed by a commercial property owner, as evidenced by its Bylaws. When asked about residents living within the boundaries of the Association, the Association's representative identified three residential properties – one owned by Barbara Coker, one owned by Donald Coker, and one owned by Thomas Vettters. However, per a letter from Mr. Vettters, attached as Exhibit A, none of those

individuals actually reside within the boundaries of the Association. The QAP defines a Neighborhood Organization as:

an organization of persons living near one another within the organization's defined boundaries that contain the proposed Development Site and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood.

and

"[P]ersons living near one another" means two (2) or more separate residential households.

With no evidence that anyone resides within the boundaries of the Association, it cannot be deemed a Neighborhood Organization.

2. No Participation by Residential Owners. In order to become a member of the Association, a property owner must actually file an instrument in the real property records of the county, electing to accept membership. That is an extraordinary burden for a single family homeowner and atypical of the way membership is usually structured for a homeowners association. None of the three homeowners identified within the boundaries of the Association have made such a filing in the real property records, and it is unlikely they would incur the trouble and expense to do so. Thus, none of the residential owners participated in the decision to support the Application.

We appreciate the opportunity to present this information and trust that TDHCA will consider it as appropriate in the allocation process.

Sincerely,



Cynthia L. Bast

cc: Robbye Meyer
Colby Denison

Exhibit A -- Letter from Property Owner

June 9, 2011

Robbye G. Meyer
Director of Multifamily Finance
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, TX 78701

RE: The Mercer Project in Bryan, Texas

Dear Ms. Meyer,

I have recently become aware of a newly formed neighborhood association named the Boonville Town Center Neighborhood Association and this Association's support letter for the Mercer project in Bryan, Texas. I have also become aware that a property I own located at 2430 Boonville Road is included in the Association's boundaries. Apparently, this Association has submitted a support letter on behalf of the property owners located inside the boundaries of this Association.

I would like to make clear a number of facts that seem to be omitted from this Associations' letter.

1. I do not live at the property (2430 Boonville Rd.) located within the boundaries of this Association.
2. Ms. Barbara Coker does not live at her property (2416 Boonville Rd.) located within the boundaries this Association.
3. Dr. Donald Coker is deceased, and his 2.7 acres (2422 Boonville Rd.) is now owned by his wife Ms. Barbara Coker.
4. I am not aware of any residents that actually live within this Association boundary.
5. Ms. Coker and I **strongly** oppose the Mercer project because we feel it will have negative impact on our property values and increase the crime rate in our neighborhood.

Thank you for your attention to this matter and please let me know if I can provide any additional information to prevent this misleading support letter from being considered. Please let me know that you received this e-mail/letter.

Sincerely,



Thomas F. Vettters, Realtor, Broker, Owner
Aggieland Realty
4600 S. Texas Avenue
Bryan, TX 77802
979-846-8857 Office
979-820-3858 Cell
979-846-2946 Residence
tomvettters1@hotmail.com

BOONVILLE TOWN CENTER NEIGHBORHOOD ASSOCIATION
2800 South Texas Avenue, Suite 401
BRYAN, TX 77802

June 24, 2011

Ms. Liz Cline
Multifamily Finance Housing Specialist
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, TX 78701

VIA ELECTRONIC MAIL LIZ.CLINE@TDHCA.STATE.TX.US

Re: Boonville Town Center Neighborhood Association

Dear Ms. Cline:

In response to a letter from your office regarding several questions with respect to our Neighborhood organization, please be advised of the following:

- 1) Not a Neighborhood Organization. Boonville Town Center Neighborhood Association was formed primarily for the purpose of enhancing the livability of the neighborhood and to provide an open process by which all members may involve themselves in the affairs of the neighborhood. Membership into the organization is voluntary and is open to any property owner within the boundary of the organization, including the residential area. We have no knowledge of the actual residents who may reside in the residential area contained within the boundaries but we have provided information to the best of our knowledge of the property owners of such residential parcels. We disagree with any statement that would suggest we are "not a neighborhood organization".
- 2) No Participation by Residential Owners. The association met back in February of this year to discuss several items related to the neighborhood including an item to support a proposed apartment community called the Mercer. All property owners within the association were sent invitations to attend the meeting, including all residential property owners. Public meeting signs were also posted for the meeting. Neither Mr. Veters nor Ms. Coker attended the meeting however the others in attendance chose to support the proposed Mercer development.

Sincerely,



Casey Oldham
Boonville Town Center Neighborhood Association

110517

June 9, 2011

Robbye G. Meyer
Director of Multifamily Finance
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, TX 78701

06-14-11 A08:41 RCMD

RE: The Mercer Project in Bryan, Texas

Dear Ms. Meyer,

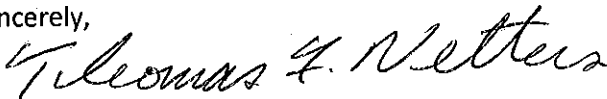
I have recently become aware of a newly formed neighborhood association named the Boonville Town Center Neighborhood Association and this Association's support letter for the Mercer project in Bryan, Texas. I have also become aware that a property I own located at 2430 Boonville Road is included in the Association's boundaries. Apparently, this Association has submitted a support letter on behalf of the property owners located inside the boundaries of this Association.

I would like to make clear a number of facts that seem to be omitted from this Associations' letter:

1. I do not live at the property (2430 Boonville Rd.) located within the boundaries of this Association.
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5. Ms. Coker and I **strongly** oppose the Mercer project because we feel it will have negative impact on our property values and increase the crime rate in our neighborhood.

Thank you for your attention to this matter and please let me know if I can provide any additional information to prevent this misleading support letter from being considered. Please let me know that you received this e-mail/letter.

Sincerely,



Thomas F. Vettters, Realtor, Broker, Owner
Aggieland Realty
4600 S. Texas Avenue
Bryan, TX 77802
979-846-8857 Office
979-820-3858 Cell
979-846-2946 Residence
tomvettters1@hotmail.com



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cbast@lockelord.com

June 14, 2011

VIA EMAIL

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

Re: Cypress Run, TDHCA No. 11073 (the "Application")

Dear Raquel:

We represent the housing tax credit applicant for Walnut Springs, TDHCA No. 11026 in Rural Region 9. Contact information for the applicant is as follows:

G. Granger MacDonald
2951 Fall Creek Road
Kerrville, Texas 78028
830-257-3168 (fax)
gmacdonald@macdonald-companies.com

On behalf of our client, and in accordance with Section 49.10(e) of the Qualified Allocation Plan, we present the following questions or concerns about the Application referenced above. Capitalized terms used but not defined in this letter will have the meanings given them in the Qualified Allocation Plan.

Site Control. There are discrepancies throughout the Application with regard to the amount of acreage for the Development and the purchase price for the land. Specifically:

Volume 1, Tab 1, Part D	Refers to 6.95 acres
Volume 1, Tab 8	Refers to 6.95 acres
Volume 2, Tab 1, Part C	Refers to 6.95 acres
Volume 3, Tab 3	Refers to 6 acres (purchase and sale agreement)

This is critical because the purchase and sale agreement refers to approximately 6 acres. The Applicant should have the contractual right to purchase all the land needed for the Development.

Ms. Raquel Morales
 June 14, 2011
 Page 2

Volume 1, Tab 3, Part A	Refers to acquisition cost of \$750,000
Volume 3, Tab 3	Refers to acquisition cost of \$110,000 per acre (purchase and sale agreement)
Volume 3, Tab 3	Refers to acquisition cost of \$660,000 (title commitment)
Volume 4, Tab 5	Refers to acquisition cost of \$764,500

The contractual purchase price is \$110,000 per acre. If the Applicant is buying 6 acres, as set forth in the purchase and sale agreement, the purchase price would be \$660,000. If the Applicant is buying 6.95 acres, the purchase price would be \$764,500. It is critical for TDHCA to have the correct amount for underwriting purposes.

Volume 3, Tab 3. This Tab requires the Applicant to submit information about all of the sellers of the proposed property for the 36 months prior to the first day of the Application Acceptance Period. The Applicant responded that "Frank Barron and/or his estate have been in control of the site for the last 36 months." This statement contradicts the information provided from the Bexar Appraisal District, also contained in Volume 3, Tab 3. Specifically, the deed history shows that the property transferred from Austex Inc. to Frank Barron on May 23, 2008. That date is within three years prior to December 20, 2010, which is the first day of the Application Acceptance Period. If Austex Inc. did own the property on May 23, 2008, it seems information with regard to Austex Inc. as a prior owner should have been included by the applicant, as a threshold requirement.

Volume 4, Tab 1. The construction and permanent lender for this Application is related to the Developer and Development Owner. While related party loans are permitted by TDHCA, we believe awarding the eight (8) additional points for having the lender review the Applicant's financial position and credit worthiness is inconsistent with the intent of those points. There is an inherent conflict of interest when a lender is underwriting a borrower that is a related party. The intent of these eight (8) points is to show that an independent financial institution has undertaken additional effort to analyze the financial feasibility of a Development and assure the proposed project is "bankable." When the bank is actually an affiliate of the borrower, it provides TDHCA no additional comfort to know that a related party deems the project feasible. TDHCA regularly monitors identity of interest transactions in other contexts. Similar identity of interest standards should be employed here to ensure that the points are awarded for a meaningful feasibility review.

Additionally, this conflict of interest concern has been expressed by the federal regulators who oversee the various Pedcor financial institutions. Pedcor Bancorp, which has provided the loan commitment letter for this Application, is the parent of International City Bank ("ICB"). ICB is under a Consent Order from the Office of the Comptroller of the Currency (the "OCC"), a tool that is used when the OCC finds a bank has violated banking regulations or engaged in unsound practices. In the Consent Order, attached as Exhibit A, the OCC orders the bank to reduce its direct and indirect investments in Community Development projects. It also restricts the bank's ability to pay money or extend credit to its affiliates.

Similarly, Pedcor Financial, LLC, of which Messrs. Cordingley and Pedigo are Principals, is under a Supervisory Agreement with the Office of Thrift Supervision (the "OTS"), attached as Exhibit B. A Supervisory Agreement is similar to a Consent Order in that it is used when there

Ms. Raquel Morales
June 14, 2011
Page 3

are concerns about compliance with banking regulations or financial soundness. In the Supervisory Agreement, the OTS finds that this institution has engaged in unsafe or unsound practices and specifically mandates that it implement a conflicts of interest policy. United Fidelity Bank, F.S.B., which is in the family tree of Pedcor Financial, LLC, is also under a Supervisory Agreement with the OTS, attached as Exhibit C. This Supervisory Agreement also restricts the bank's actions with regard to affiliate transactions.

The consistent theme for these institutions is a concern by the regulators with regard to affiliate situations and the overall financial health of the banks. Federal banking regulations are strict and complex, and we are not claiming that Pedcor Bancorp is committing to make an improper loan. We are simply using these materials to point out that related party loans are fraught with issues that are not present in an arms-length transaction. This begs the question of whether TDHCA should award eight (8) points for a lender's feasibility analysis when that lender has an inherent conflict of interest and publicly recognized concerns about its financial status and financial soundness.

Moreover, we recognize that, after the financial collapse a few years ago, many major financial institutions are subject to supervision by the federal regulators. Other Applicants may have loan commitments from lenders who are subject to regulatory supervision. However, the difference here is that those other financial institutions are not related to the Applicant.

Volume 4, Tab 13. The Applicant requested three (3) points for new construction located in an area that is part of a Community Revitalization Plan. This request is supported by a letter from the City's Development Services Director, indicating that the site is located within a revitalization area. However, the letter never refers to a Community Revitalization Plan or anything similar. Rather, it simply says that the City uses targeted zoning to promote development in areas that need revitalization. The Qualified Allocation Plan defines a Community Revitalization Plan as:

A published **document** under any name, approved and adopted by the local Governing Body . . . by ordinance, resolution, or vote that **targets specific geographic areas for revitalization** and development of residential developments. (emphasis added)

The letter from the City does not attach or refer to a document. It simply indicates that the zoning ordinance is the City's official plan for land use and redevelopment. If a zoning ordinance were the equivalent of a Community Revitalization Plan, every application in every city in the State of Texas that has zoning would be able to qualify for these points. By providing points for a development that fulfills a Community Revitalization Plan, we believe TDHCA was seeking something more – a concerted effort by a city to target and assist impoverished or deteriorated areas in its jurisdiction. Numerous cities across Texas have expended the time and effort to establish a Community Revitalization Plan, utilizing their time and resources to do so. A city that has undertaken this additional effort, and an applicant that strives to locate a development consistently with that effort, is deserving of points in the housing tax credit application process.

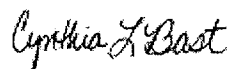
Ms. Raquel Morales
June 14, 2011
Page 4

Volume 4, Tab 23. The online copy of the Application does not contain a HUB certificate. Also, there is no evidence in the Application that the HUB will materially participate in the Development Owner.

Volume 4, Tab 27. The instructions for this Tab indicate that "[t]he funding source can not be a commercial lender." It should be noted that Mr. Petrie is a Certified Mortgage Banker and a co-founder of P/R Investment & Mortgage Corporation in Carmel, Indiana.

We appreciate the opportunity to present this information and trust that TDHCA will consider it as appropriate in the allocation process.

Sincerely,



Cynthia L. Bast

cc: Robbye Meyer
Granger MacDonald

Exhibit A – Consent Order, International City Bank
Exhibit B – Supervisory Agreement, Pedcor Financial
Exhibit C – Supervisory Agreement, United Fidelity Bank

EXHIBIT A

#2009-011

**UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY
COMPTROLLER OF THE CURRENCY**

In the Matter of: International City Bank Long Beach, California		AA-WE-08-74
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CONSENT ORDER

The Comptroller of the Currency of the United States of America (“Comptroller”), through his National Bank Examiner, has supervisory authority over International City Bank, Long Beach, California (“Bank”).

The Bank, by and through its duly elected and acting Board of Directors (“Board”), has executed a “Stipulation and Consent to the Issuance of a Consent Order,” dated January 26, 2009, that is accepted by the Comptroller. By this Stipulation and Consent, which is incorporated by reference, the Bank has consented to the issuance of this Consent Order (“Order”) by the Comptroller.

Pursuant to the authority vested in it by the Federal Deposit Insurance Act, as amended, 12 U.S.C. § 1818, the Comptroller hereby orders that:

Article I

COMPLIANCE COMMITTEE

(1) Within ten (10) days of this Order, the Board shall appoint a Compliance Committee of at least three (3) directors of which at least two (2) must not be an employee of the Bank or any of its affiliates (as the term “affiliate” is defined in 12 U.S.C. § 371c(b)(1)), or a family member of any such person. Upon appointment, the names of the members of the

Compliance Committee and, in the event of a change of the membership, the name of any new member shall be submitted in writing to the Assistant Deputy Comptroller.

(2) The Compliance Committee shall be responsible for monitoring and coordinating the Bank's adherence to the provisions of this Order and shall meet at least monthly.

(3) By no later than February 27, 2009, and by the end of every calendar month thereafter, the Compliance Committee shall submit a written progress report to the Board setting forth in detail:

- (a) a description of the action needed to achieve full compliance with each Article of this Order;
- (b) actions taken to comply with each Article of this Order; and
- (c) the results and status of those actions.

(4) The Board shall provide a summary report of the progress reached in attaining compliance with each Article of this Order to the Assistant Deputy Comptroller within ten (10) days of the end of each calendar quarter.

(5) All reports or plans which the Bank or Board has agreed to submit to the Assistant Deputy Comptroller pursuant to this Order shall be forwarded to the:

Assistant Deputy Comptroller
Southern California – South Field Office
1925 Palomar Oaks Way, Suite 202
Carlsbad, California 92008

Article II

CAPITAL AND STRATEGIC PLAN

(1) Effective as of the date of this Order, the Bank shall at all times maintain the following minimum capital ratios:

- (a) Tier 1 capital at least equal to nine percent (9%) of adjusted total assets;
and
- (b) total risk-based capital at least equal to twelve percent (12%) of risk-weighted assets.

(2) For purposes of this Article, “Tier 1 capital,” “total risk-based capital,” “adjusted total assets,” and “risk-weighted assets” are as defined in 12 C.F.R. Part 3.

(3) The requirement in this Order to meet and maintain a specific capital level means that the Bank is not to be deemed to be “well capitalized” for purposes of 12 U.S.C. § 1831o and 12 C.F.R. Part 6 pursuant to 12 C.F.R. § 6.4(b)(1)(iv).

(4) Effective as of the date of this Order, the Bank shall only declare dividends:

- (a) when the Bank is in compliance with the Bank’s Three-Year Plan as described below;
- (b) when the Bank is in compliance with 12 U.S.C. §§ 56 and 60; and
- (c) with the prior written approval from the Assistant Deputy Comptroller, which shall be granted or denied within thirty (30) days of the receipt of a dividend request from the Bank.

(5) Effective as of the date of this Order, the Bank shall not increase its total loans above the amount shown in its amended June 30, 2008 Consolidated Report of Condition (“Call Report”), schedule RC4b, until the Bank corrects the deficiencies in Asset Quality described in the Report of Examination conducted as of June 30, 2008 (the “ROE”), returns the Bank to a satisfactory condition, and the Bank receives a prior written determination of no supervisory objection from the Assistant Deputy Comptroller. For purposes of this paragraph, the compliance determination shall be made as of each Call Report filing.

(6) Within ninety (90) days of this Order, the Board shall develop a written strategic plan for the Bank covering at least the next three years (hereafter the "Bank's Three-Year Plan"), complete with specific time frames that incorporate the strategic and other requirements of this Article. A copy of the Bank's Three-Year Plan shall be forwarded to the Assistant Deputy Comptroller for a prior written determination of no supervisory objection.

(7) The Bank's Three-Year Plan shall establish objectives and projections for the Bank's overall risk profile, earnings performance, growth expectations, balance sheet mix, off-balance sheet activities, liability structure, capital and liquidity adequacy, product line development and market segments that the Bank intends to promote or develop, together with specific strategies to achieve those objectives, that are specific, measurable, verifiable, and, at a minimum, address or include:

- (a) an assessment of the Bank's present and future operating environment;
- (b) the development of strategic goals and quantifiable measures with specific implementation dates to ensure the Bank attains sustained earnings to support capital and liquidity;
- (c) an evaluation of the Bank's internal operations, staffing requirements, Board and management information systems and policies and procedures for their adequacy and contribution to the accomplishment of the goals and objectives developed pursuant to this Article;
- (d) specific plans to establish responsibilities and accountability for the strategic planning process, new products, proposed changes in the Bank's operating environment, reduction of problem assets, and maintenance of adequate liquidity;

- (e) control systems to identify and reduce risk to earnings, capital, and liquidity, and risks associated with any proposed changes in the Bank's operating environment;
- (f) growth limitations designed to comply with Paragraph (5) of this Article and actions to monitor, control and reduce, where appropriate, significant concentrations of credit;
- (g) specific plans for the maintenance of adequate capital that may in no event be less than the requirements specified in Paragraph (1) of this Article;
- (h) specific plans for the maintenance of adequate liquidity in accordance with the requirements of Article III;
- (i) a dividend policy that only permits the declaration of a dividend in accordance with Paragraph (4) of this Article;
- (j) projections for capital and liquidity requirements based upon a detailed analysis of the Bank's assets, liabilities, earnings, fixed assets, and off-balance sheet activities;
- (k) a financial forecast to include projections for major balance sheet and income statement accounts and desired financial ratios over the next three years that shall address or include consideration of the requirements of this Article; and
- (l) systems to monitor the Bank's progress in meeting the plan's goals and objectives.

(8) Upon receiving a written determination of no supervisory objection from the Assistant Deputy Comptroller, the Board shall immediately implement and thereafter ensure adherence to the Bank's Three-Year Plan.

Article III

LIQUIDITY MANAGEMENT

(1) Within sixty (60) days of this Order, the Board shall develop and submit for a prior written determination of no supervisory objection, a written liquidity program to ensure the Bank maintains liquidity at a level that is sufficient to sustain the Bank's current operations and to withstand any anticipated or extraordinary demand against its funding base, to include at a minimum:

- (a) measures to increase and maintain sufficient on-balance sheet liquidity;
- (b) a significant reduction in reliance upon non-core funding sources, including brokered deposits, credit-sensitive wholesale borrowings and uninsured deposits;
- (c) the establishment of additional back-up funding sources;
- (d) policies and procedures to ensure the implementation of adequate liquidity planning tools, to include:
 - (i) a review of administrative policies and procedures to ensure they are consistent with the Board's guidance and risk tolerances;
 - (ii) specific balance sheet liquidity targets that are consistent with the tools used to measure performance;
 - (iii) reasonable risk limits to control the level of liquidity risk that incorporate forward-looking risk measurements and liability

concentration limits such as limits on the amount of funds that may be sourced from any individual customer or groups of customers, or liability concentration limits by instrument; and

- (e) a contingency funding plan that ensures the Bank can remain liquidity solvent through stressed environments and that includes, at a minimum:
 - (i) management's best estimate of balance sheet changes that may result from a liquidity or credit event;
 - (ii) specific terms or events that trigger enactment of the plan;
 - (iii) necessary management information systems and reporting criteria for use in crises situations;
 - (iv) management responsibilities for enacting the plan and for taking specific actions once enacted; and
 - (v) prioritization of all sources of funding for the various scenarios including asset side funding, liability side funding, and off-balance sheet funding.

(2) After the OCC has advised the Bank that it does not take supervisory objection to the liquidity program required by this Article, the Board shall immediately implement, and shall thereafter ensure adherence to its terms.

Article IV

COMMUNITY DEVELOPMENT INVESTMENTS

(1) Within sixty (60) days of this Order, the Board shall prepare and submit for a prior written determination, a plan to reduce and maintain the Bank's direct and indirect investments in Community Development projects (as recorded using Generally Accepted

Accounting Principles “GAAP”) to no more than fifteen percent (15%) of the Bank’s capital and surplus as defined in 12 C.F.R. § 24.2(b). The plan shall require definitive annual reductions that correlate to the Bank’s capital and surplus and shall not extend beyond five years from the date of this Order.

(2) Upon receiving a written determination of no supervisory objection from the Assistant Deputy Comptroller, the Board shall immediately implement and thereafter ensure adherence to the plan required by Paragraph (1) of this Article.

Article V

COMMERCIAL REAL ESTATE RISK MANAGEMENT

(1) Within sixty (60) days of this Order, the Board shall prepare and submit to the Assistant Deputy Comptroller for a prior written determination of no supervisory objection, a written program (including appropriate revisions to policies and procedures) designed to manage the risk in the Bank’s commercial real estate (“CRE”) loan portfolio in accordance with the guidelines in OCC Bulletin 2006-46, Concentration in Commercial Real Estate Lending, Sound Risk Management Practices (dated December 6, 2006) and the Commercial Real Estate and Construction Lending, A-CRE, of the *Comptroller’s Handbook*. The written CRE program shall, at a minimum, include:

- (a) the establishment of an overall CRE reduction strategy that includes CRE concentration limits stratified by type, locality and other meaningful measures supported by written analysis;
- (b) monthly monitoring of concentration reports that stratify the CRE portfolio by product type, locality and other meaningful measures;

- (c) strategies and procedures to manage and reduce CRE concentrations to conform with established limits set in Subparagraph (a) of this Article;
- (d) portfolio-level multi-factor stress testing and/or sensitivity analysis to quantify the impact of changing economic conditions on asset quality, earnings, and capital;
- (e) significant individual loan stress testing and/or sensitivity analysis to quantify the impact of changing economic conditions on asset quality, earnings, and capital;
- (f) the establishment of Loan Policy CRE underwriting standards by CRE type that include specific requirements relating to:
 - (i) maximum loan amount and maturity by type of property;
 - (ii) approval authorizations;
 - (iii) minimum file documentation and analysis;
 - (iv) minimum requirements for initial investment and maintenance of hard equity;
 - (v) minimum standards for borrower net worth, property cash flow/debt service, collateral coverage, and guarantor support;
 - (vi) the performance of global cash flow analysis to evaluate the repayment ability of borrowers with multiple projects;
 - (vii) standards for ensuring a complete and accurate assessment of guarantor support;
 - (viii) standards for ensuring that CRE loans have appropriate minimum loan covenants;

- (ix) minimum standards for the acceptability for using, and defined limits for soft cost and/or interest reserve financing;
 - (x) maximum amortization periods and minimum principal curtailment for CRE and construction projects that are not meeting original projections; and
 - (xi) procedures for loan closing and disbursement processes, including the supervised disbursement of construction loan proceeds;
- (g) requirements to ensure participations purchased are consistent with sound banking practices, guidelines set forth in Banking Circular 181 (Revised), dated August 2, 1984, and the requirements of 12 C.F.R. Part 34;
- (h) maintenance of proper collateral margins in loans made for the purpose of constructing or developing real estate, including but not limited to, procedures for ensuring that:
- (i) periodic, meaningful, well-documented, inspections are performed on all construction projects;
 - (ii) draw requests are advanced in accordance with construction progress and budget;
 - (iii) documentation is maintained of project completion versus amount advanced;
 - (iv) lien waivers are obtained from contractors and sub-contractors; and
 - (v) borrower's hard equity is tracked by project;

- (i) requirements for periodic reviews of borrowers and loans not to exceed one year that include credit reviews and analysis of operating statements, rent rolls, and guarantor financial condition as applicable;
- (j) standards for when CRE loan policy exceptions are appropriate, what factors should exist to mitigate exceptions, and how the level and trend of exceptions should be documented, tracked and reported to the Board;
- (k) standards for appraisal ordering and review processes in accordance with Article VI; and
- (l) standards to ensure CRE loans are appropriately risk rated in accordance with Article VII.

(2) Upon receiving a written determination of no supervisory objection from the Assistant Deputy Comptroller, the Board shall immediately implement and thereafter ensure adherence to the program, policies and procedures required by this Article.

Article VI

APPRAISAL AND EVALUATION PROCESS

(1) Within sixty (60) days of this Order, the Board shall revise, adopt, implement and thereafter ensure Bank adherence to a written policy designed to ensure the Bank obtains real estate appraisals and evaluations in compliance with USPAP, 12 C.F.R. Part 34, Advisory Letter 2003-9, and OCC Bulletin 2005-6, to include at a minimum:

- (a) the required use of a standard appraisal form for ordering all appraisals;
- (b) the ordering of appraisals, independent of the lending function;
- (c) the use of Board approved appraisers only;

- (d) the establishment and implementation of a policy requiring a meaningful review, independent of the lender, of all appraisals to include analysis commensurate with the type, size and complexity of the property being appraised; and
- (e) the establishment of a tickler system for tracking appraisals ordered, received, returned, and reviewed.

(2) A copy of the policy developed pursuant to this Article shall be forwarded to the Assistant Deputy Comptroller within five (5) days of its adoption by the Board.

Article VII

CREDIT RISK RATINGS AND NONACCRUAL RECOGNITION

- (1) Within sixty (60) days of this Order, the Board shall develop, implement, and thereafter ensure adherence to a program designed to identify and record the Bank's loan portfolio risk, to include, at a minimum, provisions requiring that:
- (a) the Bank's loans and other assets are appropriately and timely risk rated and charged off by the lending officers using a loan grading system that is based upon current facts, existing repayment terms and that is consistent with the guidelines set forth in Rating Credit Risk, A-RCR, of the *Comptroller's Handbook*;
 - (b) the Bank's loans and other assets are timely placed on nonaccrual by the lending officers in accordance with the guidelines set forth in the Call Report;
 - (c) loan officers appropriately and timely risk rate and/or place loans on nonaccrual; and

(d) loan officer failure to properly risk rate and/or place loans on nonaccrual is considered in periodic performance reviews and compensation.

(2) A copy of the program developed pursuant to this Article shall be forwarded to the Assistant Deputy Comptroller within five (5) days of its adoption by the Board.

Article VIII

EXTERNAL LOAN REVIEW

(1) The Board shall employ a qualified consultant to perform independent reviews of the Bank's loan portfolio at least semi-annually to assure the timely identification and categorization of problem credits.

(2) The scope of the engagement with the loan review consultant shall provide for a written report to be filed with the Board after each review and shall use a loan and lease grading system consistent with the guidelines set forth in Rating Credit Risk, A-RCR, of the Comptroller's Handbook.

Article IX

PROBLEM LOAN MANAGEMENT

(1) Effective as of the date of this Order, the Board shall take immediate and continuing action to protect its interest in those assets criticized in the ROE, in any subsequent Report of Examination, by internal or external loan review, or in any list provided to management by the National Bank Examiners during any examination.

(2) Within sixty (60) days of this Order, the Board shall prepare and submit to the Assistant Deputy Comptroller for a prior written determination of no supervisory objection, a written program (including appropriate revisions to policies and procedures) designed to eliminate the basis for criticism of the Bank's criticized assets, to include at a minimum:

- (a) the designation or retention of appropriate staff to assume loan workout responsibilities;
- (b) standards to distinguish assets that should be managed by loan workout staff from assets that should be managed by the originating loan officer;
- (c) measures to ensure assets assigned to lending officers are managed to the standards expected of loan workout personnel;
- (d) the monthly submission and review of problem asset reports for all criticized credit relationships totaling \$250,000 or above, that require, at a minimum, analysis and documentation of the following:
 - (i) an identification of the expected sources of repayment and an analysis of their adequacy;
 - (ii) the appraised value of supporting collateral and the position of the Bank's lien on such collateral where applicable as well as other necessary documentation to support the collateral valuation;
 - (iii) an analysis of current and satisfactory credit information, including cash flow analysis where loans are to be repaid from operations;
 - (iv) the proposed action to eliminate the basis of criticism and the time frame for its accomplishment;
 - (v) trigger dates for positive borrower actions or for loan officers to reassess the strategy and enact collection plans;
 - (vi) a determination of whether the loan is impaired and the amount of the impairment, consistent with FASB Statement of Financial

Accounting Standards No. 114, Accounting by Creditors for Impairment of a Loan; and

(vii) for criticized relationships of \$250,000 or above that were made for the purpose of constructing or developing CRE, the reports shall also include:

- (A) the initial scheduled maturity date of the loan, number of extensions and/or renewals, and current maturity date;
- (B) project development status;
- (C) a comparison of development costs to the budgeted amount;
- (D) a comparison of sales activity to the original sales projections;
- (E) amount of initial interest reserve and the amount of any subsequent additions to the reserve;
- (F) an assessment of the borrower's global cash flow;
- (G) an assessment of any guarantor's global cash flow; and
- (H) any other significant information relating to the project.

(3) Effective as of the date of this Order, the Bank may not extend credit, directly or indirectly, including renewals, extensions or capitalization of accrued interest, to a borrower whose loans or other extensions of credit are criticized in the ROE, in any subsequent Report of Examination, in any internal or external loan review, or in any list provided to management by the National Bank Examiners during any examination and whose aggregate loans or other extensions exceed \$250,000, unless each of the following conditions is met:

- (a) the Board or a designated committee thereof finds that the extension of additional credit is necessary to promote the best interests of the Bank and that prior to renewing, extending or capitalizing any additional credit, a majority of the Board or a designated committee thereof approves the credit extension and documents in writing, the reasons that such extension is necessary to promote the best interests of the Bank; and
- (b) the Board's formal plan to collect or strengthen the criticized asset will not be compromised by the extension of credit.

(4) Upon receiving a written determination of no supervisory objection from the Assistant Deputy Comptroller, the Board shall immediately implement and thereafter ensure adherence to the program, policies and procedures required by this Article.

Article X

ALLOWANCE FOR LOAN AND LEASE LOSSES

(1) Within sixty (60) days of this Order, the Board shall adopt, implement, and thereafter ensure adherence to written policies and procedures for maintaining an adequate Allowance for Loan and Lease Losses ("Allowance") in accordance with Generally Accepted Accounting Principles ("GAAP"). The Allowance policies and procedures shall be consistent with the guidance set forth in the Federal Financial Institutions Examination Council's "Interagency Policy Statement on the Allowance for Loan and Lease Losses" dated December 13, 2006 (OCC Bulletin 2006-47), and July 20, 2001 (OCC Bulletin 2001-37), and shall at a minimum include:

- (a) procedures for determining whether a loan is impaired and measuring the amount of impairment, consistent with Statement of Financial Accounting Standards No. 114, Accounting by Creditors for Impairment of a Loan;
- (b) procedures for segmenting the loan portfolio and estimating loss on groups of loans, consistent with Statement of Financial Accounting Standards No. 5, Accounting for Contingencies;
- (c) procedures for validating the Allowance methodology;
- (d) procedures to ensure that the estimation of credit losses considers the relevant qualitative and environmental factors, with particular focus on the following:
 - (i) trends in the Bank's internal risk ratings, delinquent and nonaccrual loans;
 - (ii) results of the Bank's external loan review;
 - (iii) concentrations of credit in the Bank;
 - (iv) present and prospective economic conditions; and
 - (v) experience, performance and sufficiency of the Bank's lending staff.

(2) The program shall provide for a process for summarizing and documenting, for the Board's review and approval, the amount to be reported in the Call Reports for the Allowance. Any deficiency in the Allowance shall be remedied in the quarter it is discovered, prior to the filing of the Call Report, by additional provisions from earnings. Written documentation shall be maintained indicating the factors considered and conclusions reached by the Board in determining the adequacy of the Allowance.

(3) A copy of the program developed pursuant to this Article shall be forwarded to the Assistant Deputy Comptroller within five (5) days of its adoption by the Board.

Article XI

BOOKS AND RECORDS

(1) Within sixty (60) days of this Order, the Board shall take the necessary steps to ensure that the Bank's books and records are restored to a complete and accurate condition and comply with GAAP. Thereafter, the Board shall ensure that the Bank's books, records and Management Information Systems are maintained in a complete and accurate condition and comply with GAAP.

(2) Within thirty (30) days of this Order, the Board shall review the following areas and make any necessary accounting or reporting corrections:

- (a) derivative agreements with the parent, Pedcor Bancorp;
- (b) Small Business Administration ("SBA") servicing asset, gain on sale income, and associated regulatory capital calculations;
- (c) Other Real Estate Owned;
- (d) loan participations with Bank affiliates;
- (e) charge-offs related to the loan participations;
- (f) put agreements with the parent; and
- (g) securities that are being held to maturity.

(3) Within sixty (60) days of this Order, the Board shall take the necessary steps to file amended Call Reports that reflect all of the accounting and reporting corrections described in the ROE as well as any other identified corrections, including but not limited to, those identified by the review required by Paragraph (2) of this Article.

(4) Within sixty (60) days of this Order, the Board shall develop, implement, and thereafter ensure Bank adherence to a written program of comprehensive accounting policies and procedures, to include at a minimum:

- (a) detailed guidance and/or the development of templates for ensuring compliance with complex accounting pronouncements that include, but are not limited to, Statements of Financial Accounting Standards (“SFAS”) 91, SFAS 114, SFAS 133, SFAS 140, SFAS 156, and SFAS 157;
- (b) guidelines to ensure that the Bank’s books and records are kept in accordance with GAAP and that compliance is maintained with all regulatory reporting requirements, with particular emphasis on the following areas:
 - (i) derivative agreements with the parent, Pedcor Bancorp;
 - (ii) SBA servicing asset, gain on sale income, and associated regulatory capital calculations;
 - (iii) Other Real Estate Owned;
 - (iv) loan participations with Bank affiliates;
 - (v) charge-offs related to the loan participations;
 - (vi) put agreements with the parent; and
 - (vii) securities that are being held to maturity; and
- (c) the performance of monthly analytical review of all significant accounts.

(5) Within sixty (60) days of this Order, the Board shall take the necessary steps to ensure that the Bank has sufficient accounting management and staff with adequate bank

regulatory experience to ensure compliance with GAAP and the program developed pursuant to this Article.

(6) A copy of the program developed pursuant to this Article shall be forwarded to the Assistant Deputy Comptroller within five (5) days of its adoption by the Board.

Article XII

AFFILIATE TRANSACTIONS

(1) Effective as of the date of this Order, the Bank shall not, directly or indirectly, pay money or its equivalent to or for the benefit of, or extend credit in any form to or for the benefit of, its affiliates, or transfer assets between the Bank and its affiliates, or enter into or engage in any transaction that obligates the Bank to do the same, unless:

- (a) the Board has conducted an independent review of the action, that is documented in writing; and
- (b) the Board has determined in writing that it is advantageous for the Bank to engage in such action, that the action complies with all applicable Bank policies, laws, rules, regulations, and Comptroller's issuances, including, but not limited to 12 C.F.R. Part 223, and is accounted for in accordance with GAAP.

(2) For purposes of this Order, "affiliate" shall have the meaning set forth in 12 C.F.R. § 223.2(a) as if the Bank were a member bank, provided that any subsidiary of the Bank shall be considered an affiliate of the Bank.

(3) The following transfers shall be excluded from the requirement contained in Paragraph (1) of this Article:

- (a) the deposit or withdrawal of any funds in the normal course of business from any demand deposit account held by the Bank for the benefit of any affiliate; and
- (b) the payment or receipt of funds related to any Interest Rate Protection Agreement that existed on or before September 30, 2008.

(4) Within thirty (30) days of this Order, the Board shall perform a comprehensive review of all of its derivative contracts and their associated documentation, reporting and accounting to determine whether the Bank has complied with its Derivative Policy, 12 C.F.R. Part 223, and GAAP. Upon completion of the review, the Board shall take the necessary steps to ensure that the Bank corrects any deficiencies in reporting or documentation, including those deficiencies identified in the ROE, and files amended Call Reports as necessary.

Article XIII

BOARD OVERSIGHT

(1) Within thirty (30) days of this Order, the Board shall develop, adopt, and thereafter adhere to a written policy designed to ensure that management effectively addresses adverse findings contained in compliance reviews, audits, and examinations. The policy shall include, at a minimum:

- (a) a requirement that management responds to audit, compliance, and regulatory criticisms with a written action plan that contains:
 - (i) corrective actions to be taken;
 - (ii) deadlines for taking the corrective action; and
 - (iii) the individual responsible for making the corrective action;

- (b) formal review and approval by the Board of management's proposed response;
 - (c) a tracking system that will ensure that applicable criticisms are reported to the Board and corrected in timely manner; and
 - (d) retention in the Bank's books and records of:
 - (i) all written responses to audit, compliance, and regulatory criticisms; and
 - (ii) documentation of Board approval of the written responses.
- (2) A copy of the policy developed pursuant to this Article shall be forwarded to the Assistant Deputy Comptroller within five (5) days of its adoption by the Board.

Article XIV

CLOSING

- (1) Although the Bank is required to submit certain proposed actions and programs for the review or prior written determination of no supervisory objection of the Deputy Comptroller, the Board has the ultimate responsibility for proper and sound management of the Bank and the completeness and accuracy of the Bank's books and records.
- (2) If, at any time, the Comptroller deems it appropriate in fulfilling the responsibilities placed upon him by the several laws of the United States to undertake any action affecting the Bank, nothing in this Order shall in any way inhibit, estop, bar or otherwise prevent the Comptroller from so doing.
- (3) The provisions of this Order shall remain effective and enforceable, except to the extent that, and until such time as, any provisions of this Order shall have been amended, suspended, waived, or terminated in writing by the Comptroller.

(4) In each instance in this Order in which the Bank or the Board is required to ensure implementation of or adherence to, or to undertake to perform, an obligation of the Bank, the Board shall:

- (a) Authorize and adopt such actions on behalf of the Bank as may be necessary or appropriate for the Bank to perform its obligations under this Order;
- (b) Require the timely reporting by Bank management of such actions directed by the Board to be taken under the terms of this Order;
- (c) Follow up on any non-compliance with such actions in a timely and appropriate manner; and
- (d) Require corrective action be taken in a timely manner for any non-compliance with such actions.

(5) This Order is intended to be, and shall be construed to be, a final order issued pursuant to 12 U.S.C. § 1818(b), and expressly does not form, and may not be construed to form, a contract binding the Comptroller or the United States.

(6) The terms of this Order, including this paragraph, are not subject to amendment or modification by any extraneous expression, prior agreements or prior arrangements between the parties, whether oral or written.

IN TESTIMONY WHEREOF, the undersigned, authorized by the Comptroller, has hereunto set his hand on behalf of the Comptroller.

/s/

2/12/09

Steven J. Vander Wal
Assistant Deputy Comptroller
Southern California – South Field Office

Date

**UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY
COMPTROLLER OF THE CURRENCY**

In the Matter of: International City Bank Long Beach, California		AA-WE-08-74
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**STIPULATION AND CONSENT TO THE ISSUANCE
OF A CONSENT ORDER**

The Comptroller of the Currency of the United States of America (“Comptroller”) intends to initiate cease and desist proceedings against the International City Bank, Long Beach, California (“Bank”), pursuant to 12 U.S.C. § 1818(b) through the issuance of a Notice of Charges for an Order to Cease and Desist for: unsafe and unsound banking practices relating to the supervision of the affairs of the Bank.

The Bank, in the interest of compliance and cooperation, consents to the issuance of a Consent Order, dated February 12, 2009 (the “Order”);

In consideration of the above premises, the Comptroller, through his authorized representative, and the Bank, through its duly elected and acting Board of Directors, hereby stipulate and agree to the following:

ARTICLE I

Jurisdiction

(1) The Bank is a national banking association chartered and examined by the Comptroller pursuant to the National Bank Act of 1864, as amended, 12 U.S.C. § 1 *et seq.*

(2) The Comptroller is “the appropriate Federal banking agency” regarding the Bank pursuant to 12 U.S.C. §§ 1813(q) and 1818(b).

(3) The Bank is an “insured depository institution” within the meaning of 12 U.S.C. § 1818(b)(1).

ARTICLE II

Agreement

(1) The Bank, without admitting or denying any wrongdoing, hereby consents and agrees to the issuance of the Order by the Comptroller.

(2) The Bank further agrees that said Order shall be deemed an “order issued with the consent of the depository institution” as defined in 12 U.S.C. § 1818(h)(2), and consents and agrees that said Order shall become effective upon its issuance and shall be fully enforceable by the Comptroller under the provisions of 12 U.S.C. § 1818(i). Notwithstanding the absence of mutuality of obligation, or of consideration, or of a contract, the Comptroller may enforce any of the commitments or obligations herein undertaken by the Bank under his supervisory powers, including 12 U.S.C. § 1818(i), and not as a matter of contract law. The Bank expressly acknowledges that neither the Bank nor the Comptroller has any intention to enter into a contract.

(3) The Bank also expressly acknowledges that no officer or employee of the Comptroller has statutory or other authority to bind the United States, the U.S. Treasury Department, the Comptroller, or any other federal bank regulatory agency or entity, or any officer or employee of any of those entities to a contract affecting the Comptroller’s exercise of his supervisory responsibilities.

ARTICLE III

Waivers

- (1) The Bank, by signing this Stipulation and Consent, hereby waives:
 - (a) the issuance of a Notice of Charges pursuant to 12 U.S.C. § 1818(b);
 - (b) any and all procedural rights available in connection with the issuance of the Order;
 - (c) all rights to a hearing and a final agency decision pursuant to 12 U.S.C. § 1818(i), 12 C.F.R. Part 19
 - (d) all rights to seek any type of administrative or judicial review of the Order; and
 - (e) any and all rights to challenge or contest the validity of the Order.

ARTICLE IV

Other Action

(1) The Bank agrees that the provisions of this Stipulation and Consent shall not inhibit, estop, bar, or otherwise prevent the Comptroller from taking any other action affecting the Bank if, at any time, it deems it appropriate to do so to fulfill the responsibilities placed upon him by the several laws of the United States of America.

EXHIBIT B

SUPERVISORY AGREEMENT

This Supervisory Agreement (Agreement) is made this 13th day of August, 2010, by and through the Board of Managers (Board) of Pedcor Financial , LLC, Carmel, Indiana, OTS Docket No. H3598 (Holding Company) and the Office of Thrift Supervision (OTS), acting by and through its Regional Director for the Central Region (Regional Director).

WHEREAS, the OTS, pursuant to 12 U.S.C. § 1818, has the statutory authority to enter into and enforce supervisory agreements to ensure the establishment and maintenance of appropriate safeguards in the operation of the entities it regulates; and

WHEREAS, the Holding Company is subject to examination, regulation and supervision by the OTS;

WHEREAS, based on its November 9, 2009 examination of the enterprise consisting of the Holding Company and the Holding Company's direct and indirect subsidiaries, Pedcor Financial Bancorp, Carmel, Indiana, OTS Docket No. H4257 (Mid-Tier Holding Company), and Fidelity Federal Bancorp, Evansville, Indiana, OTS Docket No. H2204 (First-Tier Holding Company), the OTS finds that the Holding Company has engaged in unsafe or unsound practices in conducting its consolidated operations; and

WHEREAS, in furtherance of their common goal to ensure that the Holding Company addresses the unsafe or unsound practices identified by the OTS in the November 9, 2009 Report of Examination, the Holding Company and the OTS have mutually agreed to enter into this Agreement.

NOW THEREFORE, in consideration of the above premises, it is agreed as follows:

Capital Plan.

1. By October 31, 2010, the Holding Company shall submit to the Regional Director a written plan for enhancing the consolidated capital of the Holding Company (Capital Plan). The Capital Plan shall cover the period beginning with the quarter starting January 1, 2011 through the quarter ending December 31, 2012. At a minimum, the Capital Plan shall include:

- (a) establishment of a minimum tangible capital ratio of tangible equity capital to total tangible assets commensurate with the Holding Company's consolidated risk profile;
- (b) capital preservation and enhancement strategies with specific time frames to achieve and maintain the Board-established minimum tangible equity capital ratios;
- (c) operating strategies to achieve net income levels that will result in adequate debt service throughout the term of the Capital Plan;
- (d) contingency plans to provide capital support to the Mid-Tier Holding Company and First-Tier Holding Company based on an assessment of the risk profile of the activities of the consolidated Holding Company under various stress scenarios;
- (e) quarterly cash flow projections for the Holding Company on a stand alone basis for the period covered by the Capital Plan that identify both the sources of funds and the expected uses of funds;
- (f) detailed scenarios to stress-test the consolidated minimum capital targets and debt service coverage based on continuing operating results, economic conditions and risk profile of consolidated assets; and

(g) identification of all relevant assumptions made in formulating the Capital Plan and a requirement that documentation supporting such assumptions be retained by the Holding Company.

2. Upon receipt of written notification from the Regional Director that the Capital Plan is acceptable, the Holding Company shall implement and adhere to the Capital Plan. A copy of the Capital Plan shall be provided to the Regional Director within five (5) days after Board approval.

3. Any material modifications¹ to the Capital Plan shall receive the prior written non-objection of the Regional Director. The Holding Company shall submit proposed material modifications to the Regional Director at least forty-five (45) days prior to implementation.

Capital Plan Variance Reports.

4. Within forty-five (45) days after the end of each quarter, after implementation of the Capital Plan, the Board shall review quarterly variance reports on the Holding Company's compliance with the Capital Plan (Variance Reports). The Variance Report shall:

- (a) identify variances in the Holding Company's actual performance during the preceding quarter as compared to the projections set forth in the Capital Plan;
- (b) contain an analysis and explanation of identified variances; and
- (c) discuss the specific measures taken or to be taken by the Holding Company to address identified variances.

5. A copy of each Variance Report shall be provided to the Regional Director within five (5) days after Board review.

¹ A modification shall be considered material under this Paragraph if the Holding Company: (a) plans to engage in any activity that is inconsistent with the Capital Plan; (b) plans to exceed the level of any activity contemplated in the Capital Plan by more than ten percent (10%); or (c) fails to meet target amounts established in the Capital Plan by more than ten percent (10%).

Dividends and Capital Distributions.

6. Effective immediately, the Holding Company shall not declare or pay any cash dividends or other capital distributions or purchase, repurchase or redeem or commit to purchase, repurchase, or redeem any Holding Company equity stock without the prior written non-objection of the Regional Director. The Holding Company shall submit its written request for non-objection to the Regional Director at least forty-five (45) days prior to the anticipated date of the proposed dividend, capital distribution, or stock transaction. The written request for such notice of non-objection shall: (a) contain current and pro forma projections regarding the Holding Company's capital, asset quality, and earnings; and (b) address compliance with the Capital Plan required by Paragraph 1 of this Agreement.

Debt Limitations.

7. Effective immediately, the Holding Company shall not: incur, issue, renew, redeem, or rollover any debt,² increase any current lines of credit, or otherwise incur any additional debt without receiving the prior written non-objection of the Regional Director. All written requests to the Regional Director shall include, at a minimum: a statement regarding the purpose of the debt; a copy of the debt agreement; the planned source(s) for debt repayment; and an analysis of the cash flow resources available to meet such debt repayment. The Holding Company's written request for non-objection shall be submitted to the Regional Director at least forty-five (45) days prior to the anticipated date of the proposed debt issuance, renewal, redemption, or rollover; the proposed increase in any current lines of credit; or any other incurrence of additional debt.

² For purposes of this Paragraph, the term "debt" includes, but is not limited to: loans, bonds, cumulative preferred stock, hybrid capital instruments such as subordinated debt or trust preferred securities, and guarantees of debt; and does not include: liabilities that are incurred in the ordinary course of business to acquire goods and services and that are normally recorded as accounts payable or accruals under generally accepted accounting principles.

Conflict of Interest Policy.

8. Within ninety (90) days, the Holding Company shall adopt, implement, and thereafter adhere to a written, comprehensive conflict of interest policy (Conflict of Interest Policy) applicable to the Holding Company's directors, principal shareholders, and executive officers (Insiders) and related interests (Related Interests) of such Insiders as defined by 12 C.F.R. Part 215. The Conflict of Interest Policy, in addition to defining a conflict of interest, shall address:

- (a) avoidance of conflicts of interest and breaches of fiduciary duty, and the appearance of conflicts of interest by Insiders and Related Interests;
- (b) involvement in the Holding Company's transaction approval process by Insiders and Related Interests that may benefit directly or indirectly from a Holding Company's decision to enter into a transaction;
- (c) disclosure of actual and potential conflicts of interest to the Board and periodic disclosure of Related Interests as required by 12 C.F.R. Part 215;
- (d) requirements for arms-length dealing by the Holding Company, Mid-Tier Holding Company, and First-Tier Holding Company in any transactions involving Insiders and/or Related Interests;
- (e) a requirement that all transactions among the Holding Company and its direct or indirect subsidiaries are conducted in accordance with the applicable written agreement and are recorded accurately on the books and records of each entity;
- (f) disclosure of any Insider's or Related Interest's interest in the business of a borrower, vendor, independent contractor, supplier, or customer of the Holding Company; and
- (g) restrictions on and disclosure of receipt of anything of value received by Insiders

or Related Interests, directly or indirectly, from borrowers, vendors, independent contractors, suppliers, or customers of the Holding Company.

9. Upon adoption by the Board, a copy of the Conflict of Interest Policy shall be forwarded to the Regional Director.

10. The Board shall ensure that the Holding Company has processes, personnel, and control systems to ensure implementation of and adherence to its Conflict of Interest Policy.

Golden Parachute Payments.

11. Effective immediately, the Holding Company shall not make any golden parachute payment³ unless, with respect to such payment, the Association has complied with the requirements of 12 C.F.R. Part 359.

Directorate and Management Changes.

12. Effective immediately, the Holding Company shall comply with the prior notification requirements for changes in directors and Senior Executive Officers⁴ set forth in 12 C.F.R. Part 563, Subpart H.

Effective Date.

13. This Agreement is effective on the Effective Date as shown on the first page.

Duration.

14. This Agreement shall remain in effect until terminated, modified or suspended, by written notice of such action by the OTS, acting by and through its authorized representatives.

Time Calculations.

15. Calculation of time limitations for compliance with the terms of this Agreement run from the Effective Date and shall be based on calendar days, unless otherwise noted.

³ The term "golden parachute payment" is defined at 12 C.F.R. § 359.1(f).

⁴ The term "Senior Executive Officer" is defined at 12 C.F.R. § 563.555.

Submissions and Notices.

16. All submissions to the OTS that are required by or contemplated by the Agreement shall be submitted within the specified timeframes.

17. Except as otherwise provided herein, all submissions, requests, communications, consents or other documents relating to this Agreement shall be in writing and sent by first class U.S. mail (or by reputable overnight carrier, electronic facsimile transmission or hand delivery by messenger) addressed as follows:

(a) **To the OTS:**

Regional Director
Office of Thrift Supervision
One South Wacker Drive, Suite 2000
Chicago, Illinois 60606
Facsimile: (312) 917-5001

(b) **To the Holding Company:**

Chairman of the Board
Pedcor Financial, LLC
770 3rd Avenue, SW
Carmel, Indiana 46032
Facsimile: (317) 218-2665

No Violations Authorized.

18. Nothing in this Agreement shall be construed as allowing the Holding Company, its Board, officers or employees to violate any law, rule, or regulation.

OTS Authority Not Affected.

19. Nothing in this Agreement shall inhibit, estop, bar or otherwise prevent the OTS from taking any other action affecting the Holding Company if at any time the OTS deems it appropriate to do so to fulfill the responsibilities placed upon the OTS by law.

Other Governmental Actions Not Affected.

20. The Holding Company acknowledges and agrees that its execution of the Agreement is solely for the purpose of resolving the matters addressed herein, consistent with Paragraph 19 above, and does not otherwise release, discharge, compromise, settle, dismiss, resolve, or in any way affect any actions, charges against, or liability of the Holding Company that arise pursuant to this action or otherwise, and that may be or have been brought by any governmental entity other than the OTS.

Miscellaneous.

21. The laws of the United States of America shall govern the construction and validity of this Agreement.

22. If any provision of this Agreement is ruled to be invalid, illegal, or unenforceable by the decision of any Court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby, unless the Regional Director in his or her sole discretion determines otherwise.

23. All references to the OTS in this Agreement shall also mean any of the OTS's predecessors, successors, and assigns.

24. The section and paragraph headings in this Agreement are for convenience only and shall not affect the interpretation of this Agreement.

25. The terms of this Agreement represent the final agreement of the parties with respect to the subject matters thereof, and constitute the sole agreement of the parties with respect to such subject matters.

Enforceability of Agreement.

26. This Agreement is a "written agreement" entered into with an agency within the meaning and for the purposes of 12 U.S.C. § 1818.

Signature of Managers/Board Resolution.

27. Each Manager signing this Agreement attests that he or she voted in favor of a Board Resolution authorizing the consent of the Holding Company to the issuance and execution of the Agreement. This Agreement may be executed in counterparts by the managers after approval of execution of the Agreement at a duly called board meeting. A copy of the Board Resolution authorizing execution of this Agreement shall be delivered to the Regional Director along with the executed original(s) of this Agreement.

WHEREFORE, the OTS, acting by and through its Regional Director, and the Board of the Holding Company, hereby execute this Agreement.

PEDCOR FINANCIAL, LLC
Carmel, Indiana

Accepted by:
Office of Thrift Supervision

_____/s/
Bruce A. Cordingley, Manager

By: _____/s/
Daniel T. McKee
Regional Director, Central Region

_____/s/
Gerald K. Pedigo, Manager

EXHIBIT C

SUPERVISORY AGREEMENT

This Supervisory Agreement (Agreement) is made this 13th day of August, 2010 by and through the Board of Directors (Board) of United Fidelity Bank, F.S.B., Evansville, Indiana, OTS Docket No. 03676 (Association) and the Office of Thrift Supervision (OTS), acting by and through its Regional Director for the Central Region (Regional Director);

WHEREAS, the OTS, pursuant to 12 U.S.C. § 1818, has the statutory authority to enter into and enforce supervisory agreements to ensure the establishment and maintenance of appropriate safeguards in the operation of the entities it regulates; and

WHEREAS, the Association is subject to examination, regulation and supervision by the OTS; and

WHEREAS, based on its examination of the Association, the OTS finds that the Association has engaged in unsafe or unsound practices and/or violations of law or regulation; and

WHEREAS, in furtherance of their common goal to ensure that the Association addresses the unsafe or unsound practices and/or violations of law or regulation identified by the OTS in the October 19, 2009 Report of Examination (2009 ROE), the Association and the OTS have mutually agreed to enter into this Agreement.

WHEREAS, on August 13th, 2010, the Association's Board, at a duly constituted meeting, adopted a resolution (Board Resolution) that authorizes the Association to enter into this Agreement and directs compliance by the Association and its directors, officers, employees, and other institution-affiliated parties with each and every provision of this Agreement.

NOW THEREFORE, in consideration of the above premises, it is agreed as follows:

Transactions with Affiliates.

1. Effective immediately, the Association shall not engage in any new or amended transaction with an affiliate unless, with respect to each such transaction, the Association has complied with the notice requirements set forth in 12 C.F.R. § 563.41(c)(4), which shall include the information set forth in 12 C.F.R. § 563.41(c)(3). The Board shall ensure that any transaction with an affiliate for which notice is submitted pursuant to this Paragraph, complies with the requirements of 12 C.F.R. § 563.41 and Regulation W, 12 C.F.R. Part 223.
2. Within sixty (60) days, the Association shall take specific steps to resolve the affiliate transaction violations identified in the 2009 ROE and to comply with the express terms and conditions of each written agreement covering a derivative transaction with an affiliate.
3. Within sixty (60) days, the Association shall adopt a written policy to comply with the requirements of 12 C.F.R. § 563.41 (Affiliate Transactions Policy). The Affiliate Transactions Policy shall include, at a minimum:
 - (a) a provision for training appropriate Association personnel and members of the Board at least annually regarding all aspects of Section 563.41 and Regulation W, 12 C.F.R. Part 223;
 - (b) a process to identify the Association's affiliates and continually update such information;
 - (c) a process to identify all of the Association's affiliate transactions as defined in 12 C.F.R. § 563.41 and non-affiliate transactions that benefit an affiliate as defined in 12 C.F.R. § 223.16(a);
 - (d) procedures for independent annual review of the Association's compliance with the contractual terms of each affiliate transaction and confirmation that each affiliate

transaction is accurately recorded on the books of the Association; and

(e) a requirement for adequate, centralized records of all transactions covered by the Affiliate Transactions Policy in a form and manner that will enable easy, independent review.

Asset Quality.

4. By September 30, 2010, the Association shall develop a written specific workout plan (Asset Workout Plan) for each adversely classified asset or group of such classified assets to any one borrower or loan relationship in the amount of five hundred thousand dollars (\$500,000) or greater.

5. Within forty-five (45) days after the end of each quarter, beginning with the quarter ending September 30, 2010, the Association shall submit a quarterly written asset status report (Quarterly Asset Report) to the Board. The Board's review of the Quarterly Asset Report shall be documented in the Board meeting minutes. The Quarterly Asset Report shall include, at a minimum:

- (a) the current status of all Asset Workout Plans;
- (b) the ratio of classified assets to Tier 1 (Core) capital plus allowance for loan and lease losses (ALLL);
- (c) a comparison of classified assets at the current quarter end with the preceding quarter; and
- (d) a discussion of the actions taken during the preceding quarter to reduce the Association's level of classified assets.

6. Within forty-five (45) days after the end of each quarter, beginning with the quarter ending September 30, 2010, a copy of the Quarterly Asset Report shall be provided to the Regional Director.

Restriction on Lending to Classified Borrowers.

7. Effective immediately, the Association shall not extend, directly or indirectly, without prior written Regional Director non-objection any additional credit to, or for the benefit of, any borrower who has a loan or other extension of credit from the Association that has been charged off or classified, in whole or in part, as a "Loss" and is uncollected. The Association's expenses incurred in connection with its real estate owned (REO), including in-substance foreclosures, are not covered by this Paragraph.

8. Effective immediately, the Association shall not make any additional extensions of credit, directly or indirectly, to any borrower whose loans are adversely classified as "Substandard" unless prior to extending additional credit pursuant to this Paragraph, whether in the form of a renewal, extension, or further advance of funds, such additional credit shall be approved by the Board, or a designated committee thereof, who shall certify in writing:

- (a) why the extension of such credit is in the best interests of the Association;
- (b) that an appropriate workout plan has been developed and will be implemented in conjunction with the additional credit to be extended; and
- (c) that the signed certification shall be made a part of the minutes of the meeting of the Board or designated committee with a copy retained in the borrower's credit file.

Concentrations of Assets.

9. Within sixty (60) days, the Association shall revise its written program for identifying,

monitoring, and controlling risks associated with concentrations of assets (Asset Concentration Policy) to ensure that it addresses all corrective actions set forth in the 2009 ROE relating to concentrations of assets. The Asset Concentration Policy shall comply with all applicable laws, regulations and regulatory guidance and shall:

- (a) establish comprehensive credit concentration limits expressed as a percentage of Tier 1 (Core) Capital plus ALLL and document the appropriateness of such limits based on the Association's risk profile;
- (b) establish comprehensive non-credit asset concentration limits expressed as a percentage of Tier 1 (Core) Capital and document the appropriateness of such limits based on the Association's risk profile;
- (c) establish stratification categories of the Association's concentrations of assets, such as real estate investments, multifamily Government National Mortgage Association (GNMA) securities, counterparty risk, and transactions with affiliates, and establish enhanced risk analysis, monitoring, and management for each stratification category;
- (d) contain specific review procedures and reporting requirements, including written reports to the Board, designed to identify, monitor, and control the risks associated with concentrations of assets and periodic market analysis for the various property types and geographic markets represented in its portfolio; and
- (e) contain a written action plan, including specific time frames, for bringing the Association into compliance with its concentration of assets limits.

10. A copy of the Asset Concentration Policy shall be provided to the Regional Director within five (5) days of adoption by the Board.

Interest Rate Risk Management.

11. Within ninety (90) days, the Association shall address all corrective actions in the 2009 ROE related to the Association's interest rate risk (IRR) management, including measures to be taken to bring the Net Portfolio Value (NPV) ratios and sensitivity limits to within Board-approved policy limits without consideration of the affiliate derivative agreements.

Real Estate Investments.

12. Within sixty (60) days, the Association shall develop a real estate investment policy (REI Policy) to ensure that it addresses all corrective actions contained in the 2009 ROE concerning the Association's investment, directly or indirectly, in real estate. The REI Policy shall conform to all applicable laws, regulations and regulatory guidance and include procedures and guidelines covering:

- (a) pre-purchase analysis of REI;
- (b) return objectives;
- (c) contractual requirements and considerations;
- (d) valuation methodologies;
- (e) appraisal standards;
- (f) type and frequency of monitoring reports;
- (g) REI portfolio concentration limits;
- (h) permissible REI limits and types; and
- (i) REI performance measurement criteria.

13. A copy of the REI Policy shall be provided to the Regional Director within five (5) days of adoption by the Board.

Business Plan.

14. By October 31, 2010, the Association shall submit to the Regional Director an updated business plan for the period beginning January 1, 2011 through December 31, 2012 (Business Plan) that is acceptable to the Regional Director and addresses all corrective actions set forth in the 2009 ROE. At a minimum, the Business Plan shall conform to applicable laws, regulations, and regulatory guidance and include:

- (a) establishment of a minimum Tier 1 (Core) Capital Ratio and Total Risk-Based Capital Ratio commensurate with the Association's risk profile;
- (b) detailed capital preservation and enhancement strategies with date specific narrative goals;
- (c) plans to improve the Association's core earnings and increase core deposits throughout the term of the Business Plan;
- (d) quarterly pro forma financial projections (balance sheet, income statement, and statement of cash flows), including Tier 1 (Core) and Total Risk-Based Capital Ratios, for the period covered by the Business Plan; and
- (e) identification of all relevant assumptions made in formulating the Business Plan and a requirement that documentation supporting such assumptions be retained by the Association.

15. Upon receipt of written notification from the Regional Director that the Business Plan is acceptable, the Association shall implement and adhere to the Business Plan. A copy of the Business Plan shall be provided to the Regional Director within five (5) days after Board approval.

16. Any material modifications¹ to the Business Plan shall receive the prior, written non-objection of the Regional Director. The Association shall submit proposed material modifications to the Regional Director at least forty-five (45) days prior to implementation.

17. By December 31, 2011, and each December 31st thereafter, while this Agreement is effective, the Business Plan shall be updated and submitted to the Regional Director pursuant to Paragraphs 14 through 16 above incorporating the Association's budget plan and profit projections for the next two (2) fiscal years taking into account any revisions to the Association's loan, investment and operating policies.

Business Plan Variance Reports.

18. Within forty-five (45) days after the close of each quarter, after implementation of the Business Plan, the Board shall review written quarterly variance reports on the Association's compliance with the Business Plan (Variance Reports). The Variance Reports shall:

- (a) identify variances in the Association's actual performance during the preceding quarter as compared to the projections set forth in the Business Plan;
- (b) contain an analysis and explanation of identified variances; and
- (c) discuss the specific measures taken or to be taken by the Association to address identified variances.

19. A copy of each Variance Report shall be provided to the Regional Director within five (5) days after review by the Board.

¹ A modification shall be considered material under this Paragraph if the Association: (a) plans to engage in any activity that is inconsistent with the Business Plan; (b) plans to exceed the level of any activity contemplated in the Business Plan by more than ten percent (10%); or (c) fails to meet target amounts established in the Business Plan by more than ten percent (10%).

Dividends and Other Capital Distributions.

20. Effective immediately, the Association shall not declare or pay dividends or make any other capital distributions, as that term is defined in 12 C.F.R. § 563.141, without receiving the prior written approval of the Regional Director in accordance with applicable regulations and regulatory guidance. The Association's written request for approval shall be submitted to the Regional Director at least thirty (30) days prior to the anticipated date of the proposed declaration, dividend payment or distribution of capital.

Growth.

21. Effective immediately, the Association shall not increase its total assets during any quarter in excess of an amount equal to net interest credited on deposit liabilities during the prior quarter without the prior written non-objection of the Regional Director. The growth restriction imposed by this Paragraph shall remain in effect until the Regional Director reviews and approves the Association's Business Plan as required under Paragraph 15 of this Agreement.

Directorate and Management Changes.

22. Effective immediately, the Association shall comply with the prior notification requirements for changes in directors and Senior Executive Officers² set forth in 12 C.F.R. Part 563, Subpart H.

Employment Contracts and Compensation Arrangements.

23. Effective immediately, the Association shall not enter into any new contractual arrangement or renew, extend, or revise any contractual arrangement relating to compensation or benefits for any Senior Executive Officer or director of the Association, unless it first provides the Regional Director with not less than thirty (30) days prior written notice of the proposed

² The term "Senior Executive Officer" is defined at 12 C.F.R. § 563.555.

transaction. The notice to the Regional Director shall include a copy of the proposed employment contract or compensation arrangement or a detailed, written description of the compensation arrangement to be offered to such Senior Executive Officer or director, including all benefits and perquisites. The Board shall ensure that any contract, agreement, or arrangement submitted to the Regional Director fully complies with the requirements of 12 C.F.R. Part 359, 12 C.F.R. §§ 563.39 and 563.161(b), and 12 C.F.R. Part 570 – Appendix A.

Third Party Contracts.

24. Effective immediately, the Association shall not enter into any arrangement or contract with a third party service provider that is significant to the overall operation or financial condition of the Association³ or outside the Association's normal course of business unless, with respect to each such contract, the Association has: (a) provided the Regional Director with a minimum of thirty (30) days prior written notice of such arrangement or contract and a written determination that the arrangement or contract complies with the standards and guidelines set forth in OTS Thrift Bulletin 82a; and (b) received written notice of non-objection from the Regional Director.

Golden Parachute Payments.

25. Effective immediately, the Association shall not make any golden parachute payment⁴ unless, with respect to such payment, the Association has complied with the requirements of 12 C.F.R. Part 359.

³ A contract will be considered significant to the overall operation or financial condition of the Association where the annual contract amount equals or exceeds two percent (2%) of the Association's total capital, where there is a foreign service provider, or where it involves information technology that is critical to the Association's daily operations without regard to the contract amount.

⁴ The term "golden parachute payment" is defined at 12 C.F.R. § 359.1(f).

Effective Date.

26. This Agreement is effective on the Effective Date as shown on the first page.

Duration.

27. This Agreement shall remain in effect until terminated, modified or suspended, by written notice of such action by the OTS, acting by and through its authorized representative.

Time Calculations.

28. Calculation of time limitations for compliance with the terms of this Agreement run from the Effective Date and shall be based on calendar days, unless otherwise noted.

Submissions and Notices.

29. All submissions to the OTS that are required by or contemplated by the Agreement shall be submitted within the specified timeframes.

30. Except as otherwise provided herein, all submissions, requests, communications, consents or other documents relating to this Agreement shall be in writing and sent by first class U.S. mail (or by reputable overnight carrier, electronic facsimile transmission or hand delivery by messenger) addressed as follows:

(a) **To: the OTS**

Regional Director
Office of Thrift Supervision
One South Wacker Drive, Suite 2000
Chicago, Illinois 60606
Facsimile: (312) 917-5001

(b) **To: the Association**

Chairman of the Board
United Fidelity Bank, F.S.B.
18 NW 4th Street
Evansville, Indiana 47708
Facsimile: (812) 429-0542

No Violations Authorized.

31. Nothing in this Agreement shall be construed as allowing the Association, its Board, officers or employees to violate any law, rule, or regulation.

OTS Authority Not Affected.

32. Nothing in this Agreement shall inhibit, estop, bar or otherwise prevent the OTS from taking any other action affecting the Association if at any time the OTS deems it appropriate to do so to fulfill the responsibilities placed upon the OTS by law.

Other Governmental Actions Not Affected.

33. The Association acknowledges and agrees that its execution of the Agreement is solely for the purpose of resolving the matters addressed herein, consistent with Paragraph 32 above, and does not otherwise release, discharge, compromise, settle, dismiss, resolve, or in any way affect any actions, charges against, or liability of the Association that arise pursuant to this action or otherwise, and that may be or have been brought by any governmental entity other than the OTS.

Miscellaneous.

34. The laws of the United States of America shall govern the construction and validity of this Agreement.

35. If any provision of this Agreement is ruled to be invalid, illegal, or unenforceable by the decision of any Court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby, unless the Regional Director in his or her sole discretion determines otherwise.

36. All references to the OTS in this Agreement shall also mean any of the OTS's predecessors, successors, and assigns.

37. The section and paragraph headings in this Agreement are for convenience only and shall not affect the interpretation of this Agreement.

38. The terms of this Agreement represent the final agreement of the parties with respect to the subject matters thereof, and constitute the sole agreement of the parties with respect to such subject matters.

Enforceability of Agreement.

39. This Agreement is a “written agreement” entered into with an agency within the meaning and for the purposes of 12 U.S.C. § 1818.

Signature of Directors/Board Resolution.

40. Each Director signing this Agreement attests that he or she voted in favor of a Board Resolution authorizing the consent of the Association to the issuance and execution of the Agreement. This Agreement may be executed in counterparts by the directors after approval of execution of the Agreement at a duly called board meeting. A copy of the Board Resolution authorizing execution of this Agreement shall be delivered to the OTS, along with the executed original(s) of this Agreement.

[Remainder of Page Intentionally Left Blank]

WHEREFORE, the OTS, acting by and through its Regional Director, and the Board of the Association, hereby execute this Agreement.

UNITED FIDELITYBANK, F.S.B.
Evansville, Indiana

OFFICE OF THRIFT SUPERVISION

_____/s/_____
John R. Cunningham, Chairman

By:_____/s/_____
Daniel T. McKee
Regional Director, Central Region

_____/s/_____
Paul E. Becker, Director

_____/s/_____
Bruce A. Cordingley, Director

_____/s/_____
Donald R. Neel, Director

_____/s/_____
Barry A. Schnakenburg, Director



June 20, 2011

Ms. Robbye Meyer
Director, Multifamily Finance Production Division
Texas Department of Housing and Community Affairs
PO Box 13941
Austin, TX 78711

RE: Response to Challenge of 11073 Cypress Run

Dear Ms. Meyer:

This letter is in response to the challenge presented by Mr. Granger McDonald regarding various items on application 11073 Cypress Run. Please find our responses below in the order as presented by Mr. MacDonald.

Site Control

Mr. MacDonald identifies discrepancies with regard to the site acreage and purchase price in the application and notes that it is "critical for TDHCA to have the correct amount for underwriting purposes."

TDHCA already carefully reviewed the application and issues related to the minor discrepancies were addressed through the Administrative Deficiency process and the REA underwriting review.

Volume 3 Tab 3

Mr. MacDonald contends that the statement provided in the application, "Frank Barron and/or his estate have been in control of the site for the last 36 months," is inaccurate because Austex Inc. owned the property until May 23, 2008, at which time it was transferred to Frank Barron. The Austex Inc. transfer is listed on the tax assessment, which was provided in the application.

Austex Inc. is a now inactive Texas corporation that was controlled by Frank Barron, Adrian Barron, and Stan Barron. Please find evidence of the business structure of this organization as provided by the Texas Secretary of State. Because Frank Barron and family members were the controlling principals of Austex Inc., the statement "Frank Barron and/or his estate have been in control of the site for the last 36 months" is, indeed, an accurate statement. Frank Barron owned the site through his company, Austex Inc. We provided accurate information for this tab.

Volume 4 Tab 1

Mr. MacDonald believes that the award of 8 points under the Volume 4 Tab 1 scoring item is "inconsistent with the intent of those points" because the construction and permanent lender is related to the Developer and Development Owner. Specifically, Mr. MacDonald states, "While **related party loans**

are permitted by TDHCA, we believe awarding the (8) additional points for having the lender review the Applicant's financial position and credit worthiness is inconsistent with the **intent** of those points" [emphasis added].

MacDonald's assertion that related party loans are inconsistent with the intent of the QAP seems untimely and unproductive in this circumstance: untimely because it's commentary better provided during open forums prior to QAP approval and unproductive in that Mr. MacDonald acknowledges that related party loans are in fact permitted. Furthermore, we believe the "intent" of these 8 points is to ensure that the Development Owner has the creditworthiness and financial wherewithal to close on the transaction. We must emphasize that Pedcor Companies has never given back an award of tax credits for failure to close on either debt or equity financing. In addition, it may be helpful for Mr. MacDonald to know that:

- Prior to filing its application, Pedcor's consultant, S2A Development Consulting, specifically contacted TDHCA in January 2011 as to whether related party loans would be respected for application scoring purposes. TDHCA indicated affirmatively.
- After analysis and inquiry of Pedcor, the Real Estate Analysis Division of TDHCA summarized correctly in their Underwriting Report that Pedcor Funding Corp. and Pedcor Bancorp have "significant financial capacity and have financed many of the Pedcor transactions developed in other states"
- TDHCA is one of several state housing agencies that respect related party loans.

It should also be noted that the letters of intent included in the application are provided by Pedcor Bancorp and Pedcor Funding Corp, both of which have no limitations from regulatory authorities. In furtherance of Pedcor's ability to attract third party commitments (both debt and equity) we would be happy to provide recently executed letters of intent from Wells Fargo, Huntington National Bank, and US Bank on similar transactions if requested by TDHCA. As confirmed by Mr. MacDonald, a related party funding commitment is permitted by TDHCA. Points were awarded for this scoring item by TDHCA Multifamily staff and the Real Estate Analysis Division found this application to be financially feasible. Points should be awarded for this item.

Volume 4 Tab 13

Mr. MacDonald does not believe that the documentation submitted for the Community Revitalization scoring item qualifies for points. Specifically, he does not believe a zoning ordinance should qualify and he states, "we believe TDHCA was seeking something more—a concerted effort by a city to target and assist impoverished or deteriorated areas in its jurisdiction."

While Mr. MacDonald may have his belief of what TDHCA was seeking and his opinion that a zoning ordinance does not qualify, the QAP provides a specific definition of Community Revitalization Plan:

Community Revitalization Plan--A published document under any name, approved and adopted by the local Governing Body or, if the Governing Body has lawfully assigned responsibility for oversight of communication or activities to a body created or sponsored by that Governing Body, the vote of the Governing Body so designated, by ordinance, resolution, or vote that targets specific geographic areas for revitalization and development of residential developments.

Nowhere does this definition suggest that a Zoning Ordinance will not meet the definition. The definition clearly states that a Community Revitalization Plan is a "published document under any name, approved and adopted by the local Governing Body" and "that targets specific geographic areas for revitalization and development of residential developments." A Zoning Ordinance is a published document under any name and as an ordinance, it was approved by the local governing body. Furthermore, the zoning ordinance created special targeted zoning overlay districts for the purposes of redevelopment and

revitalization, as confirmed by the City of Universal City in the letter submitted with the application. These targeted areas are the Campus Overlay District, the Redevelopment Overlay District, and the Aviation District Overlay. These areas also address the development of residential developments. Therefore, if we may use Mr. MacDonald's own words, the City made "a concerted effort" to "target and assist impoverished and deteriorated areas in its jurisdiction" through their official plan for land use and redevelopment known as the Zoning Ordinance.

In the final scoring notice issued by TDHCA, TDHCA did not award points for this item because staff did not find that the City of Universal City "re-zoned any portion of the city for the expressed purpose of revitalization." We have appealed the scoring notice and provided additional documentation regarding the specific overlay districts for revitalization. We maintain that points should be awarded for this scoring item.

Volume 4 Tab 23

Mr. MacDonald points out that the online copy of the Application did not contain a HUB certificate. He also states that there is no evidence that the HUB will materially participate in the Development Owner.

The lack of a HUB certificate was addressed through the Administrative Deficiency process. The certificate was accepted by TDHCA and points were awarded for this scoring item. In addition, while the application does not currently request evidence outlining how the HUB will materially participate in the Developer Owner, we can assure that we will comply with the requirements of the QAP and are happy to submit any documentation that TDHCA requests.

Volume 4 Tab 27

Mr. MacDonald contends that "the funding source cannot be a commercial lender" for this scoring item and has pointed out that the provider of the Third-Party Funding Commitment, Michael F. Petrie, is a mortgage banker and co-founder of P/R Investment & Mortgage Corporation.

Mr. Petrie is not providing this loan in a professional capacity as a broker or commercial lender. Mr. Petrie is providing this loan as an individual. Points should be awarded for this scoring item.

Thank you for the opportunity to respond to the concerns presented by Mr. MacDonald. Please contact me with any questions.

Sincerely,



Craig H. Lintner, PE
VP Development
Pecor Investments - 2011 - CXXX, L.P.

MF RCV'D Monday, June 20, 2011

TEXAS SECRETARY of STATE

[UCC](#) | [Business Organizations](#) | [Trademarks](#) | [Notary](#) | [Account](#) | [Help/Fees](#) | [Briefcase](#) | [Logout](#)

BUSINESS ORGANIZATIONS INQUIRY - VIEW ENTITY

Filing Number: 34439300 **Entity Type:** Domestic For-Profit Corporation
Original Date of Filing: June 17, 1974 **Entity Status:** Forfeited existence
Formation Date: N/A
Tax ID: 17417958216 **FEIN:**
Duration: Perpetual

Name: AUSTEX, INC.
Address: PO BOX 200412
 AUSTIN, TX 787200412 USA

<u>REGISTERED AGENT</u>	<u>FILING HISTORY</u>	<u>NAMES</u>	<u>MANAGEMENT</u>	<u>ASSUMED NAMES</u>	<u>ASSOCIATED ENTITIES</u>
Last Update	Name	Title	Address		
October 6, 2007	STAN BARRON	Director	8500 N MOPAC AUSTIN, TX 78759 USA		
October 6, 2007	ADRIAN BARRON	Director	PO BOX 200412 AUSTIN, TX 78720 USA		
October 6, 2007	ADRIAN BARRON	SECRETARY	PO BOX 200412 AUSTIN, TX 78720 USA		
October 6, 2007	FRANK BARRON	Director	PO BOX 200412 AUSTIN, TX 78720 USA		
October 6, 2007	FRANK BARRON	CHAIRMAN	PO BOX 200412 AUSTIN, TX 78720 USA		
October 6, 2007	ADRIAN BARRON	Director	PO BOX 200412 AUSTIN, TX 78720 USA		
October 6, 2007	ADRIAN BARRON	TREASURER	PO BOX 200412 AUSTIN, TX 78720 USA		
October 6, 2007	STAN BARRON	Director	8500 N MOPAC AUSTIN, TX 78759 USA		
October 6, 2007	STAN BARRON	PRESIDENT	8500 N MOPAC AUSTIN, TX 78759 USA		

[Order](#) [Return to Search](#)

Instructions:

- To place an order for additional information about a filing press the 'Order' button.



05-102
(Rev. 1-08/28)
Code 13196

TEXAS FRANCHISE TAX PUBLIC INFORMATION REPORT

(To be filed by Corporations and Limited Liability Companies (LLCS))
This report MUST be filed to satisfy franchise tax requirements

MF RCVD Monday, June 20, 2008

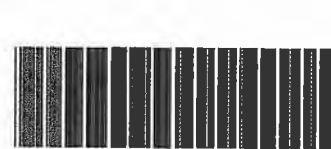
Taxpayer number Report year
 1 | 7 | 4 | 1 | 7 | 9 | 5 | 8 | 2 | 1 | 6 | 2 | 0 | 0 | 8

You have certain rights under Chapter 552 and 559, Government Code, to review, request, and correct information we have on file about you. Contact us at: (512) 463-4600, or (800) 252-1381, toll free nationwide.

Taxpayer name: **AUSTEX INC**
 Mailing address: **PO BOX 200412**
 City: **AUSTIN** State: **TX** ZIP Code: **78720** Plus 4: **0412**
 Secretary of State file number or Comptroller file number: **0034439300**

Blacken circle if there are currently no changes or additions to the information displayed in Section A of this report. Then complete Sections B and C.

Entity's principal office
 Principal place of business



1741795801608

Please sign below!

Officer, director and member information is reported as of the date a Public Information Report is completed. The information is updated annually as part of the franchise tax report. There is no requirement or procedure for supplementing the information as officers, directors, or members change throughout the year.

SECTION A Name, title and mailing address of each officer, director or member.

<p>Name: ADRIAN BARRON</p> <p>Mailing address: PO BOX 200412</p> <p>Name: FRANK BARRON</p> <p>Mailing address: PO BOX 200412</p> <p>Name: ADRIAN BARRON</p> <p>Mailing address: PO BOX 200412</p> <p>Name: STAN BARRON</p> <p>Mailing address: 8500 N MOPAC</p>	<p>Title: SECRETARY</p> <p>Title: DIRECTOR</p> <p>Title: DIRECTOR</p> <p>Title: DIRECTOR</p> <p>Title: DIRECTOR</p> <p>Title: AUSTIN</p>	<p>Director: <input type="radio"/> YES</p> <p>Term expiration: </p> <p>State: TX ZIP code: 78720</p> <p>Director: <input checked="" type="radio"/> YES</p> <p>Term expiration: </p> <p>State: TX ZIP code: 78720</p> <p>Director: <input checked="" type="radio"/> YES</p> <p>Term expiration: </p> <p>State: TX ZIP code: 78720</p> <p>Director: <input checked="" type="radio"/> YES</p> <p>Term expiration: </p> <p>State: TX ZIP code: 78759</p>
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SECTION B Enter the information required for each corporation or LLC, if any, in which this reporting entity owns an interest of ten percent (10%) or more.

Name of owned (subsidiary) corporation or limited liability company	State of formation	Texas SOS file number, if any	Percentage of Ownership
Name of owned (subsidiary) corporation or limited liability company	State of formation	Texas SOS file number, if any	Percentage of Ownership

SECTION C Enter the information required for each corporation or LLC, if any, that owns an interest of ten percent (10%) or more in this reporting entity or limited liability company.

Name of owned (parent) corporation or limited liability company	State of formation	Texas SOS file number, if any	Percentage of Ownership
---	--------------------	-------------------------------	-------------------------

Registered agent and registered office currently on file. (See instructions if you need to make changes)

Agent: **STAN BARRON**

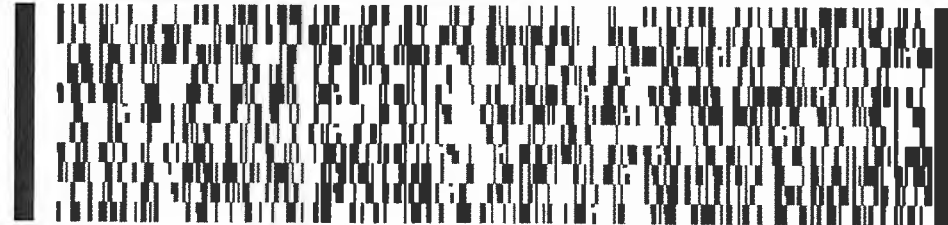
Office: **8500 N. MOPAC, STE. 808** City: **AUSTIN** State: **TX** ZIP Code: **78759**

Blacken circle if you need forms to change the registered agent or registered office information.

The above information is required by Section 171.203 of the Tax Code for each corporation or limited liability company that files a Texas Franchise Tax Report. Use additional sheets for Sections A, B, and C, if necessary. The information will be available for public inspection.

I declare that the information in this document and any attachments is true and correct to the best of my knowledge and belief, as of the date below, and that a copy of this report has been mailed to each person named in this report who is an officer, director or member and who is not currently employed by this, or a related, corporation or limited liability company.

sign here Title: _____ Date: **06/16/2008** Area code and phone number: **(512) 343 - 1417**



VE/DE PIR IND





Shackelford
Melton
McKinley

MF RCVD Wednesday, June 15, 2011

3333 Lee Parkway, Tenth Floor
Dallas, Texas 75219
Telephone 214.780.1400
Facsimile 214.780.1401
www.shacklaw.net

John C. Shackelford
Also Admitted in Florida and
Georgia
Direct 214.780.1414
jshack@shacklaw.net

June 15, 2011

Ms. Robbye Meyer
Director of Multifamily Programs
Texas Department of Housing
& Community Affairs
221 E. 11th Street
Austin, Texas 78701

Re: Application Challenge –The Villas at Tuscany; TDHCA #11074 (the
“Development”)

Dear Ms. Meyer:

This law firm has been retained to provide this Application Challenge, in accordance with Section 49.10(e) of the 2011 Qualified Action Plan (the “QAP”), for points awarded with respect to The Villas at Tuscany 2011 low income housing tax credit application (the “Application”).

Volume 4, Tab 13 of the Application, a copy of which is attached hereto as Exhibit A, claims 3 points under Section 49.9(a)(13)(D) of the QAP as a new construction development proposed to be located in an area that is part of a Community Revitalization Plan. (See Exhibit B). In support of this position, the Application includes a letter from Tom Martin, Mayor of City of Lubbock, which states that the City of Lubbock’s Consolidated Plan serves as a Community Revitalization Plan, and that the Development is within the area covered by the Community Revitalization Plan. Per our review of the 2009-2013 Consolidated Plan of the City of Lubbock (the “Lubbock Consolidated Plan”), as currently implemented by the City of Lubbock’s 2010-2011 Annual Action Plan (the “Lubbock Action Plan”), the Development is not located within an area covered by a Community Revitalization Plan and does not meet the definitional requirements to claim 3 points under Section 49.9(a)(13)(D) of the QAP for the following reasons:

I. The Lubbock Consolidated Plan Does Not Qualify as a Community Revitalization Plan

The Lubbock Consolidated Plan, on its own, does not implement its objectives nor does it specifically target areas for revitalization and, therefore, does not meet the definition of a Community Revitalization Plan.

The QAP defines a Community Revitalization Plan as “A published document under any name, approved and adopted by the local Governing Body or, if the Governing Body has lawfully assigned responsibility for oversight of communication or activities to a body created or sponsored by that Governing Body, the vote of the Governing Body so designated, by ordinance, resolution, or vote that targets specific geographic areas for revitalization and development of residential developments.”

The Lubbock Consolidated Plan, prepared in accordance with the U.S. Department of Housing and Urban Development (“HUD”) regulations, identifies the housing and community development needs and priorities of the City of Lubbock (the “City”) and sets out long-term goals and develops a strategic blueprint for the City to best meet such needs. As part of its strategy, the Lubbock Consolidated Plan sets forth parameters by which areas are to be targeted for revitalization by providing (a) that the City will direct assistance to low to moderate income Block Groups in the City, (b) proposed CDBG Target Areas (See Exhibit C), and (c) that to the extent specific geographic areas have greater needs than other areas in the City, such areas will receive a larger proportionate share of funding. Still, the Lubbock Consolidated Plan only provides proposed target areas and parameters to select the areas to be revitalized. It does not specify geographic areas to be revitalized and developed for residential developments and, accordingly, does not meet the definition of a Community Revitalization Plan under the QAP.

Furthermore, the mere fact that the Development is located in the City and the Lubbock Consolidated Plan’s objectives are the objectives of the entire City does not qualify the Development for the points under Section 49.9(a)(13)(D) of the QAP. Such rationale would undermine the purpose of the points awarded under Section 49.9(a)(13)(D) of the QAP. HUD requires every city to prepare a consolidated plan if it chooses to participate in the Community Development Block Grant, HOME Investment Partnerships or Emergency Shelter Grant and Housing Opportunities for Persons with AIDS programs. If a city’s broadly written HUD mandated consolidated plan constituted a Community Revitalization Plan under the QAP, then every development located in a city with a consolidated plan would automatically qualify for these points when the clear intent is to reward only those developments located in the areas specifically targeted to be revitalized.

II. Development Not Located in a Revitalization Area Under the Lubbock Consolidated Plan

Assuming, *in arguendo*, the Lubbock Consolidated Plan constitutes a Community Revitalization Plan under the QAP, the Application still does not qualify for the points under Section 49.9(a)(13)(D) of the QAP because the location of the Development

identified in the Application is not located in the proposed CDBG Target Areas identified in the Lubbock Consolidated Plan.

To claim the points under Section 49.9(a)(13)(D) of the QAP, the Development for new construction must be located in an area that is part of a plan that targets specific geographic areas for revitalization and development of residential developments. The location of the Development identified in the Application is at the southwest corner of the intersection of Lola Ave. and 66th Street (See Exhibit D), which is not located within the specific geographic areas designated for revitalization and development of residential developments under the Lubbock Consolidated Plan. Moreover, the Development is not even located in the areas proposed as CDBG Target Areas under the Lubbock Consolidated Plan (See Exhibit C).

With the Development not located in an area under the Lubbock Consolidated Plan that targets specific geographic areas for revitalization and development of residential developments, then assuming, *in arguendo*, that the Lubbock Consolidated Plan constitutes a Community Revitalization Plan, the Development still does not qualify for the points under Section 49.9(a)(13)(D) of the QAP.

III. Development Not Located in Revitalization Area Under the Lubbock Action Plan

As required annually by HUD, a consolidated plan is implemented only by an action plan adopted by the local governing body which identifies the resources that will be used in the upcoming year to address the consolidated plan's priority objectives and includes the geographic areas assistance will be directed during the ensuing program year.

The Lubbock Consolidated Plan, together with the Lubbock Action Plan, constitute a Community Revitalization Plan under the QAP. The Lubbock Action Plan is the document that implements the broad policies set forth in the Lubbock Consolidated Plan. The Lubbock Action Plan specifies both where the funds go and the areas targeted for revitalization. The current target areas and eligible areas set forth in the Lubbock Action Plan are identified in Exhibit E attached hereto.

The Development is not only outside the broader area designated in the Lubbock Consolidated Plan as above stated in Section II., but it is clearly and unquestionably outside the current target areas and eligible areas set forth in the Lubbock Action Plan. The Villas of Tuscany is located at the southwest corner of the intersection of Lola Ave. and 66th Street (See Exhibit D). This entire area, located in the southwestern portion of the City, is neither located in a CDBG Eligible Area or CDBG Target Area set forth in the Lubbock Action Plan.

To summarize this argument, the Lubbock Action Plan, together with the Lubbock Consolidated Plan, does constitute a Community Revitalization Plan, but the Development is not located within the boundaries of the area targeted in the Lubbock Action Plan.

IV. No Evidence of Ordinance, Resolution or Specific Vote Included in the Application

Pursuant to the instructions in the 2011 low income housing tax credit application, to claim the points under Section 49.9(a)(13)(D) of the QAP the applicant could submit, "A letter from the Appropriate Local Official stating there is a Community Revitalization Plan in effect and the Development is within the area covered by the plan." (See Exhibit A). In addition, Page 72 of the 2011 HTC Procedure Manual requires "evidence that the Community Revitalization Plan has been adopted by the local Governing Body by ordinance, resolution or specific vote." (See Exhibit F). No such ordinance, resolution or specific vote was included in the Application.

Although the letter from the Appropriate Local Official was included in the Application, evidence that the Community Revitalization Plan has been adopted by the local Governing Body by ordinance, resolution or specific vote has not be included in the Application (See Exhibit A). Failure to include evidence that the Community Revitalization Plan has been adopted by the local Governing Body by ordinance, resolution or specific vote in the application is not an administrative deficiency that can be cured. Pursuant to Section 49.7(a)(2) of the QAP, "For exhibits and other information required under §49.9 of this chapter (relating to Selection Criteria) not originally submitted in the Application (i.e. Community Revitalization Plan or letter from Appropriate Local Official missing entirely from the Application) staff will not award points for that item, even if points were requested in the Applicant's Self Scoring Form." (See Exhibit G).

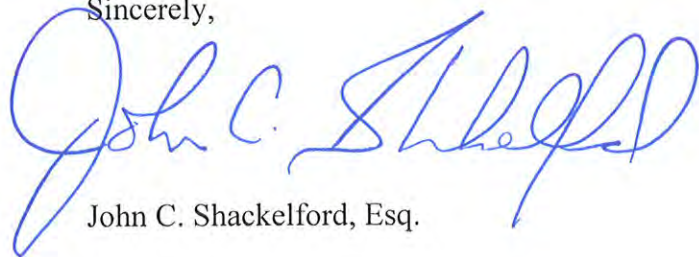
Since no evidence that an ordinance, resolution or specific vote approving the Community Revitalization Plan was included in the Application, we further request that the 3 points awarded under the Application in relation to Section 49.9(a)(13)(D) of the QAP be deducted.

For the foregoing reasons, we respectfully request the 3 points awarded under the Application with regard to Section 49.9(a)(13)(D) of the QAP be deducted.

Ms. Robbye Meyer
June 15, 2011
Page 5

Should you have any questions, please do not hesitate to contact me at (214) 780-1414 or
jshack@shacklaw.net.

Sincerely,

A handwritten signature in blue ink that reads "John C. Shackelford". The signature is fluid and cursive, with the first letter of each name being a large, prominent capital letter.

John C. Shackelford, Esq.

cc: Raquel Morales

Exhibit A

Volume 4

Tab 13

Volume 4, Tab 13

COMMUNITY REVITALIZATION or HISTORIC PRESERVATION (§49.9(a)(13))

The Application proposes:

- Community Revitalization**- the Development includes the use of an Existing Residential Development and proposes any Rehabilitation or any Reconstruction that is part of a Community Revitalization Plan. (§42(m)(1)(C)(iii))
Evidence to be provided to satisfy this requirement:
 - Volume 2, Tab 1, Part B- 2011 Existing Residential Development Certification Form* is present in Volume 2, and is fully executed.

AND

- A letter from the Appropriate Local Official stating there is a Community Revitalization Plan in effect and the Development is within the area covered by the plan.

If the Applicant is unable to obtain a letter from an Appropriate Local Official, then the following must be provided:

- If the Community Revitalization Plan has specific boundaries, a copy of the Plan adopted by the jurisdiction or its designee and a map showing that the Development is within the area covered by the Community Revitalization Plan.
-
- Historic Preservation** - The Development includes the use of an existing building that is designated as historic by a federal or state Entity and proposes Rehabilitation (including Reconstruction) or Adaptive Reuse.

Evidence to be provided includes:

- The Development includes* the use of an existing building that is designated as historic by a federal or state entity and proposes Rehabilitation (including reconstruction) or Adaptive Reuse.
- Proof of the historic designation from the appropriate Governmental Body is included.
- Letter from the Texas Historical Commission indicating the effect of the proposed rehabilitation on historical structure is included.

***The Development itself must have the designation; points in this subparagraph are not available for Developments simply located within historic districts or areas that do not have a designation on the building. The Development must include the historic building.**

- Rehabilitation** - Application proposes to build solely Rehabilitation.
- Reconstruction** - Application proposes to build solely Reconstruction.
- Adaptive Reuse** - Application proposes to build solely Adaptive Reuse.

- New Construction** - the Development is New Construction and is proposed to be located in an area that is part of a Community Revitalization Plan.

Evidence to be provided includes one of the following:

Evidence to be provided to satisfy this requirement:

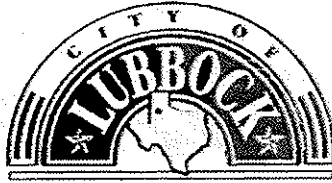
- A letter from the Appropriate Local Official stating there is a Community Revitalization Plan in effect and the Development is within the area covered by the plan.

If the Applicant is unable to obtain a letter from an Appropriate Local Official, then the following must be provided:

- If the Community Revitalization Plan has specific boundaries, a copy of the Plan adopted by the jurisdiction or its designee and a map showing that the Development is within the area covered by the Community Revitalization Plan.



REMEMBER TO PLACE YOUR EVIDENCE BEHIND THIS FORM



Tom Martin ★ Mayor

Certification of Consistency with
City of Lubbock
Community Revitalization Plan

To Whom It May Concern:

I, Tom Martin, Mayor of the City of Lubbock and authorized to act on behalf of the City, certify that the housing development activities proposed by **The Grove at Elm Park, Ltd.**, are consistent with and located within the boundaries covered by the city's concerted Community Revitalization Plan currently in effect, namely the Consolidated Plan.

The Grove at Elm Park is located at the intersection of 34th St and Milwaukee Ave (.18 miles west) in the City of Lubbock, Lubbock County, Texas. The proposed 2011 LIHTC Application for **The Grove at Elm Park, Ltd.**, contributes to the revitalization objectives of the Consolidated Plan.

Signed on this the 30th day of December, 20 10.

A handwritten signature in black ink, appearing to read "Tom Martin", is written over a horizontal line.

Tom Martin, Mayor

Exhibit B

- schools, charter schools and depending on how characterized could include day care centers; a PTA or PTO would qualify. Should an Applicant elect this option and the Application receives letters in opposition, then 2 points will be subtracted from the score for each letter in opposition, provided that the letter is from an organization serving the community.
- (B) An Application may receive 6 points for a letter of support, from a property owners association created for a master planned community whose boundaries include the Development Site that does not meet the requirements of a Neighborhood Organization for points under paragraph (2) of this subsection.
 - (C) An Application may receive 6 points for a letter of support from a Special Management District, whose boundaries, as of the Full Application Delivery Date as identified in §49.3 of this chapter, include the Development Site and for which there is not a Neighborhood Organization on record with the county or state.
- (12) **Housing Needs Characteristics.** (§42(m)(1)(C)(ii)) Applications may qualify to receive up to 6 points (if the Development Site is located in a Place with a certain Affordable Housing Need Score). Each Application may receive a score if correctly requested in the Self Score form based on objective measures of housing need in the Place where the Development is located. This Affordable Housing Need Score for each Place will be published in the 2011 Site Demographic Characteristics Report. For purposes of this item a Place is defined as the geographic area contained within the boundaries of:
- (A) An incorporated place; or
 - (B) Census Designated Place (CDP) as established by the U.S. Census Bureau for the most recent Decennial Census. For Developments located outside the boundaries of an incorporated place or CDP, the Development shall take up the Place characteristics of the incorporated place or CDP whose boundary is nearest to the Development Site.
- (13) **Community Revitalization, (§42(m)(1)(C)(iii)) Historic Preservation or Rehabilitation.** Applications may qualify to receive 6 points under subparagraphs (A) - (C) of this paragraph or 3 points under subparagraph (D) of this paragraph.
- (A) The Development includes the use of an Existing Residential Development and proposes any Rehabilitation or any Reconstruction that is part of a Community Revitalization Plan. Evidence of the Community Revitalization Plan must be in the form of a letter from the Appropriate Local Official stating there is a Community Revitalization Plan in effect and the Development is within the area covered by the plan or only if the Community Revitalization Plan has specific boundaries, a copy of the plan, adopted by the jurisdiction or its designee and a map showing that the Development is within the area covered by the Community Revitalization Plan; or
 - (B) The Development includes the use of an existing building that is designated as historic by a federal or state Entity and proposes Rehabilitation (including Reconstruction) or Adaptive Reuse. The Development itself must have the designation; points in this subparagraph are not available for Developments simply located within historic districts or areas that do not have a designation on the building. The Development must include the historic building. Evidence will include proof of the historic designation from the appropriate Governmental Entity.
 - (C) Rehabilitation (includes Reconstruction). Applications proposing to build solely Rehabilitation (excluding New Construction of non-residential buildings), solely Reconstruction (excluding New Construction of non-residential buildings), or solely Adaptive Reuse;
 - (D) The Development is New Construction and is proposed to be located in an area that is part of a Community Revitalization Plan (3 points).
- (14) **Pre-application Participation Incentive Points.** (§2306.6704) Applicants that submitted a pre-application during the Pre-Application Acceptance Period and meet the requirements

Exhibit C

**Exhibit VI-3.
CDBG Target Areas, City of Lubbock, 2009-2013**

Proposed CDBG Target Areas 2009-2013



City of Lubbock Planning Department
P.O. Box 2000
1625 13th Street (Room 107)
Lubbock, TX 79457



Source: City of Lubbock.

2. Geographic allocation. The City's primary method of allocating CDBG dollars is to assist low- to moderate-income and special needs populations.

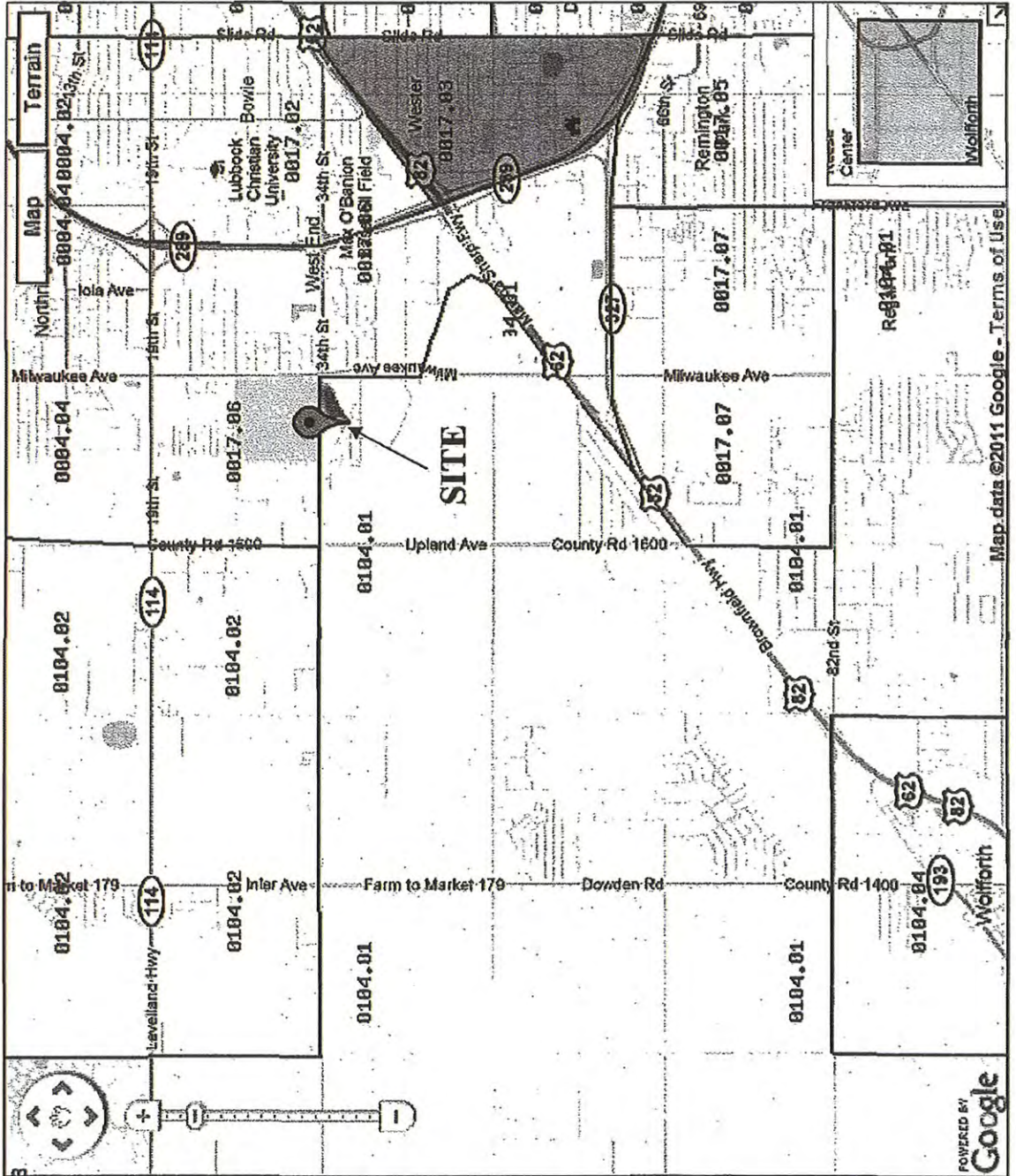
To the extent that specific geographic areas have greater needs than other areas in the City and/or if service and housing organizations are located in certain areas, they will receive a larger proportionate share of the funding. For street and sidewalk improvements, the City will focus on the geographic areas where street, sidewalks, curb cuts and related ADA accommodations are lacking. Finally, to provide affordable single-family housing, the City's dollars will be allocated in areas of new development where affordable housing is lacking and/or infill areas that can accommodate affordable housing.

3. Obstacles to meeting underserved needs. The primary obstacle to meeting underserved needs is insufficient financial resources and operating funds. The City will pursue all potential funding resources and funding applications for other resources from other agencies will be supported. Funding resources will continue to be leveraged when possible by the City. When appropriate, funds provided to projects and programs will be in the form of loans and repayments will revolve to serve the greatest possible number of households over time.

Exhibit D



U.S. Department of Housing and Urban Development
Office of Policy Development and Research



Site is in Census Tract
0104.01 (48303010401)

QUALIFIED CENSUS TRACTS

Full Tract Number	48303010401
Status (2010)	Not Qualified
Past Qualifications	None
County	Lubbock
State	Texas
Poverty Rate	19.60%
Households below Income Limit	24.50%

SUBJECT MATTERS TO BE DRAWN

- 14 Current Zoom Level
- Show Tracts Outline (Zoom 11+)
- Show LIHTC Projects (Zoom 11+)
- Color Qualified Tracts

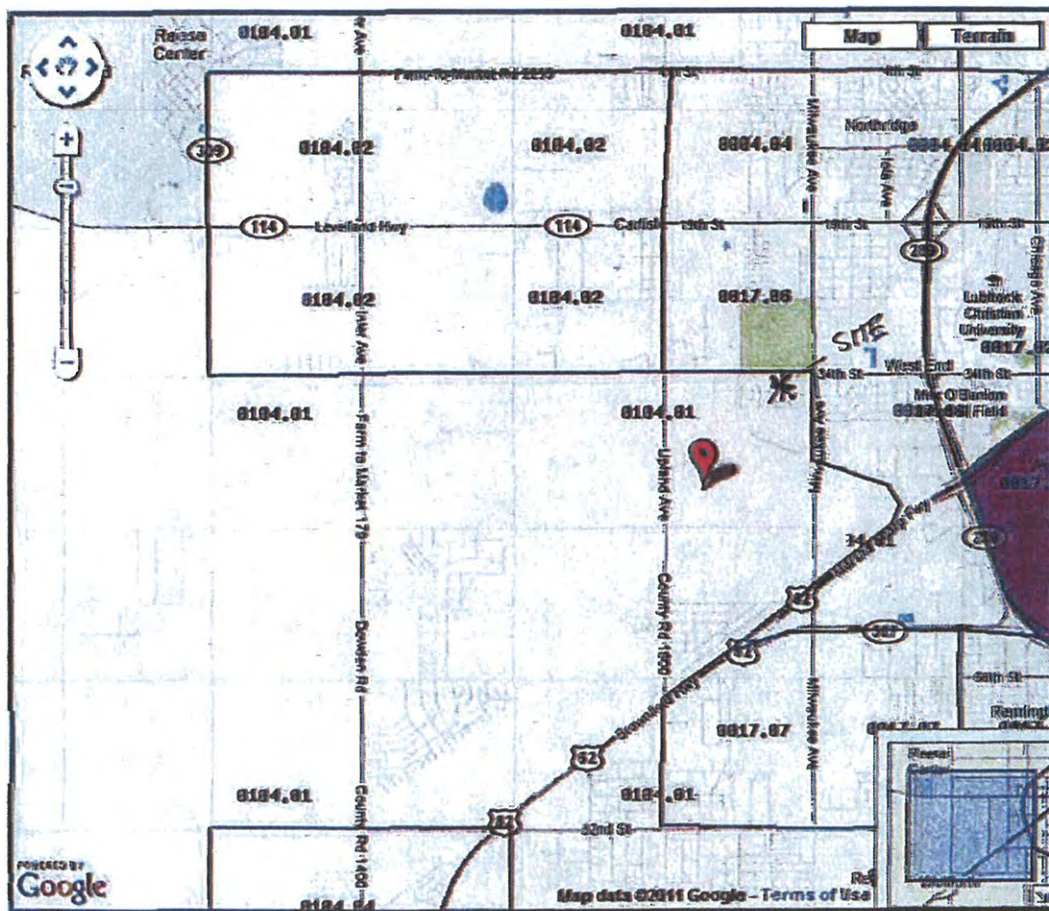
CENSUS TRACT QUALIFICATIONS

- Tract Outline
- Qualified Census Tracts (2010)

Relationship to City & Street Level Depiction of Census Tract

The Grove at Elm Park

Census Tract: 48303010401

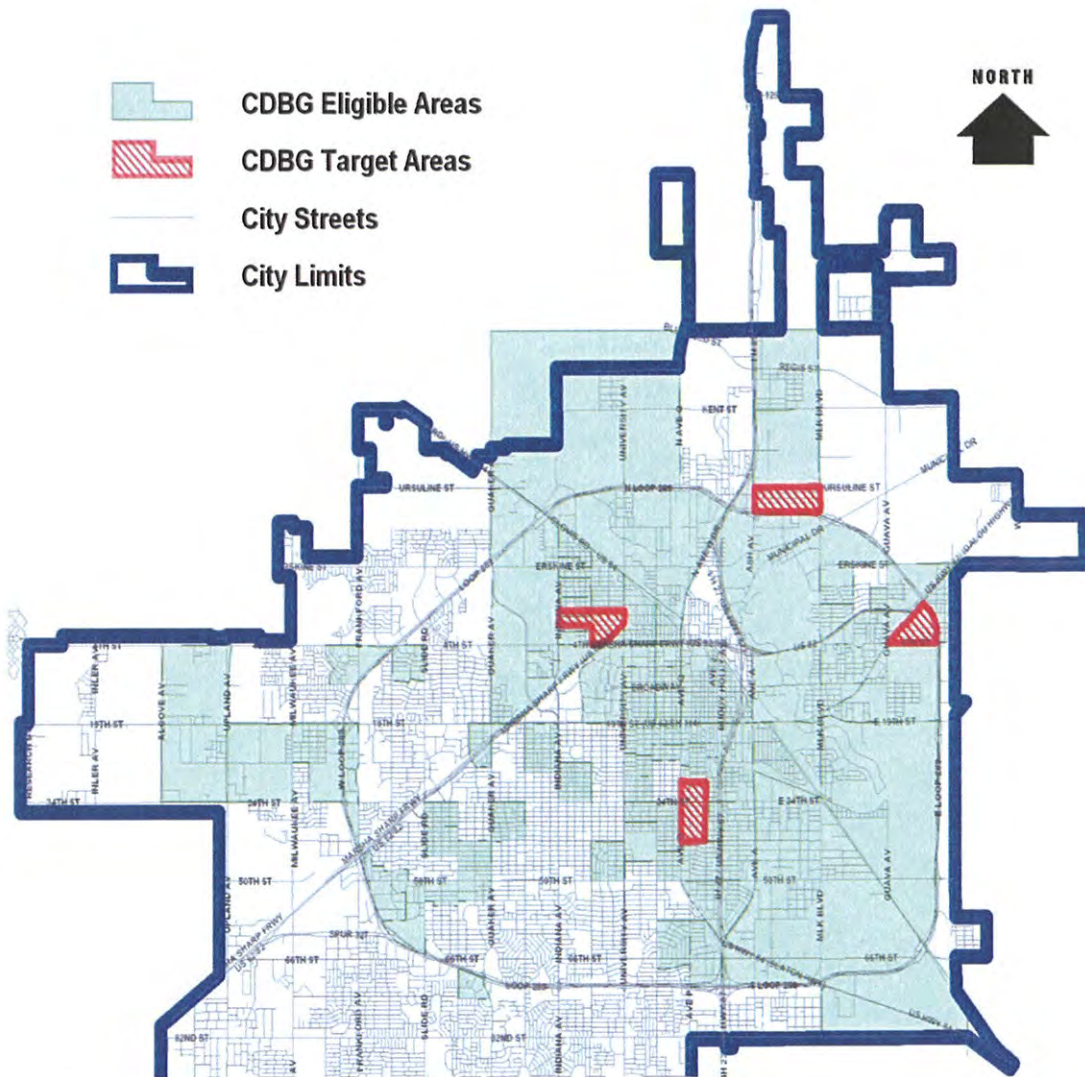


* Site

Exhibit E

Clearance, Demolition	20 Units	4 Units
Senior and Handicapped Services	125 Persons	25 Persons
Youth Services	250 Persons	50 Persons
Transportation Services	1000 Disabled Persons	200 Disabled Persons
Child Care Services	375 Persons	75 Persons
Health and Dental Care Services	250 Persons	50 Persons
Interim Assistance	25 Persons	5 Persons
Code Enforcement	2500 Persons	500 Persons
Section 108 Loan Payments	N/A	N/A

In keeping with the Consolidated Plan goals the majority of activities will be conducted in areas of higher low-mod household concentration as specified in the Consolidated Plan. The target areas are within the CDBG eligible areas as indicated on the map below.



Funding Summary

Exhibit F

2011 HTC Procedures Manual

❖ **Volume 4, Tab 13. (V4 T13) Community Revitalization, Historic Preservation or Rehabilitation (Maximum 6 points)**

- *Volume 2, Tab 1, Part B- 2011 Existing Residential Development Certification Form* must be present in Volume 2, and must be fully executed.
 - Community Revitalization
 - Submit a letter from the Appropriate Local Official stating that the Development Site is located within the area covered by the Community Revitalization Plan; or
 - Only if the Community Revitalization Plan has specific boundaries, a copy of the plan, adopted by the jurisdiction or its designee and a map showing that the Development is within the area covered by the Community Revitalization Plan.
 - Submit evidence that the Community Revitalization Plan has been adopted by the local Governing Body by ordinance, resolution or specific vote.
- Historic Preservation

Developments proposing Rehabilitation (including Reconstruction) or Adaptive Reuse, which include the use of an existing building that is designated as historic by a federal or state Entity.

 - **The historic building itself must be part of the Development; points in this subparagraph are not available for Developments simply located within historic districts or areas that do not have a designation on the building. The Development must include the historic building.**
 - Submit proof of the historic designation from the appropriate Governmental Entity. As a resource, information regarding state and federal historic designations can be printed from the following site:
<http://atlas.thc.state.tx.us/index.asp>.
- Developments proposing solely Rehabilitation (includes Reconstruction), solely Reconstruction or solely Adaptive Reuse.
- New Construction Development proposed to be located in an area that is part of a Community Revitalization Plan (this item worth 3 points).

❖ **Volume 4, Tab 14. (V4 T14) Pre-Application Incentive Points (Maximum 6 points)**

- To be eligible for Pre-Application Incentive Points the Applicant must be able to affirm the following:
 - The site under control is identical to or is a reduced portion of the site as proposed in the Pre-Application; and
 - The Application has met the Pre-Application Threshold Criteria as determined by the Department; and
 - A certification must be included as part of the exhibit, signed by the Principals who signed the site control at Pre-Application, confirming that they are the same Principals at Application; and
 - The Development must serve the same target population (general or elderly) as indicated in the Pre-Application; and



NOTE!

Exhibit G

-
- (i) an Applicant or Related Party; and
 - (ii) any Person who is:
 - (I) active in the construction, rehabilitation, ownership, or Control of the proposed Development, including:
 - (-a-) a General Contractor; and
 - (-b-) a Developer; and
 - (-c-) a General Partner, Principal or Affiliate of a General Partner or General Contractor; or
 - (II) employed as a consultant, lobbyist, or attorney by an Applicant or a Related Party.
- (B) During the period beginning on the first date of the Application Acceptance Period and ending on the date the Board makes a final decision with respect to the approval of any Application in that Application Round, an employee of the Department may communicate about any Application with the following Persons:
- (i) the Applicant or a Related Party; and
 - (ii) any Person who is:
 - (I) active in the construction, rehabilitation, ownership, or Control of the proposed Development, including:
 - (-a-) a General Partner or General Contractor; and
 - (-b-) a Developer; and
 - (-c-) a Principal or Affiliate of a General Partner or General Contractor; or
 - (II) employed as a consultant, lobbyist or attorney by the Applicant or a Related Party.
- (C) A communication under paragraph (2) of this subsection may be oral or in any written form, including electronic communication through the Internet, and must satisfy the following conditions:
- (i) the communication must be restricted to technical or administrative matters directly affecting the Application;
 - (ii) the communication must occur or be received on the premises of the Department during established business hours; and
 - (iii) a record of the communication must be maintained and included with the Application for purposes of Board review and must contain the following information:
 - (I) the date, time, and means of communication;
 - (II) the names and position titles of the Persons involved in the communication and, if applicable, the Person's relationship to the Applicant;
 - (III) the subject matter of the communication; and
 - (IV) a summary of any action taken as a result of the communication.
- (D) Notwithstanding subparagraph (A) or (B) of this paragraph, a Board member or Department employee may communicate without restriction with a Person listed in subparagraph (A) or (B) of this paragraph during any Board meeting or public hearing held with respect to the Application, but not during a recess or other non-record portion of the meeting or hearing.
- (E) Subparagraph (A) of this paragraph does not prohibit the Board from participating in social events at which a Person with whom communications are prohibited may, or will be present, provided that all matters related to Applications to be considered by the Board will not be discussed.
- (2) **Administrative Deficiency Process.** The purpose of the Administrative Deficiency process is to allow the Applicant an opportunity to provide clarification or correction to information originally submitted in the Application. For example, if exhibits and other information required under §49.8 of this chapter (relating to Threshold Criteria) are not originally submitted in the Application (i.e. financing commitment missing entirely from
-

the Application) staff will recommend termination of the Application. However, for information missing in part from the Application (i.e. financing commitment is submitted but it is not executed by the lender) staff will request the missing or corrected information via an Administrative Deficiency. For exhibits and other information required under §49.9 of this chapter (relating to Selection Criteria) not originally submitted in the Application (i.e. Community Revitalization Plan or letter from Appropriate Local Official missing entirely from the Application) staff will not award points for that item, even if points were requested in the Applicant's Self Scoring Form. For information missing in part from the Application (i.e. the letter from the Appropriate Local Official does not include all required information) staff will request the missing information via an Administrative Deficiency and award points provided the information submitted in response to the Administrative Deficiency is satisfactory to the Department.

- (A) **Administrative Deficiencies for Applications submitted under the State Housing Credit Ceiling and Rural Rescue Applications.** If an Application contains Administrative Deficiencies which, in the determination of the Department staff, require clarification or correction of information submitted at the time of the Application, the Department staff may request clarification or correction of such Administrative Deficiencies. Because the review for Eligibility, Selection, Threshold Criteria, Quantifiable Community Participation (QCP) and review for financial feasibility by the Department's Real Estate Analysis Division may occur separately, Administrative Deficiency requests may be made during any of these reviews. The Department staff will request clarification or correction in a deficiency notice in the form of an e-mail, or if an e-mail address is not provided in the Application, by facsimile, and a telephone call (only if there has not been confirmation of the receipt of the e-mail within twenty-four (24) hours) to the Applicant and one other party identified by the Applicant in the Application advising that such a request has been transmitted. If Administrative Deficiencies are not clarified or corrected to the satisfaction of the Department by 5:00 p.m. on the fifth business day following the date of the deficiency notice, then five (5) points shall be deducted from the Selection Criteria score for each additional day the deficiency remains unresolved. If Administrative Deficiencies are not clarified or corrected by 5:00 p.m. on the seventh business day following the date of the deficiency notice, then the Application shall be terminated. The time period for responding to a deficiency notice begins at the start of the business day following the deficiency notice date. Deficiency notices may be sent to an Applicant prior to or after the end of the Application Acceptance Period. An Applicant may not change or supplement any part of an Application in any manner after the filing deadline, and may not add any Set-Asides, increase the requested credit amount, revise the Unit mix (both income levels and bedroom mixes), or adjust their self-score except in response to a direct request from the Department as a result of an Administrative Deficiency or by approved amendment of an Application after a commitment or allocation of tax credits as further described in §49.13(b) of this chapter (relating to Board Reevaluation) (§2306.6708). This Administrative Deficiency process applies to requests for information made by the Real Estate Analysis Division during their review. To the extent that the review of Administrative Deficiency documentation during the review alters the score assigned to the Application, Applicants will be re-notified of their final score.
- (B) **Administrative Deficiencies for Tax Exempt Bond Applications.** If an Application contains deficiencies which, in the determination of the Department staff, require clarification or correction of information submitted at the time of the Application, the Department staff may request clarification or correction of such Administrative Deficiencies. Because the review for Eligibility, Threshold Criteria, and review for financial feasibility by the Department's Real Estate Analysis Division may occur separately, Administrative Deficiency requests may be made during any of these

June 24, 2011

Ms. Robbye Meyer
Director, Multifamily Finance Production Division
Texas Department of Housing and Community Affairs
PO Box 13941
Austin, TX 78711

RE: Response to Challenge to 11074 The Villas at Tuscany

Dear Ms. Meyer:

This letter is in response to the challenge presented by Mr. John C. Shackelford regarding the 3 points awarded to application 11074 The Villas at Tuscany for "The Development is New Construction and is proposed to be located in an area that is part of a Community Revitalization Plan."

In the original application, we submitted a letter from the Mayor of Lubbock, Tom Martin, certifying that The Villas at Tuscany is located within the boundaries covered by the Consolidated Plan, which Mayor Martin specifically labels, "the city's concerted Community Revitalization Plan currently in effect." Points were awarded by the Department for this scoring item in the final scoring notice. Though the Department conducted their own review of this documentation and determined that the application was eligible for the points, Mr. Shackelford does not believe that this application should receive the points and makes several claims in his letter. We will address each claim in the order presented in his letter.

I. The Lubbock Consolidated Plan Does Not Qualify as a Community Revitalization Plan

Mr. Shackelford does not believe that that the City of Lubbock Consolidated Plan qualifies as a "Community Revitalization Plan" because it "does not implement its objectives nor does it specifically target areas for revitalization."

While Mr. Shackelford may have his opinion of what should qualify as a "Community Revitalization Plan," the QAP clearly defines this for us. The 2011 QAP defines a Community Revitalization Plan as follows:

A published document under any name, approved and adopted by the local Governing Body or, if the Governing Body has lawfully assigned responsibility for oversight of communication or activities to a body created or sponsored by that Governing Body, the vote of the Governing Body so designated, by ordinance, resolution, or vote that targets specific geographic areas for revitalization and development of residential developments.

As a "published document under any name," a "Consolidated Plan" is not prohibited from meeting this definition, regardless of whether the Plan is required for federal funding sources. Second, the Consolidated Plan was approved by the local governing body and such evidence is attached (additional discussion regarding this evidence may be found under item IV). Third, the Consolidated Plan targets specific areas for revitalization and development of residential developments. The Consolidated Plan makes numerous references to revitalization, the revitalization of the target neighborhoods, and affordable housing development. Though Mr. Shackelford argues that the Consolidated Plan does not target specific areas for revitalization, he actually confirmed in his letter that the Plan has CDBG target areas that will receive a larger proportion of the funding and attached the map of these areas with his letter.

Based on the specific definition of "Community Revitalization Plan" in the QAP, the Lubbock Consolidated Plan meets this definition. Mayor Martin, in his letter, confirms that the Consolidated Plan is their Community Revitalization Plan and confirms that the development contributes to the revitalization objectives of the Consolidated Plan.

II. Development Not Located in a Revitalization Area Under the Lubbock Consolidated Plan

Mr. Shackelford argues that this application is not eligible for points because the development site is not located in one of the CDBG target areas in the Consolidated Plan.

Mr. Shackelford is correct in that The Villas at Tuscany is not within a CDBG target area. However, points for this scoring item do not state or require that the development must be located within the targeted revitalization area—the scoring item states that the development is “proposed to be located in an area that is part of a Community Revitalization Plan.” This is not the same thing.

The scoring item states that the development is “proposed to be located in an area that is part of a Community Revitalization Plan.” The City of Lubbock Consolidated Plan meets the definition of Community Revitalization Plan. The Plan covers the revitalization target areas as well as all areas within the city limits. Because the plan covers all of the city limits and The Villas at Tuscany development is located within the city limits, we believe that it complies with the language of the QAP that says “located in an area that is part of a Community Revitalization Plan.” The QAP language does not say that the site needs to be within a “target area,” only that the site is within “an area that is part of” the plan. Because the development is located within the city limits of Lubbock and that area is part of the Plan, we believe that this application is eligible for points under this scoring item.

It is important to note that language regarding specific target areas was found in the 2010 QAP and was removed in the 2011 QAP; therefore, we believe that our interpretation of the QAP is consistent with the Department’s intent regarding this matter. The 2011 QAP specifically changed with regard to Community Revitalization Plans and removed previous requirements that the development be in a target area. See language from the 2010 QAP below.

2010 QAP Language

Evidence of the Community Revitalization Plan (such evidence must include an ordinance, resolution, or otherwise recorded documentation of a vote taken by the local elected Governing Body specifically adopting the Community Revitalization Plan) and a letter from the chief executive officer or other local official with appropriate jurisdiction of the local Governing Body stating that the Development Site is located within the targeted development areas outlined in the Community Revitalization Plan must be submitted

In summary, based on the language of the QAP, we believe that this application is eligible for points under this scoring item.

III. Development Not Located in a Revitalization Area Under the Lubbock Action Plan

Mr. Shackelford argues that this application is not eligible for points because the development site is not located in one of the CDBG target areas in the Action Plan.

Mr. Shackelford seems to imply that somehow the Consolidated Plan isn’t valid without an Action Plan; however, the Consolidated Plan is comprised of various sections, including a Strategic Plan, Needs Assessment, and Market Analysis. The Strategic Plan within the Consolidated Plan lists the CDBG target areas as well as the five-year goals and objectives, which would also be found in an Action Plan. The information relevant to this discussion is found in the Consolidated Plan, so it is not “invalid” without an Action Plan.

As discussed in item II, the QAP does not state that the development site must be located in a “targeted area,” rather the QAP states that the development site must be “located in an area that is part of a Community Revitalization Plan.” The letter from Mayor Martin confirms that The Villas at Tuscany is located within the

boundaries of the Consolidated Plan and that the development contributes to the revitalization objectives of the Consolidated Plan. Based on the language of the QAP, we believe that this application is eligible for points under this scoring item.

IV. No Evidence of Ordinance, Resolution, or Specific Vote Included in the Application

Mr. Shackelford believes that points should not be awarded because evidence of ordinance, resolution, or vote was not included in the application.

The Volume 4 Tab 13 application form states what evidence is to be provided for this scoring item. It reads as follows:

Evidence to be provided includes one of the following:

Evidence to be provided to satisfy this requirement:

A letter from the Appropriate Local Official stating there is a Community Revitalization plan in effect and the Development is within the area covered by the plan.

If the Applicant is unable to obtain a letter from an Appropriate Local Official, then the following must be provided:

If the Community Revitalization Plan has specific boundaries, a copy of the Plan adopted by the jurisdiction or its designee and a map showing that the Development is within the area covered by the Community Revitalization Plan.

We provided a letter under option 1. Option 1 does not state that a letter as well as proof that the Plan was adopted by the jurisdiction should be submitted—only that a letter should be submitted.

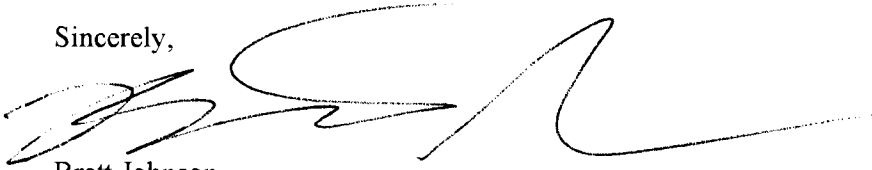
We disagree with Mr. Shackelford's opinion that the ASPM requires that the letter be accompanied by proof that the Plan was adopted. The first bullet point in the ASPM states "Submit a letter from the Appropriate Local Official stating that the Development Site is located within the area covered by the Community Revitalization Plan; or" (emphasis added). Note that there is an "or" after this statement, which then continues to the second bullet point and then the third bullet point regarding evidence the plan was adopted. As an "or" statement, there is no indication or requirement that any of the subsequent bullet points would be required with the first bullet point, especially because all three bullet points are on equal margins. However, the more notable issue is that these three bullet points offer guidance if the applicant is submitting documentation for community revitalization that includes the use of an existing residential development and not if the applicant is submitting documentation for new construction located in an area that is part of a community revitalization plan. The ASPM only states the following for the new construction option and make no reference to what should be submitted: "New Construction Development proposed to be located in an area that is part of a Community Revitalization Plan (this item worth 3 points)."

For your convenience, we have attached the resolution approving the Consolidated Plan here; however, neither the QAP nor the ASPM require this documentation to be submitted with the application. Furthermore, staff awarded points for this item based on the documentation submitted with the application.

In conclusion, we believe that the points for this scoring item should not be reconsidered based on Mr. Shackelford's challenge. We submitted the required documentation with the application and have established that the Consolidated Plan meets the definition of "Community Revitalization Plan" and that the development site is located within an area that is part of the Community Revitalization Plan.

Thank you for your attention to this matter. Please contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Brett Johnson', with a long horizontal flourish extending to the right.

Brett Johnson
OPG Tuscany Villa Partners, LLC

May 13, 2011

Robbye Meyer (via overnight & email robbye.meyer@tdhca.state.tx.us)
Texas Department of Housing & Community Affairs
221 East 11th Street
Austin, Texas 78701-2410

Re: Application Challenge – Main Street Commons; TDHCA #11077

Dear Robbye:

This law firm has been retained by a client to present the enclosed Application Challenge to the Texas Department of Housing & Community Affairs with respect to the 2011 low income housing tax credit allocations. This Challenge is pursuant to Section 49.10(e) of the 2011 Qualified Allocation Plan.

As you will see from the enclosed detailed materials, several challenges are being presented:

1. Community Revitalization Plan: The applicant submitted only a city comprehensive plan, and not a community revitalization plan, and as such points should not be awarded for this item.
2. Leveraging of Private, State and Federal Resources: The only evidence presented of these resources was a brief letter addressed to TDHCA, and not the required legally binding written contract between the applicant and the provider of the funds. Furthermore, the letter lacked the required terms and conditions. As such, points should not be awarded for this item.
3. Third Party Funding Commitment Outside of Qualified Census Tracts: The letter submitted does not amount to a commitment of funds, and is not addressed to the applicant/owner, such that points should not be awarded for this item.
4. HOME Match Requirement: The party offering the matching funds is a consultant to the project, will financially benefit from the project, and is listed as a member of the development team. The HOME rules specifically state that the match must originate from a source other than the project owner, developer, consultant or building contractor. As such, this proposed match violates the HOME rules, and the project should not be eligible for HOME funds. Without the HOME funds the project is not financially feasible.
5. Bond Fees: The Development Cost Schedule indicates that project fund uses include "Credit Enhancement Fees" and "Bond Premium"; however, this is not a bond transaction and there are no bond proceeds shown in the project sources.

05-16-11 11:10:35 RCVD

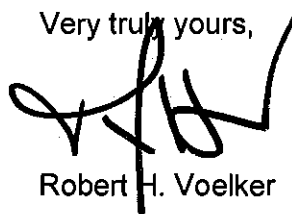
As this will not be a bond financed project, these items are not properly included in basis, which results in a reduction in eligible costs and a loss in tax credits. Without these credits, the project is not financially feasible.

6. Threshold Criteria-Financing Requirements: The application does not contain a required term sheet or letter of commitment from the proposed tax credit investor, Red Stone Equity Partnerships, LLC, such that the application failed to meet a threshold requirement.
7. Quantifiable Community Participation/Neighborhood Organization Support: Although the Main Street Neighborhood Organization submitted a letter of support, (i) the City of Taylor has stated that this organization was formed on February 9, 2011, at a meeting at which the developer presented the project, and the only function of the organization was to show TDHCA that the neighbors had no problem with this application, and (ii) the organization attempted to register with TDHCA at the time of providing its support letter, but failed to supply any evidence of the existence of the organization other than minutes of the February 9 meeting. As such, the neighborhood organization was formed by the applicant for purposes of this scoring item, and points should not be awarded for this item.

Please consider these materials in connection with finalizing the scoring of the applications in this Region, and place these materials in the applicant's file for review by the TDHCA Board as allocations are finalized and approved.

Please feel free to call me if you have any questions.

Very truly yours,



Robert H. Voelker

c: Raquel Morales (via email Raquel.morales@tdhca.state.tx.us)

Enclosures

Application Challenges

Main Street Commons – Taylor, TX

TDHCA # 11077

05-16-11 10:35
CWD

Community Revitalization Plan (3 points)

The Main Street Commons application claims 3 points in Volume 4 Tab 13 for a development located within an area covered by a Community Revitalization Plan. According to Exhibit page 4 of the 2011 QAP as well as page 94 of the Procedures Manual, a Community Revitalization Plan “targets specific geographic areas for revitalization and development of residential developments”. Per application instructions in order to claim points under this category the applicant must provide “a letter from the Appropriate Local Official stating there is a **Community Revitalization Plan** in effect and the Development is within the area covered by the plan”; however, the plan that was submitted by Main Street Commons and referenced by the community development director merely references the city Comprehensive Plan which is completely different from a **Revitalization Plan**. Furthermore, according to page 72 of the Procedures Manual, evidence must be submitted that shows “the **Community Revitalization Plan** has been adopted by the local Governing Body by ordinance, resolution or specific vote” and the only evidence provided references the Comprehensive Plan, not a **Community Revitalization Plan**. A comprehensive plan and a revitalization plan are two separate aspects of community planning. Comprehensive Plans are very general in nature and are adopted in almost all municipalities to express a municipality’s strategy to govern growth and achieve its economic development goals. A comprehensive plan serves as a guide for a wide range of issues, including making land use changes, preparation of capital improvement programs, and the rate, timing, and location of future growth, and is based upon establishing long-term goals and objectives to guide the future growth of a city. In contrast to the broad scope of a comprehensive plan, a **Revitalization Plan** is a distinct plan that is adopted by a municipality that specifically describes in detail a community’s intention for revitalization and redevelopment of land within the project area in order to eliminate blight and remedy the conditions that caused it. In accordance with page 16 and 17 of the QAP regarding the Administrative Deficiency Process “For exhibits and other information required under §49.9 of this chapter (relating to Selection Criteria) not originally submitted in the Application (i.e. Community Revitalization Plan or letter from Appropriate Local Official missing entirely from the Application) staff will not award points for that item, even if points were requested in the Applicant's Self Scoring Form”.

PLEASE SEE EXHIBIT A FOR DOCUMENTATION RELATING TO COMMUNITY REVITALIZATION

Leveraging of Private, State and Federal Resources (1point)

Under Volume 4 Tab 26 Main Street Commons claimed 1 point for the leveraging of private resources by way of a \$210,700 loan from a private individual, Jon Jessup. In order to claim these points the applicant must submit evidence of the funds which is defined on page 77 of the HTC Procedures manual as a “Commitment of funds or an Application for funding and letter from the funding entity indicating that the application was received” and “should include the amount and terms of the proposed funding”. As evidence of these funds Main Street Commons presented a letter from the private individual that was proposing to provide the loan.

This letter merely states that the "term of the loan will be for at least one year or until the placed in service date, whichever is longer, and the terms will be AFR at the time of closing should the application receive an award from TDHCA". However, per Page 2 in the Rules Manual, a commitment is defined as "A *legally binding* written contract, *setting forth the terms and conditions* under which housing tax credits, loans, grants or other sources of funds or financial assistance will be made available". Since the applicant merely provided a statement from the individual to TDHCA and the letter is not directed to the applicant, this statement that a loan for private funds is available to the project is clearly not a *legally binding written contract*, and therefore does not fit the requirements of the evidence requested for this point category. Without a \$210,700 loan the applicant cannot claim the 1 point in this category, and furthermore, this application becomes financially infeasible.

PLEASE SEE EXHIBIT B FOR DOCUMENTATION RELATING TO LEVERAGING OF PRIVATE, STATE and FEDERAL RESOURCES

3rd PARTY FUNDING COMMITMENT OUTSIDE OF QUALIFIED CENSUS TRACTS (1 point)

In Volume 4 Tab 27 Main Street Commons has claimed 1 point for 3rd party funding, by using the private loan of \$210,700 that was used to score in a separate point category in Tab 4 Volume 26. According to page 77 of the Procedures Manual in order to claim this point the applicant must "Provide evidence that the Development has received a commitment (an application alone will not suffice) for Third-Party funding and the Development is not inside a Qualified Census Tract. Again, the evidence provided does is not a *commitment of funds* as defined by TDHCA and is ineligible for this point.

PLEASE SEE EXHIBIT C FOR DOCUMENTATION RELATING TO THIRD-PARTY FUNDING COMMITMENTS OUTSIDE OF QUALIFIED CENSUS TRACTS

HOME Match Requirement (Required for HOME Funds – 18 points)

Included in the Main Street Commons application is an application for a HOME Loan of \$1,000,000 at 2% interest. Per the HOME rules, the applicant must show matching funds in the amount of 2% of the HOME loan amount provided by a 3rd party, and according to page 53 of 58 in the HOME Rule Manual, "*No person that would benefit from the award of HOME funds has provided a source of Match...*". In Volume 7 Tab 8 Main Street Commons states that these Match Funds will be provided by S2A Development Consulting, LLC through the donation of \$20,000 worth of services including "assembling and filing the HOME application, site monitoring and other development consulting services typically provided by our company". S2A Development Consulting, LLC is listed as part of the development team in Volume 1 Tab 1 Part A and Volume 1 Tab 6 and will receive a fee of \$150,000 for their services (as shown in the development cost schedule in Volume 1 Tab 3). As the development consultant, S2A Development Consulting, LLC would be ineligible to provide the required Match as not only are they considered to be a member of the development team that is applying for the HOME Loan, but they also have an obvious interest and would benefit substantially from the award of HOME funds through the \$150,000 fee that they are budgeted to receive. Absent an award of HOME funds, the Main Street Commons application would become financially infeasible and S2A Consulting, LLC would not receive the \$150,000 fee. In addition, TDHCA has historically considered donations from consultants as ineligible for HOME Match purposes. According to page 30 of the 2005 MATCH Guide (the latest available), the "Match

must originate from a source other than the project owner, developer, consultant or building contractor, and although “the value of donated volunteer labor, including professional services,...may be counted... This excludes building contractors or consultants who are under contract or seeking a contract to donate skilled or unskilled labor to a HOME-funded Contract Administrator”. Therefore S2A, in its position as a consultant for this project would be ineligible to provide the required Match. Furthermore, the attached Questions & Answers from TDHCA states that “Administration fees are not considered eligible match” and explains further that “Consultant fees are considered Administration fees and cannot be considered eligible match in assisting an applicant with a HOME award”.

PLEASE SEE EXHIBIT D FOR DOCUMENTATION RELATING TO THE HOME MATCH REQUIREMENT

Bond Fees

Under Volume 1 Tab 3 Part A Development Cost Schedule the Main Street commons application lists a fee of \$255,367 for “Credit Enhancement Fees” as well as \$61,803 for “Bond Premium”. These fees indicate that revenue from a bond issuance will be included as a source for this development, however, there is no mention of bond financing in the sources in the funding request under Volume 1 Tab 1, nor are bond financing proceeds mentioned in the summary of sources and financing narrative in Volume 1 Tab 4. If financing from a bond issuance will be included as a source of funds (as the \$317,000 in fees related to bond activity indicate), the corresponding financing commitments have not been included with the original application, and therefore according to page 16 of the QAP the Application will be recommended for termination. Furthermore, the \$255,367 as shown for Credit Enhancement Fees is included in eligible basis which generates \$29,877 in credits. Removing this Credit Enhancement Fee, and the resulting eligible basis amount and tax credits attributable to it, results in an unbalanced sources and uses, and therefore makes this project financially infeasible.

PLEASE SEE EXHIBIT F FOR DOCUMENTATION RELATING TO THE BOND FEES SHOWN

Threshold Criteria – Financing Requirements

Under Section 49.8 of the QAP (relating to Threshold Criteria), there are a number of items that are considered “mandatory requirements that must be submitted at the time of application submission”. According to the Threshold Criteria, page 34 of the QAP states the applicant must “provide a term sheet or letter of commitment from a syndicator that, at a minimum provides an estimate of the amount of equity dollars expected to be raised for the Development in conjunction with the amount of Housing Tax Credits requested for allocation to the Development Owner, including any pay-in schedules, anticipated developer fees paid during construction and anticipated deferred developer fees...”. In the “Sources and Uses” and “Financing Narrative” sections of Volume 1 Tab 4, as well as Volume 1 Tab 6 “Development Team” portion of the Main Street Commons application, Red Stone Equity Partnerships, LLC is listed as the Tax Credit Syndicator. However, through a review of the Main Street Commons Application we could not locate the required letter of intent or commitment from Red Stone Equity Partnerships, LLC or any other syndicator. In accordance with the Administrative Deficiency Process outlined on pages 16 and 17 of the QAP “if exhibits and other information required under Section 49.8 of this chapter (relating to Threshold Criteria) are not originally submitted in the

Application (i.e. financing commitment missing entirely from the Application) staff will recommend termination of the Application".

PLEASE SEE EXHIBIT G FOR DOCUMENTATION RELATING TO THRESHOLD CRITERIA & FINANCING REQUIREMENTS

Quantifiable Community Participation/Neighborhood Organization Support

Section 49.8(5)(K) of the Qualified Allocation Plan requires that the applicant submit "a certification that the Applicant, Developer, or an employee or agent of the Applicant has not formed a Neighborhood Organization for purposes of §49.9(a)(2) of this chapter ... " The applicant submitted this certificate in its application under Volume 1, Tab 5. Additionally, under §49.9(a)(2)(A)(v), the applicant is required to submit with the application "documentation showing that the organization is on record with the state or county in which the development is proposed to be located." Although the submission of the QCP form that meets the requirements of this subsection constitutes being on record with the State, the QCP form requires "evidence of the organization's existence (ex. bylaws, newsletter, minutes, etc.).

The applicant claimed 24 Neighborhood Organization support points for the support of the Main Street Neighborhood Organization pursuant to the "Form For Qualified Neighborhood Organizations to Submit to TDHCA for Quantifiable Community Participation". However:

1. As of the date of the pre-application this organization did not exist (see Tab 9 of the pre-application, enclosed).
2. Per Deby Lannen, Main Street Manager for the City of Taylor, she is not aware of the "Main Street Neighborhood Organization" and "anything of that sort I hope I would have been involved in." Furthermore, per Jim Dunaway, City Manager of the City of Taylor, the organization was formed at a meeting on February 9, 2011, conducted by Jason Seale (the current landowner) and a representative of Herman Kittle, who explained the project and went over the development plans. Mr. Dunaway said "the only function was to show TDHCA that the neighbors had no problem with the application" and the organization was formed after the presentation.
3. The only "evidence of the organization's existence" provided to TDHCA was minutes of the February 9, 2011 meeting.

It is readily apparent that (i) the Main Street Neighborhood Organization was formed solely for purposes of §49.9(a)(2) of the Qualified Allocation Plan, (ii) the City of Taylor only became aware of the organization after the pre-application and the organization serves no purpose other than facilitating the attempt to score points for Neighborhood Organization support, which is particularly evident when the City has a Main Street Manager that is not even aware that the Main Street Neighborhood Organization exists, and (iii) mere minutes of a meeting of a group of people does not constitute evidence of the existence of an organization, such that the organization is not "on record" with TDHCA. Furthermore, the certifications by applicant, to the effect that the applicant has not formed the neighborhood organization for purposes of §49.9(a)(2) is erroneous. For the foregoing reasons, the application should not score the 24 points for Neighborhood Organization support.

PLEASE SEE EXHIBIT H FOR DOCUMENTATION RELATING TO QUANTIFIABLE COMMUNITY PARTICIPATION/NEIGHBORHOOD ORGANIZATION SUPPORT

EXHIBIT A

Community Revitalization Plan

COMMUNITY REVITALIZATION or HISTORIC PRESERVATION (§49.9(a)(13))

The Application proposes:

- Community Revitalization** - the Development includes the use of an Existing Residential Development and proposes any Rehabilitation or any Reconstruction that is part of a Community Revitalization Plan. (§42(m)(1)(C)(iii))
Evidence to be provided to satisfy this requirement:

- Volume 2, Tab 1, Part B- 2011 Existing Residential Development Certification Form* is present in Volume 2, and is fully executed.

AND

- A letter from the Appropriate Local Official stating there is a Community Revitalization Plan in effect and the Development is within the area covered by the plan.

If the Applicant is unable to obtain a letter from an Appropriate Local Official, then the following must be provided:

- If the Community Revitalization Plan has specific boundaries, a copy of the Plan adopted by the jurisdiction or its designee and a map showing that the Development is within the area covered by the Community Revitalization Plan.

- Historic Preservation** - The Development includes the use of an existing building that is designated as historic by a federal or state Entity and proposes Rehabilitation (including Reconstruction) or Adaptive Reuse.

Evidence to be provided includes:

- The Development includes* the use of an existing building that is designated as historic by a federal or state entity and proposes Rehabilitation (including reconstruction) or Adaptive Reuse.
- Proof of the historic designation from the appropriate Governmental Body is included.
- Letter from the Texas Historical Commission indicating the effect of the proposed rehabilitation on historical structure is included.

*The Development itself must have the designation; points in this subparagraph are not available for Developments simply located within historic districts or areas that do not have a designation on the building. The Development must include the historic building.

- Rehabilitation** - Application proposes to build solely Rehabilitation.
- Reconstruction** - Application proposes to build solely Reconstruction.
- Adaptive Reuse** - Application proposes to build solely Adaptive Reuse.
- New Construction** - the Development is New Construction and is proposed to be located in an area that is part of a Community Revitalization Plan.

Evidence to be provided includes one of the following:

Evidence to be provided to satisfy this requirement:

- A letter from the Appropriate Local Official stating there is a Community Revitalization Plan in effect and the Development is within the area covered by the plan.

If the Applicant is unable to obtain a letter from an Appropriate Local Official, then the following must be provided:

- If the Community Revitalization Plan has specific boundaries, a copy of the Plan adopted by the jurisdiction or its designee and a map showing that the Development is within the area covered by the Community Revitalization Plan.



REMEMBER TO PLACE YOUR EVIDENCE BEHIND THIS FORM



February 2, 2011



Michael A. Roderer
Senior Development Associate
Herman & Kittle Properties, Inc.
500 E. 96th Street, Suite 300
Indianapolis, IN 46240

RE: Main Street Commons

Dear Mike:

The City of Taylor understands you are proposing to develop approximately 2.8 acres of land located on the east side of N. Main Street approximately 450 feet south of its intersection with Carlos G Parker Blvd NW, located within the limits of the City of Taylor, as a multifamily residential apartment community for retirees and the elderly consisting of 75 units generally referred to as Main Street Commons.

As you are aware, the City of Taylor adopted a Comprehensive Plan in 2004, which encompasses the limits of the City of Taylor and its extraterritorial jurisdiction. Ordinance 2004-27, which evidences the adoption of this plan is included herewith for your reference. Chapter 5 of the 2004 Comprehensive Plan addresses the City's housing needs. Main Street Commons will meet two objectives of the City's Comprehensive Plan relative to housing. First, it will result in the demolition of two dilapidated residential structures currently located on the subject property, which will contribute positively to the overall revitalization and development trends of the surrounding area. Secondly, it will provide high-quality housing opportunities for retirees and the elderly.

Please don't hesitate to contact me if I can be of further assistance or provide additional information regarding the City of Taylor 2004 Comprehensive Plan.

Regards,

Bob van Til, AICP, CEcD
Community Development Director
City of Taylor
512-352-5990 x 16

- (i) an Applicant or Related Party; and
 - (ii) any Person who is:
 - (I) active in the construction, rehabilitation, ownership, or Control of the proposed Development, including:
 - (-a-) a General Contractor; and
 - (-b-) a Developer; and
 - (-c-) a General Partner, Principal or Affiliate of a General Partner or General Contractor; or
 - (II) employed as a consultant, lobbyist, or attorney by an Applicant or a Related Party.
- (B) During the period beginning on the first date of the Application Acceptance Period and ending on the date the Board makes a final decision with respect to the approval of any Application in that Application Round, an employee of the Department may communicate about any Application with the following Persons:
- (i) the Applicant or a Related Party; and
 - (ii) any Person who is:
 - (I) active in the construction, rehabilitation, ownership, or Control of the proposed Development, including:
 - (-a-) a General Partner or General Contractor; and
 - (-b-) a Developer; and
 - (-c-) a Principal or Affiliate of a General Partner or General Contractor; or
 - (II) employed as a consultant, lobbyist or attorney by the Applicant or a Related Party.
- (C) A communication under paragraph (2) of this subsection may be oral or in any written form, including electronic communication through the Internet, and must satisfy the following conditions:
- (i) the communication must be restricted to technical or administrative matters directly affecting the Application;
 - (ii) the communication must occur or be received on the premises of the Department during established business hours; and
 - (iii) a record of the communication must be maintained and included with the Application for purposes of Board review and must contain the following information:
 - (I) the date, time, and means of communication;
 - (II) the names and position titles of the Persons involved in the communication and, if applicable, the Person's relationship to the Applicant;
 - (III) the subject matter of the communication; and
 - (IV) a summary of any action taken as a result of the communication.
- (D) Notwithstanding subparagraph (A) or (B) of this paragraph, a Board member or Department employee may communicate without restriction with a Person listed in subparagraph (A) or (B) of this paragraph during any Board meeting or public hearing held with respect to the Application, but not during a recess or other non-record portion of the meeting or hearing.
- (E) Subparagraph (A) of this paragraph does not prohibit the Board from participating in social events at which a Person with whom communications are prohibited may, or will be present, provided that all matters related to Applications to be considered by the Board will not be discussed.
- (2) **Administrative Deficiency Process.** The purpose of the Administrative Deficiency process is to allow the Applicant an opportunity to provide clarification or correction to information originally submitted in the Application. For example, if exhibits and other information required under §49.8 of this chapter (relating to Threshold Criteria) are not originally submitted in the Application (i.e. financing commitment missing entirely from

the Application) staff will recommend termination of the Application. However, for information missing in part from the Application (i.e. financing commitment is submitted but it is not executed by the lender) staff will request the missing or corrected information via an Administrative Deficiency. For exhibits and other information required under §49.9 of this chapter (relating to Selection Criteria) not originally submitted in the Application (i.e. Community Revitalization Plan or letter from Appropriate Local Official missing entirely from the Application) staff will not award points for that item, even if points were requested in the Applicant's Self Scoring Form. For information missing in part from the Application (i.e. the letter from the Appropriate Local Official does not include all required information) staff will request the missing information via an Administrative Deficiency and award points provided the information submitted in response to the Administrative Deficiency is satisfactory to the Department.

- (A) **Administrative Deficiencies for Applications submitted under the State Housing Credit Ceiling and Rural Rescue Applications.** If an Application contains Administrative Deficiencies which, in the determination of the Department staff, require clarification or correction of information submitted at the time of the Application, the Department staff may request clarification or correction of such Administrative Deficiencies. Because the review for Eligibility, Selection, Threshold Criteria, Quantifiable Community Participation (QCP) and review for financial feasibility by the Department's Real Estate Analysis Division may occur separately, Administrative Deficiency requests may be made during any of these reviews. The Department staff will request clarification or correction in a deficiency notice in the form of an e-mail, or if an e-mail address is not provided in the Application, by facsimile, and a telephone call (only if there has not been confirmation of the receipt of the e-mail within twenty-four (24) hours) to the Applicant and one other party identified by the Applicant in the Application advising that such a request has been transmitted. If Administrative Deficiencies are not clarified or corrected to the satisfaction of the Department by 5:00 p.m. on the fifth business day following the date of the deficiency notice, then five (5) points shall be deducted from the Selection Criteria score for each additional day the deficiency remains unresolved. If Administrative Deficiencies are not clarified or corrected by 5:00 p.m. on the seventh business day following the date of the deficiency notice, then the Application shall be terminated. The time period for responding to a deficiency notice begins at the start of the business day following the deficiency notice date. Deficiency notices may be sent to an Applicant prior to or after the end of the Application Acceptance Period. An Applicant may not change or supplement any part of an Application in any manner after the filing deadline, and may not add any Set-Asides, increase the requested credit amount, revise the Unit mix (both income levels and bedroom mixes), or adjust their self-score except in response to a direct request from the Department as a result of an Administrative Deficiency or by approved amendment of an Application after a commitment or allocation of tax credits as further described in §49.13(b) of this chapter (relating to Board Reevaluation) (§2306.6708). This Administrative Deficiency process applies to requests for information made by the Real Estate Analysis Division during their review. To the extent that the review of Administrative Deficiency documentation during the review alters the score assigned to the Application, Applicants will be re-notified of their final score.
- (B) **Administrative Deficiencies for Tax Exempt Bond Applications.** If an Application contains deficiencies which, in the determination of the Department staff, require clarification or correction of information submitted at the time of the Application, the Department staff may request clarification or correction of such Administrative Deficiencies. Because the review for Eligibility, Threshold Criteria, and review for financial feasibility by the Department's Real Estate Analysis Division may occur separately, Administrative Deficiency requests may be made during any of these

official pronouncements issued thereunder by the U.S. Department of the Treasury or the Internal Revenue Service (IRS).

- (7) **Certificate of Reservation**--The notice given by the Texas Bond Review Board (TBRB) to an issuer reserving a specific amount of the state ceiling for a specific issue of bonds.
- (8) **Community Revitalization Plan**--A published document under any name, approved and adopted by the local Governing Body or, if the Governing Body has lawfully assigned responsibility for oversight of communication or activities to a body created or sponsored by that Governing Body, the vote of the Governing Body so designated, by ordinance, resolution, or vote that targets specific geographic areas for revitalization and development of residential developments.
- (9) **Competitive Housing Tax Credits**--Tax credits available from the State Housing Credit Ceiling.
- (10) **Determination Notice**--A notice issued by the Department to the Development Owner of a Tax-Exempt Bond Development which specifies the Department's determination as to the amount of tax credits that the Development may be eligible to claim pursuant to §42(m)(1)(D) of the Code.
- (11) **Development Site**--The area, or if scattered site, areas, on which the Development is proposed to be located.
- (12) **Economically Distressed Area**--A county that contains an area that meets the criteria for an economically distressed area under §17.92(1), Texas Water Code, and has adopted and enforces the model rules under §16.343, Texas Water Code.
- (13) **Eligible Basis**--With respect to a building within a Development, the building's Eligible Basis pursuant to §42(d) of the Code.
- (14) **Existing Residential Development**--Any Development Site which contains existing residential Units at the time the Application is submitted to the Department.
- (15) **Housing Credit Allocation**--An allocation by the Department to a Development Owner for a specific Application of Housing Tax Credits in accordance with the provisions of this chapter.
- (16) **Housing Credit Allocation Amount**--With respect to a Development or a building within a Development, the amount the Department determines to be necessary for the financial feasibility of the Development and its viability as a Development throughout the affordability period which the Board allocates to the Development.
- (17) **Qualified Nonprofit Organization**--An organization that meets the requirements of Texas Government Code §2306.6706 and §2306.6729.
- (18) **Qualified Nonprofit Development**--A Development in which a Qualified Nonprofit Organization is to own an interest in the Development directly or through a partnership and materially participates (within the meaning of §469(h) of the Code) in the development and operation of the development throughout the Compliance Period.
- (19) **State Housing Credit Ceiling**--The aggregate amount of Housing Credit Allocations that may be made by the Department during any calendar year, as determined from time to time by the Department in accordance with applicable federal law, including §42(h)(3)(C) of the Code.
- (20) **Supportive Housing**--Residential rental developments intended for occupancy by individuals or households in need of specialized and specific non-medical services in order to maintain independent living.

- (24) Colonia**--A geographic Area that is located in a county some part of which is within 150 miles of the international border of this state, that consists of 11 or more dwellings that are located in close proximity to each other in an area that may be described as a community or neighborhood, and that:
- (A) Has a majority population composed of individuals and families of low-income and very low-income, based on the federal Office of Management and Budget poverty index, and meets the qualifications of an economically distressed Area under §17.921, Texas Water Code; or
 - (B) Has the physical and economic characteristics of a colonia, as determined by the Department.
- (25) Commitment**--A legally binding written contract, setting forth the terms and conditions under which housing tax credits, loans, grants or other sources of funds or financial assistance will be made available.
- (26) Community Revitalization Plan**--A published document under any name, approved and adopted by the local Governing Body or, if the Governing Body has lawfully assigned responsibility for oversight of communication or activities to a body created or sponsored by that Governing Body, the vote of the Governing Body so designated, by ordinance, resolution, or vote that targets specific geographic areas for revitalization and development of residential developments.
- (27) Comparable Unit**--A Unit, when compared to the subject Unit, similar in overall condition, location, unit amenities, utility structure, and common amenities, and:
- (A) for purposes of calculating the inclusive capture rate targets the same population and is likely to draw from the same demand pool;
 - (B) for purposes of estimating the Restricted Market Rent targets the same population and is similar in net rentable square footage and number of bedrooms; or
 - (C) for purposes of estimating the subject Unit market rent does not have any income or rent restrictions and is similar in net rentable square footage and number of bedrooms.
- (28) Competitive Housing Tax Credits**--Tax credits available from the State Housing Credit Ceiling.
- (29) Compliance Period**--Means with respect to any building, the period of 15 taxable years beginning with the 1st taxable year of the credit period.
- (30) Contract Rent**--Maximum rent limits based upon current and executed rental assistance contract(s), typically with a federal, state or local governmental agency.
- (31) Control (including the terms "Controlling," "Controlled by," and/or "under common Control with")**--The power or authority to manage, direct, superintend, restrict, regulate, govern, administer, or oversee. Controlling entities of a partnership include the general partners, special limited partners when applicable, but not investor limited partners. Controlling entities of a limited liability company include the managing members, and any members with 10% or more ownership of the limited liability company, and any members with authority similar to that of a general partner in a limited partnership. Multiple Persons may be deemed to simultaneously have control.

2011 HTC Procedures Manual

- ❖ **Volume 4, Tab 13. (V4 T13) Community Revitalization, Historic Preservation or Rehabilitation (Maximum 6 points)**
 - *Volume 2, Tab 1, Part B- 2011 Existing Residential Development Certification Form* must be present in Volume 2, and must be fully executed.
 - Community Revitalization
 - Submit a letter from the Appropriate Local Official stating that the Development Site is located within the area covered by the Community Revitalization Plan; or
 - Only if the Community Revitalization Plan has specific boundaries, a copy of the plan, adopted by the jurisdiction or its designee and a map showing that the Development is within the area covered by the Community Revitalization Plan.
 - Submit evidence that the Community Revitalization Plan has been adopted by the local Governing Body by ordinance, resolution or specific vote.
 - Historic Preservation
 - Developments proposing Rehabilitation (including Reconstruction) or Adaptive Reuse, which include the use of an existing building that is designated as historic by a federal or state Entity.
 - **The historic building itself must be part of the Development; points in this subparagraph are not available for Developments simply located within historic districts or areas that do not have a designation on the building. The Development must include the historic building.**
 - Submit proof of the historic designation from the appropriate Governmental Entity. As a resource, information regarding state and federal historic designations can be printed from the following site:
<http://atlas.thc.state.tx.us/index.asp>.
 - Developments proposing solely Rehabilitation (includes Reconstruction), solely Reconstruction or solely Adaptive Reuse.
 - New Construction Development proposed to be located in an area that is part of a Community Revitalization Plan (this item worth 3 points).
- ❖ **Volume 4, Tab 14. (V4 T14) Pre-Application Incentive Points (Maximum 6 points)**
 - To be eligible for Pre-Application Incentive Points the Applicant must be able to affirm the following:
 - The site under control is identical to or is a reduced portion of the site as proposed in the Pre-Application; and
 - The Application has met the Pre-Application Threshold Criteria as determined by the Department; and
 - A certification must be included as part of the exhibit, signed by the Principals who signed the site control at Pre-Application, confirming that they are the same Principals at Application; and
 - The Development must serve the same target population (general or elderly) as indicated in the Pre-Application; and



EXHIBIT B

Leveraging of Private, State and
Federal Resources

LEVERAGING OF PRIVATE, STATE AND FEDERAL RESOURCES (§49.9(a)(26))

Complete the following information for 1 point under §49.9(a)(26) of the 2011 QAP. Applicants may submit enough sources to substantiate the point request. For example, two sources may be submitted if each is for an amount equal to 1% of the Total Housing Development Cost.

The funding must be equal to or greater than 2% of the Total Housing Development Costs, without rounding, reflected in the Volume 1, Tab 3, Part A. Development Cost Schedule. In addition, the Volume 1, Tab 2, Part B. Rent Schedule must show that at least 3% of all low-income Units are designated to serve individuals or families with incomes at or below 30% AMGI.

IMPORTANT! Funding sources used for points under §49.9(a)(5) may be used for this point item but funding may not earn points twice. Funds committed must be enough so that both requests can be covered by the committed funds without counting any of the funds more than once.

Complete one form for each score. Use additional pages if necessary.

1. Name of Private, State or Federal Funding Entity: Jon Jessup

2. Funding Source. Refer to HTC Procedures Manual and 2011 QAP for specific requirements of each funding source. Check one box.

Loan

Source:	<u>Jon Jessup, private individual</u>	<u>\$210,700</u>
Source:	_____	_____
Source:	_____	_____

Total Loan Amount attributed to the Total Housing Development Costs: \$210,700

Grant

Source:	_____	_____
Source:	_____	_____
Source:	_____	_____

Total Grant Amount attributed to the Total Housing Development Costs: \$0

TDHCA HOME Funds
 TDHCA HOME funds will only qualify if there is a Notice of Funding Availability (NOFA) out for available funds and the Applicant is eligible under that NOFA.

Total Amount attributed to the Total Housing Development Costs: _____

In-kind Contribution
 For in-kind contributions, evidence must be submitted from a private, state or federal resource which substantiates the value of the in-kind contribution.

Source:	_____	_____
Source:	_____	_____
Source:	_____	_____

Total Amount attributed to the Total Housing Development Costs (from August 1, 2011 through Placed in Service date): \$0

Type of in-kind contribution: _____

LEVERAGING OF PRIVATE, STATE AND FEDERAL RESOURCES (§49.9(a)(26)) (cont.)

Development Based Rental Subsidy

Development based rental subsidies from private, state or federal resource may qualify under this section if evidence of the remaining value of the contract is submitted from the source. In this case, the value of the contract does not include past subsidies

Total Amount of Remaining Subsidy (August 1, 2011 through expiration of contract): _____

3. Evidence of Funding. One of the following must be submitted.

Copy of commitment of funds. The commitment must include a statement that the provider of funds is not the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application and that none of the funds committed were first provided to the entity by the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application, unless the Applicant itself is a Unit of General Local Government or Governmental Instrumentality.

Copy of the application to the funding entity and a letter from the funding entity indicating that the application was received. The Application should include the amount and terms of the proposed funding. For in-kind contributions and development based rental subsidies, a letter from the funding entity substantiating the anticipated value must be provided.



REMEMBER TO SUBMIT YOUR EVIDENCE BEHIND THIS FORM

- ❖ **Volume 4, Tab 25. (V4 T24) Developments Intended for Eventual Tenant Ownership – Right of First Refusal (Maximum 1 point)**
- ❖ **Volume 4, Tab 26. (V4 T26) Leveraging of Private, State, and Federal Resources (Maximum 1 point)**
 - Applicants may submit enough sources to substantiate the point request. For example, two sources may be submitted if each is for an amount equal to 2% of the Total Housing Development Cost (do not round).
 - Funding sources used for points under §49.9(a)(5) may be used for this point item but funding may not earn points twice. Funds committed must be enough so that both requests can be covered by the committed funds without counting any of the funds more than once.
 - The funding must be a loan, grant, in-kind contribution, or development based rental subsidy from a federal, state or private source in addition to the primary funding (construction and permanent loans) that is proposed to be utilized and cannot be from the same source or an affiliated source. Qualifying funds awarded through local entities may qualify points if the original source of the funds is from a private, state, or federal source and a statement from the local entity is provided that attests that the original source of funds is from a private, state, or federal source and identifies the original source of funds.
 - Funding must be equal to or greater than 2% (do not round) of the Total Housing Development Costs reflected in *Volume 1, Tab 3 Part A. Development Cost Schedule*.
 - *Volume 1, Tab 2 Part B. Rent Schedule* must show that at least 3% (do not round) of all low-income Units are designated to serve individuals or families with incomes at or below 30% of AMGI.
 - All funding, including in-kind contributions (except Development Based Rental Subsidies), must be reflected in the *Volume 1, Tab 4, Part A. Summary Sources and Uses* form, the and *Volume 1, Tab 4, Financing Narrative*.
 - Only enough sources to substantiate the points requested may be submitted, and all submitted sources must be shown on the *Volume 1, Tab 4, Part A. Summary Sources and Uses of Funds*. Do not submit more sources than are needed for points.
 - Eligible Funding Sources include:
 - Loans and Grants (including Capital Grant Funds and HOPE VI funds)
 - Must be reflected on *Volume 1, Tab 4, Part A. Summary Sources and Uses of Funds* form, and *Volume 1, Tab 4, Financing Narrative*.
 - Must be in addition to the primary funding and cannot be issued from the same primary funding source, or an affiliated source, as the primary funding.
 - TDHCA HOME or Housing Trust Fund
 - Only eligible if a NOFA is released and HOME or HTF funds are available.
 - Must be reflected on *Volume 1, Tab 4, Part A. Summary Sources and Uses of Funds* form, and *Volume 1, Tab 4, Financing Narrative*.
 - In-kind Contributions
 - Evidence from the funding entity that substantiates the value of the contribution must be provided.
 - Must be reflected on *Volume 1, Tab 4, Part A. Summary Sources and Uses of Funds* form, and *Volume 1, Tab 4, Financing Narrative*.
 - Development Based Rental Subsidies

- Evidence of the remaining value of the contract, from the funding source, must be submitted. If a signed contract is submitted, the remaining value of the subsidies must be evident. It must also be evident that the contract does not include past subsidies.
- One of the following must be submitted:
 - Commitment of funds. The commitment must include a statement that the provider of funds is not the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application and that none of the funds committed were first provided to the entity by the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application, unless the Applicant itself is a Unit of General Local Government; or
 - Application for funding and letter from the funding entity indicating that the application was received. The application should include the amount and terms of the proposed funding.
 - Funding must have already been applied for using the funding institution's application and normal process.
- ❖ **Volume 4, Tab 27. (V4 T27) Third Party Funding Outside of Qualified Census Tracts (Maximum 1 point)**
 - Provide evidence that the Development has received a commitment (an application alone will not suffice) for Third-Party funding and the Development is not inside a Qualified Census Tract. The provider of the funds must attest to the fact that they are not the Applicant, Developer, Consultant, Related Party or any individual or entity acting on behalf of the Application and attest that none of the funds committed were first provided to the entity by the Applicant, Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application. The Development also must have 10% of its Units restricted at 30% AMGI or less for rent and income and the commitment of funds must be equal to or greater than 2% (do not round) of the Total Development Costs. TDHCA HOME and Housing Trust Fund sources will not qualify for points and funding sources and amounts used for points under §49.9(a)(5) may not be used for this point item.
- ❖ **Volume 4, Tab 28. (V4 T28) Scoring Criteria Imposing Penalties**
 - §49.9(a)(28)(A) – Applicants that request extensions for submitting the Carryover Allocation Agreement and/or 10% Test packages will have five points deducted from their Application scores for each extension request made.
 - A five-point deduction will be made for each Carryover Allocation extension and a five-point deduction will be made for each 10% Test extension requested. The penalty will be calculated and assessed based on the 2011 Application Round. Penalties will NOT be imposed for extensions that were requested on Developments that involved Rehabilitation when the Department is the primary lender, or for Developments that involve TRDO-USDA as a lender if TRDO-USDA or the Department is the cause for the Applicant not meeting the deadline.
 - No documentation is required behind the tab for this penalty item.
 - §49.9(a)(30)(C) – Penalties will be imposed on an Application if a Developer or Principal of the Applicant violates §49.12(a) relating to Adherence to Obligations.

- (24) **Colonia**--A geographic Area that is located in a county some part of which is within 150 miles of the international border of this state, that consists of 11 or more dwellings that are located in close proximity to each other in an area that may be described as a community or neighborhood, and that:
- (A) Has a majority population composed of individuals and families of low-income and very low-income, based on the federal Office of Management and Budget poverty index, and meets the qualifications of an economically distressed Area under §17.921, Texas Water Code; or
 - (B) Has the physical and economic characteristics of a colonia, as determined by the Department.
- (25) **Commitment**--A legally binding written contract, setting forth the terms and conditions under which housing tax credits, loans, grants or other sources of funds or financial assistance will be made available.
- (26) **Community Revitalization Plan**--A published document under any name, approved and adopted by the local Governing Body or, if the Governing Body has lawfully assigned responsibility for oversight of communication or activities to a body created or sponsored by that Governing Body, the vote of the Governing Body so designated, by ordinance, resolution, or vote that targets specific geographic areas for revitalization and development of residential developments.
- (27) **Comparable Unit**--A Unit, when compared to the subject Unit, similar in overall condition, location, unit amenities, utility structure, and common amenities, and:
- (A) for purposes of calculating the inclusive capture rate targets the same population and is likely to draw from the same demand pool;
 - (B) for purposes of estimating the Restricted Market Rent targets the same population and is similar in net rentable square footage and number of bedrooms; or
 - (C) for purposes of estimating the subject Unit market rent does not have any income or rent restrictions and is similar in net rentable square footage and number of bedrooms.
- (28) **Competitive Housing Tax Credits**--Tax credits available from the State Housing Credit Ceiling.
- (29) **Compliance Period**--Means with respect to any building, the period of 15 taxable years beginning with the 1st taxable year of the credit period.
- (30) **Contract Rent**--Maximum rent limits based upon current and executed rental assistance contract(s), typically with a federal, state or local governmental agency.
- (31) **Control (including the terms "Controlling," "Controlled by," and/or "under common Control with")**--The power or authority to manage, direct, superintend, restrict, regulate, govern, administer, or oversee. Controlling entities of a partnership include the general partners, special limited partners when applicable, but not investor limited partners. Controlling entities of a limited liability company include the managing members, and any members with 10% or more ownership of the limited liability company, and any members with authority similar to that of a general partner in a limited partnership. Multiple Persons may be deemed to simultaneously have control.

EXHIBIT C

**3rd PARTY FUNDING
COMMITMENT OUTSIDE OF
QUALIFIED CENSUS TRACTS**

THIRD-PARTY FUNDING COMMITMENT OUTSIDE OF QUALIFIED CENSUS TRACTS (§49.9(a)(27))

Complete the following information for 1 point under §49.9(a)(27) of the 2011 QAP. Use additional pages if necessary. For all sources, submit the funding commitment behind this tab. All sources must be included in the Volume 1, Tab 4, Part A. Summary of Sources and Uses form and Volume 1, Tab 4, Part B. Financing Narrative. Funding must equal at least 2% of the Total Housing Development Costs, without rounding, reflected in the Volume 1, Tab 3, Part A. Development Cost Schedule. The Development must be located outside a qualified census tract and have at least 10% of the units in the Development serving households at 30% AMGI or below. The funding source can not be a commercial lender. Funds from the Department's HOME and Housing Trust Fund sources are not eligible for these points.

Funding Source: Jon Jessup

Total Amount: \$210,700

Percentage of Development Cost: 2%

- Copy of commitment of funds is attached. The commitment must include a statement that the provider of funds is not the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application and that none of the funds committed were first provided to the entity by the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application.



REMEMBER TO SUBMIT EVIDENCE BEHIND THIS FORM

**Jon Jessup
111 Monument Circle
Chase Tower, Suite 4750
Indianapolis, Indiana 46204
Phone: (317) 713-2100; Fax: (317) 713-2103**

**Raquel Morales
TDHCA
PO Box 13941
Austin, TX 78701**

RE: Private Funding Commitment, TDHCA Application # 11077 Main Street Commons

Dear Ms. Morales:

Per the 2011 QAP (Section 49.9(a)(26)) please consider this to be a formal commitment of private funds to the above referenced application to be located in Taylor, TX. The commitment amount is \$210,700 or approximately 2 percent of the total development cost of the project. The repayment term of the loan is expected to last one year or until placed in service which ever is longer, the terms of which will be AFR at time of closing should the application receive an award from TDHCA.

Please note that I am not the Applicant, the Developer, Consultant, Related Party, or any individual acting on behalf of the proposed Application and that none of the funds that I have committed were first provided to me by the Applicant, the Developer, Consultant, Related party or any individual or entity acting on behalf of the proposed Application.

Sincerely,


Jon Jessup

- (24) Colonia**--A geographic Area that is located in a county some part of which is within 150 miles of the international border of this state, that consists of 11 or more dwellings that are located in close proximity to each other in an area that may be described as a community or neighborhood, and that:
- (A) Has a majority population composed of individuals and families of low-income and very low-income, based on the federal Office of Management and Budget poverty index, and meets the qualifications of an economically distressed Area under §17.921, Texas Water Code; or
 - (B) Has the physical and economic characteristics of a colonia, as determined by the Department.
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- (30) Contract Rent**--Maximum rent limits based upon current and executed rental assistance contract(s), typically with a federal, state or local governmental agency.
- (31) Control (including the terms "Controlling," "Controlled by," and/or "under common Control with")**--The power or authority to manage, direct, superintend, restrict, regulate, govern, administer, or oversee. Controlling entities of a partnership include the general partners, special limited partners when applicable, but not investor limited partners. Controlling entities of a limited liability company include the managing members, and any members with 10% or more ownership of the limited liability company, and any members with authority similar to that of a general partner in a limited partnership. Multiple Persons may be deemed to simultaneously have control.

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- One of the following must be submitted:
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 - Application for funding and letter from the funding entity indicating that the application was received. The application should include the amount and terms of the proposed funding.
 - Funding must have already been applied for using the funding institution's application and normal process.
- ❖ **Volume 4, Tab 27. (V4 T27) Third Party Funding Outside of Qualified Census Tracts (Maximum 1 point)**
 - Provide evidence that the Development has received a commitment (an application alone will not suffice) for Third-Party funding and the Development is not inside a Qualified Census Tract. The provider of the funds must attest to the fact that they are not the Applicant, Developer, Consultant, Related Party or any individual or entity acting on behalf of the Application and attest that none of the funds committed were first provided to the entity by the Applicant, Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application. The Development also must have 10% of its Units restricted at 30% AMGI or less for rent and income and the commitment of funds must be equal to or greater than 2% (do not round) of the Total Development Costs. TDHCA HOME and Housing Trust Fund sources will not qualify for points and funding sources and amounts used for points under §49.9(a)(5) may not be used for this point item.
- ❖ **Volume 4, Tab 28. (V4 T28) Scoring Criteria Imposing Penalties**
 - §49.9(a)(28)(A) – Applicants that request extensions for submitting the Carryover Allocation Agreement and/or 10% Test packages will have five points deducted from their Application scores for each extension request made.
 - A five-point deduction will be made for each Carryover Allocation extension and a five-point deduction will be made for each 10% Test extension requested. The penalty will be calculated and assessed based on the 2011 Application Round. Penalties will NOT be imposed for extensions that were requested on Developments that involved Rehabilitation when the Department is the primary lender, or for Developments that involve TRDO-USDA as a lender if TRDO-USDA or the Department is the cause for the Applicant not meeting the deadline.
 - No documentation is required behind the tab for this penalty item.
 - §49.9(a)(30)(C) – Penalties will be imposed on an Application if a Developer or Principal of the Applicant violates §49.12(a) relating to Adherence to Obligations.

EXHIBIT D

HOME Match Requirement

Per the HOME Program Rule at 10 TAC §53.80, Match equal to 2% of the HOME award must be provided (except applications awarded under Persons with Disabilities Set-Aside or applications financed with USDA 515 funds). To the extent that Match in the amount of 5% of the HOME award is provided, the interest rate may be adjusted to as low as 0%; otherwise, the interest rate will be as low as 2%.

Indicate the amount of Match funds provided and the source in the appropriate spaces in the table below. Provide supporting documentation in the form of firm commitments from the source of the matching funds. If a property tax abatement is pledged as Match, include a letter from the appropriate appraisal district documenting a specific cash value and duration for the abatement.

TYPE OF MATCH PLEDGED	Pledged Amount	Source of Funds
Non-Federal Grants	\$	
Waived, foregone or deferred fees and charges (ex: debris removal and container fees, tap fees, building permits, other mandatory fees charged by the local municipality) CANNOT INCLUDE DEVELOPER FEES	\$	
Below-Market Financing**	\$	
Property Tax Abatement**	\$	
Donated Non-Professional Labor	\$	
Donated Professional Labor	\$ 20,000	S2A Development Consulting, LLC
Non-Federally Funded Infrastructure	\$	
Rental Value of Donated Use of Site Preparation or Construction Equipment	\$	
Donated Construction Materials	\$	
Donated Site Preparation	\$	
Donated Demolition Services	\$	
Donated Real Property	\$	
Total Value of Match Pledged:	\$ 20,000	
Percentage of Project Funds to be Matched (Total Value of Match /Project Funds Requested)	%2	

*Generally, a related party contribution to the development is not considered eligible Match. Please contact the Department for specific examples that are not provided in the following guidance.

**See following page for additional guidance and examples.



June 18, 2010

Mr. Chris Law, Administrator
Multifamily HOME Program
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701

Re: Donated Consulting Services for Main Street Commons

Dear Mr. Law:

In accordance with the HOME program rules regarding the value of donated services counted as match for a TDHCA HOME award, S2A Development Consulting agrees to donate services valued at \$20,000 to the Main Street Commons project. These services may include assembling and filing the HOME application, site monitoring, and other development consulting services typically provided by our company. If awarded HOME funds, we will develop a formal service agreement that outlines in detail the scope of work to be performed by our company and the value of these services.

If you have any questions or require clarification, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sarah', with a long horizontal flourish extending to the right.

Sarah H. Andre

1305 EAST 6TH STREET STE 121 AUSTIN TX 78702 • P: (512) 698 3369 • F: (512) 233 2269 • SARAH@S2ADEVELOPMENT.COM

whichever is later. For release of retainage the down date endorsement must be dated at least thirty (30) days after the date of construction completion;

(2) For hard construction costs, documentation of the total construction costs incurred and costs incurred since the last disbursement of funds. Such documentation must be signed by the General Contractor and certified by the Development architect and is generally in the form of an AIA Form G702 or G703;

(3) If applicable, up to 50% of Project funds for an Activity may be drawn before providing evidence of Match. Thereafter, each CA or RSP must provide evidence of Match, including the date of provision, in accordance with the percentage of Project funds disbursed;

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

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

(6) Developer fee schedule. Disbursement of Developer fees will be conditioned as follows:

(A) For Developments in which the Loan is secured by a first lien deed of trust against the property, 75% shall be disbursed in accordance with percent of construction completed (i.e. 75% of the total allowable fee will be multiplied by the percent completion) as documented by the construction contract and as may be verified by an inspection by the Department and 25% shall be disbursed at the time that the property reaches an occupancy of 50% or at release of retainage, whichever is later; or

(B) For Developments in which the Loan is not secured by a first lien deed of trust or the Development is also utilizing Housing Tax Credits to finance development, Developer fees will not be reimbursed by the Department unless the other lenders and syndicator confirm in writing that they do not have an existing or planned agreement to govern the disbursement of Developer fees and expect that Department funds shall be used to fund Developer fees. Provided this requirement is met, developer fees shall be reimbursed in the same manner as described in subparagraph (A) of this paragraph; and

(C) The Department may reasonably withhold any disbursement of developer fees if it is determined that is not progressing as necessary to meet Contract benchmarks or that cost overruns may put the Department's funds or completion within budget at risk. Once a reasonable alternative that is deemed acceptable by the Department has been provided, disbursement of the remaining fee may occur;

Page 53 of 58

NOTE: This copy of 10 TAC Chapter 53, "State HOME Program Rule" is for reference purposes only. All final determinations are subject to the rule as published on the Texas Secretary of State website at http://info.sos.state.tx.us/pls/pub/readtac?ext=ViewTAC?tac_view=3&tl=10&pt=1

PART A. ACTIVITY OVERVIEW

1. Multifamily Rental Development Name and Location

Development Name: Main Street Commons Region: 7
 Address: East side of Main Street, South of Carlos Parker
 City: Taylor County: Williamson ZIP: 76574-0000
 If a Pre-Application was submitted, enter TDHCA assigned Development number: 11077

2. Target Population (Select by Placing a "x"):

General Supportive Housing
 Elderly

3. Construction Type (Select Only One by Placing a "x"):

New Construction Adaptive Reuse
 Rehabilitation Single Room Occupancy
 Reconstruction

PART B. APPLICANT INFORMATION

Provide the contact information of the Applicant's staff person who is responsible for Application and contract administration. This primary contact will not be the consultant or the end service provider.

1. Applicant Contact Information

Applicant Legal Name: Main St Commons Senior, L.P.
 Applicant Contact Name: Michael Roderer
 Mailing Address: 508 East 96th Street, Suite 300
 City: Indianapolis State: IN Zip: 46240
 Phone: 317-663-6818 Fax: 317-663-6819 Email: mroderer@hemankittle.com

If Applicant's "Physical Address" is different from the "Mailing Address," provide physical address below:

Physical Address: NA
 City: _____ State: _____ Zip: _____
 2nd Contact Name: Alyssa Carpenter
 Phone: (512) 789-1295 Fax: (512) 233-2269 Email: alcarsen@gmail.com

2. Applicant Legal Description

Is Applicant Legally formed? No
 Legal form of Applicant is/will be a (select only one): Limited Partnership
 Other Designation (select all that apply): N/A
 Applicant is in good standing with the Secretary of State? Yes State Filing #: to be filed

3. Application Technical Assistance and Capacity Building

Has the Applicant or its Principals received technical assistance or capacity building training for their organization in completing this Application or for the activity for which this Application is being made? Yes
 If "Yes" it was sponsored by: TDHCA
 If "Other Sponsor" provide name here: NA
 The activity was: Workshop
 If "Other" describe activity here: NA
 Was a Consultant or Administering Agent used to complete the Applicant? Yes
 If "Yes" provide Consultant/Agent Name here: S2A Development Consulting, LLC
 Phone: (512) 698-3369 Fax: (512) 233-2269 Email: aarah@s2adevelopment.com

DEVELOPMENT TEAM MEMBERS (continued)

Development Name: Main Street Commons Development City: Taylor

Supportive Services Provider: TBD
 Address: _____ City: _____ State: _____ Zip: _____
 Phone: _____ Fax: _____ Email: _____
 Proposed Fee: \$ _____ Entity is a Certified Texas HUB? _____
 This is a direct or indirect, financial, or other interest with Applicant or other team members* _____

Supportive Services Provider: TBD
 Address: _____ City: _____ State: _____ Zip: _____
 Phone: _____ Fax: _____ Email: _____
 Proposed Fee: \$ _____ Entity is a Certified Texas HUB? _____
 This is a direct or indirect, financial, or other interest with Applicant or other team members* _____

Supportive Services Provider: TBD
 Address: _____ City: _____ State: _____ Zip: _____
 Phone: _____ Fax: _____ Email: _____
 Proposed Fee: \$ _____ Entity is a Certified Texas HUB? _____
 This is a direct or indirect, financial, or other interest with Applicant or other team members* _____

Application Consultant or Admin Agent Name: S2A Development Consulting, LLC
 Address: 1305 East 6th, Suite 12 City: Austin State: TX Zip: 78702
 Phone: (512) 698-3369 Fax: (512) 233-2269 Email: sarah@s2adevelopment.com
 Proposed Fee: \$ 150,000 Entity is a Certified Texas HUB? Yes
 This is a direct or indirect, financial, or other interest with Applicant or other team members* No

Other (Describe): NA
 Address: _____ City: _____ State: _____ Zip: _____
 Phone: _____ Fax: _____ Email: _____
 Proposed Fee: \$ _____ Entity is a Certified Texas HUB? _____
 This is a direct or indirect, financial, or other interest with Applicant or other team members* _____

Other (Describe): NA
 Address: _____ City: _____ State: _____ Zip: _____
 Phone: _____ Fax: _____ Email: _____
 Proposed Fee: \$ _____ Entity is a Certified Texas HUB? _____
 This is a direct or indirect, financial, or other interest with Applicant or other team members* _____

Other (Describe): NA
 Address: _____ City: _____ State: _____ Zip: _____
 Phone: _____ Fax: _____ Email: _____
 Proposed Fee: \$ _____ Entity is a Certified Texas HUB? _____
 This is a direct or indirect, financial, or other interest with Applicant or other team members* _____

* If there is a direct or indirect, financial, or other interest with Applicant or other team members, provide an attachment behind Volume 3, Tab 2 of the Application that explains the relationship(s).

TOTAL DEVELOPMENT SUMMARY			Expected Payee Taxpayer Identification Number (TIN) ¹ (and % of cost if item involves multiple payees)
Total Cost	Eligible Basis (if Applicable)		
	Acquisition	New/Rehab.	

DEVELOPMENT NAME:

Main Street Commons

City: Taylor

DIRECT CONSTRUCTION COSTS (Continued):

Furnishings	161,370	161,370	26-0002273
Special Construction	229,870	229,870	26-0002273
Conveying Systems (Elevators)	65,743	65,743	26-0002273
Mechanical (HVAC; Plumbing)	1,013,491	1,013,491	26-0002273
Electrical	395,804	395,804	26-0002273
Individually itemize costs below:			
Detached Community Facilities/Building			
Carports and/or Garages	28,668		26-0002273
Lead-Based Paint Abatement			
Asbestos Abatement			
Other (specify) - see footnote 2			
Other (specify) - see footnote 2			
Subtotal Direct Const. Costs	\$4,753,660	\$0	\$4,724,972

TOTAL DIRECT CONST. & SITE WORK

\$5,428,660	\$0	\$5,989,053
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OTHER CONSTRUCTION COSTS

General requirements (<6%)	6.00%	322,983	322,983	26-0002273
Field supervision (within GR limit)				
Contractor overhead (<2%)	2.00%	107,661	107,661	26-0002273
G & A Field (within overhead limit)				
Contractor profit (<6%)	6.00%	322,983	322,983	26-0002273
Contingency (<5%)	6.00%	269,153	269,153	26-0002273
Subtotal Ancillary Hard Costs		\$1,022,780	\$0	\$1,022,780

TOTAL DIRECT HARD COSTS

\$6,451,440	\$0	\$6,405,833
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INDIRECT CONSTRUCTION COSTS⁴

Architectural - Design fees	370,822	370,822	26-0002273
Architectural - Supervision fees	11,700	11,700	26-0002273
Engineering fees	92,303	92,303	TBD
Real estate attorney/other legal fees	45,000	29,500	26-0002273
Accounting fees	6,200	6,200	35-1760664
Impact Fees	138,635	138,635	TBD
Building permits & related costs	70,421	70,421	TBD
Appraisal	10,000	10,000	TBD
Market analysis	7,500	7,500	20-3964988
Environmental assessment	7,500	7,500	37-0862096
Soils report	10,000	10,000	TBD
Survey	7,000	7,000	TBD
Marketing			
Partnership Hazard & liability insurance	49,676	49,676	TBD
Real property taxes	19,438	19,438	TBD
Personal property taxes			
Tenant relocation expenses			
Other (specify) - see footnote 2			
Other (specify) - see footnote 2			
Subtotal Indirect Const. Cost	\$846,195	\$0	\$830,695

DEVELOPER FEES¹

Housing consultant fees ⁶	150,000		26-1099310
General & administrative			
Profit or fee	1,167,300	1,167,300	26-0002273
Subtotal Developer's Fees	\$1,317,300	\$0	\$1,167,300

14.76%

MATCH SOURCE: DONATED LABOR AND PROFESSIONAL SERVICES

BASICS

The value of donated or volunteer labor, including professional services, in connection with a HOME-assisted or HOME-eligible project may be counted as match. This excludes building contractors or consultants who are under contract or seeking a contract to donate skilled or unskilled labor to a HOME-funded Contract Administrator.

- This does not prohibit contractors who do not own any HOME project from contributing professional services.
- HUD will make the hourly labor rate for donated unskilled labor available annually. As of the Match Guide publication date, the rate was \$10 per hour.
- Skilled labor and professional services, such as those donated by a lawyer or accountant, will be valued at the rate normally charged by the entity providing the service.

SOURCES OF DONATED LABOR AND PROFESSIONAL SERVICES MATCH BY ACTIVITY

A cross reference chart combining all sources by program activity is provided in the Appendices.

Note: In all cases, proper documentation is required for eligibility. Match must originate from a source other than the project owner, developer, consultant, or building contractor.

Activity	Eligible	Not Eligible
CHDO – SF, CHDO – MF, HBA/ADDI, HBAR, RHD, OCC	<ul style="list-style-type: none"> • Skilled and unskilled labor, properly valued • Sweat equity valued as unskilled labor • Professional services from an architect, engineer or lawyer 	<ul style="list-style-type: none"> • Program administration services • Labor that is considered part of a competitive bid • Donation from any entity, including building contractors and <u>consultants</u>, who are under contract, or seeking a contract with, the Contract Administrator
TBRA	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Any source

DOCUMENTATION AND TIMING OF DONATED LABOR AND PROFESSIONAL SERVICES

When Match May Be Counted

Donations of labor and professional services may be counted as match at the time that they are used for/contributed to the HOME-assisted project.

2003 HOME Application Questions & Answers

What if my 501(c) 3 status is still pending?

An organization's 501 (c) 3 status must be current at the time of application.

Can a for-profit organization apply for Rental Housing Development funds?

A for-profit entity may apply for Rental Housing Development funds, but only under the Housing Preservation Program. This program funds the rehabilitation of existing housing developments.

Can a consultant be procured to help an organization with the HOME Application?

Yes, a consultant can be procured to help an organization apply for HOME funds. The costs an organization accrues before funds are awarded are not reimbursable, however. All costs to be reimbursed must have taken place within the contract period.

Can labor from State prisons be used as match?

Volunteer labor can be considered eligible match under the HOME Program.

Can consultant fees be considered eligible match in assisting an applicant complete the HOME application?

Administration fees are not considered eligible match. Consultant fees are considered administration fees and cannot be considered eligible match in assisting an applicant with a HOME award.

When will the scores sheets and answers to questions be posted on the website?

Look for score sheets to be posted on the website sometime next week. Incoming questions regarding all HOME applications will be posted on the TDHCA website at the Agency's earliest convenience, as well. You are more than welcome to email us at pmcgillo@tdhca.state.tx.us with your question at any time.

Regarding the HBA activity, Section 13 of the HBA application guidelines states this the form of assistance will be a deferred 0% interest loan with a term equal to that of the first lien. Will 10 year notes be allowed? Currently, 10 year notes are allowed and they can be forgiven over the term on a prorated basis. Can 2003 HBA assistance be forgiven on a prorated basis?

The HBA Guidelines are in error. The HBA awards are zero percent interest, 2nd or 3rd lien, 10-year deferred forgivable loans. The loan is payable to the Department if, within the 10-years, a) the house is sold, b) re-financed (to cash-out), or c) the house no longer is the homeowner's primary residence.

Are "for-profit entities" eligible to receive HOME funds through this cycle for new rental housing developments in conjunction with low income housing tax credit developments.

A for-profit entity can apply for funds under the Housing Preservation Program Set-aside, which is a component of the Rental Housing Development. However, please note that these funds can only be used towards the preservation of existing affordable housing or subsidized rental housing, not the development.

Only non-profits applying for CHDO certification are eligible for the development funds. This does not mean that a for-profit organization cannot do both; form its own non-profit organization to apply for the HOME funds and apply for Tax Credits.

Does a unit of local government need to provide a Certificate of Good Standing?

No, units of local government or nonprofit organizations do not need to get a Certificate of Good Standing from the State Comptroller. Only corporations subject to the franchise tax need to provide this certification.

Page 16 of the HBA, OCC, TBRA application, "Qualifying Threshold Requirements", states "HOME Program expenditure performance requirements for any open contract are not met as follows: For a previous Homebuyer Assistance and Owner Occupied Housing Assistance Contracts, 50% expended by April 2, 2003." Does this threshold requirement apply to entities funded under Disaster Relief?

No, the expenditure rates are not applicable to contracts funded under the Disaster Relief Program.

How does an entity apply for funding under the persons with disabilities set-aside?

If you plan on applying for funds coming out of the Persons with Disabilities set-aside, it is important that you check the *Special Needs* box under Section 4. Funding Request, Part A of the Uniform Application.

MATCH

ATTACHMENT 4

Eligible Match:

To be considered eligible match, a contribution must be properly documented and meet the following requirements:

- *A non-federal source*
- A permanent contribution to a HOME project
- Meet the requirements of 24 CFR Part 92.218 through 92.222

Eligible Sources of Match

- ✓ Cash contributions from nonfederal sources. Must be an eligible cost under 92.206 or 92.209
- ✓ Forbearance of fees, state and local taxes, charges or fees (HOME-assisted units)
- ✓ Donated real property
- ✓ Non-federally paid on-site and off-site infrastructure. (Directly required for HOME-assisted units and must have been completed 12 months before HOME funds are committed to the project.)
- ✓ Donated site preparation and construction materials
- ✓ Reasonable rental value of the donated use of site preparation of construction equipment
- ✓ Value of donated or voluntary labor or professional services
- ✓ Direct cost of homebuyer counseling services (HOME-assisted units)

Non-Eligible Sources of Match

- Ø Contributions made with or derived from federal resources or funds
- Ø Funds raised through federal tax credit
- Ø Interest rate subsidy attributable to federal tax-exemption of financing (ex. bonds issued by States or local governments) or the value attributed to federal tax credits (e.g., Low Income Housing Tax Credits).
- Ø Owner equity or investment in a project
- Ø Costs for Administration
- Ø Program Income from open federal grant
- Ø Cash or other forms of contributions from applicants for or recipients of HOME assistance contracts, or investors who own, are working on, or are proposing to apply for, assistance for a HOME-assisted project.
- Ø Contributions counted as match toward any other federally-funded program may not be counted as matching contribution for the HOME program

EXHIBIT E

BOND FEES

TOTAL DEVELOPMENT SUMMARY			Expected Payee Taxpayer Identification Number (TIN) ¹ (and % of cost if item involves multiple payees)
Total Cost	Eligible Basis (if Applicable)		
	Acquisition	New/Rehab.	

DEVELOPMENT NAME:

Main Street Commons

City: Taylor

FINANCING:

CONSTRUCTION LOAN(S)⁴

Interest	476,875	332,667	TBD
Loan origination fees	53,841	53,841	TBD
Title & recording fees	10,215		TBD
Closing costs & legal fees	25,000	25,000	TBD
Inspection fees	1,500		TBD
Credit Report			
Discount Points			
Other (specify) - see footnote 2			
Other (specify) - see footnote 2			

PERMANENT LOAN(S)

Loan origination fees	27,320		TBD
Title & recording fees			
Closing costs & legal	15,000		TBD
Bond premium	61,803		TBD
Credit report			
Discount points			
Credit enhancement fees			
Prepaid MIP			
Other (specify) - see footnote 2			
Other (specify) - see footnote 2			

BRIDGE LOAN(S)

Interest			
Loan origination fees			
Title & recording fees			
Closing costs & legal fees			
Other (specify) - see footnote 2			
Other (specify) - see footnote 2			

OTHER FINANCING COSTS⁴

Tax credit fees	66,093		TDHCA
Tax and/or bond counsel			
Payment bonds			
Performance bonds			
Credit enhancement fees	255,367	255,367	TBD
Mortgage insurance premiums			
Cost of underwriting & issuance			
Syndication organizational cost	16,000		TBD
Tax opinion			
Contractor Guarantee Fee			
Developer Guarantee Fee			
Soft Cost Contingency	5,000	5,000	TBD
Reimbursement of Pre Development Expenses	5,000		37-0962090
Subtotal Financing Cost	\$1,011,014	\$0	\$671,876

RESERVES

Rent-up	204,105		TBD
Operating	170,333		TBD
Replacement			
Escrows			
Subtotal Reserves	\$374,438	\$0	\$0

TOTAL HOUSING DEVELOPMENT COSTS⁶

	\$10,490,387	\$0	\$9,075,703
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- Commercial Space Costs⁷

TOTAL RESIDENTIAL DEVELOPMENT COSTS	\$10,490,387		
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EXHIBIT E

BOND FEES

Proceeds from a bond issuance are not included in the following documents from the Main Street Commons Application

- Summary of Sources and Uses of Funds (Volume 1 Tab 4 Part A)
- Financing Narrative

**Volume 1 Tab 4 Part B
FINANCING PLAN
Main Street Commons**

Construction Loan

The partnership will obtain a loan in an amount of \$6,385,000 through Capital One for the construction of the improvements. The interest rate on the construction loan is a fixed "spot rate" of 7.5% for underwriting purposes. The construction lender will have first lien on the land and the improvements. The letter confirming this is combined with the permanent lending letter and is included in the application.

Equity

Equity will be advanced from Red Stone Equity Partnership, LLC in the estimated amount of \$8,124,387 with 45% of this amount projected to be disbursed during the construction phase. The exact amount may be adjusted based on adjusters to be defined in the partnership agreement. The syndication proceeds are to be based on \$0.7652 per dollar of tax credits and a projected tax credit allocation of \$1,061,857. This letter of intent has been received and is enclosed in the application.

Permanent Loan

A permanent mortgage loan will be obtained through Capital One. The amount of the loan will be \$1,366,000. The interest rate is a fixed "spot rate" of 7.5%. Payments are based on a 30-year amortization and a term of 15 years. The developer has received conditional approval for this loan and the letter is enclosed in the application.

Other

The developer has applied for TDHCA HOME funds in the amount of \$1,000,000. The proposed interest rate is 2% over a 30 year amortization and 30 year term.

John Jessup will provide an interim loan in the amount of \$210,700 or 2% of the development costs. These funds will be used for pre development expenses and are intended to qualify as 2% of the total development cost. Terms are to be determined if an award of Tax Credits is received but they will confirm to all TDHCA guidelines per the QAP.

EXHIBIT G

Threshold Criteria – Financing Requirements

**Volume 1 Tab 4 Part B
FINANCING PLAN
Main Street Commons**

Construction Loan

The partnership will obtain a loan in an amount of \$6,385,000 through Capital One for the construction of the improvements. The interest rate on the construction loan is a fixed "spot rate" of 7.5% for underwriting purposes. The construction lender will have first lien on the land and the improvements. The letter confirming this is combined with the permanent lending letter and is included in the application.

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The developer has applied for TDHCA HOME funds in the amount of \$1,000,000. The proposed interest rate is 2% over a 30 year amortization and 30 year term.

John Jessup will provide an interim loan in the amount of \$210,700 or 2% of the development costs. These funds will be used for pre development expenses and are intended to qualify as 2% of the total development cost. Terms are to be determined if an award of Tax Credits is received but they will confirm to all TDHCA guidelines per the QAP.

- (i) an Applicant or Related Party; and
 - (ii) any Person who is:
 - (I) active in the construction, rehabilitation, ownership, or Control of the proposed Development, including:
 - (-a-) a General Contractor; and
 - (-b-) a Developer; and
 - (-c-) a General Partner, Principal or Affiliate of a General Partner or General Contractor; or
 - (II) employed as a consultant, lobbyist, or attorney by an Applicant or a Related Party.
- (B) During the period beginning on the first date of the Application Acceptance Period and ending on the date the Board makes a final decision with respect to the approval of any Application in that Application Round, an employee of the Department may communicate about any Application with the following Persons:
- (i) the Applicant or a Related Party; and
 - (ii) any Person who is:
 - (I) active in the construction, rehabilitation, ownership, or Control of the proposed Development, including:
 - (-a-) a General Partner or General Contractor; and
 - (-b-) a Developer; and
 - (-c-) a Principal or Affiliate of a General Partner or General Contractor; or
 - (II) employed as a consultant, lobbyist or attorney by the Applicant or a Related Party.
- (C) A communication under paragraph (2) of this subsection may be oral or in any written form, including electronic communication through the Internet, and must satisfy the following conditions:
- (i) the communication must be restricted to technical or administrative matters directly affecting the Application;
 - (ii) the communication must occur or be received on the premises of the Department during established business hours; and
 - (iii) a record of the communication must be maintained and included with the Application for purposes of Board review and must contain the following information:
 - (I) the date, time, and means of communication;
 - (II) the names and position titles of the Persons involved in the communication and, if applicable, the Person's relationship to the Applicant;
 - (III) the subject matter of the communication; and
 - (IV) a summary of any action taken as a result of the communication.
- (D) Notwithstanding subparagraph (A) or (B) of this paragraph, a Board member or Department employee may communicate without restriction with a Person listed in subparagraph (A) or (B) of this paragraph during any Board meeting or public hearing held with respect to the Application, but not during a recess or other non-record portion of the meeting or hearing.
- (E) Subparagraph (A) of this paragraph does not prohibit the Board from participating in social events at which a Person with whom communications are prohibited may, or will be present, provided that all matters related to Applications to be considered by the Board will not be discussed.
- (2) **Administrative Deficiency Process.** The purpose of the Administrative Deficiency process is to allow the Applicant an opportunity to provide clarification or correction to information originally submitted in the Application. For example, if exhibits and other information required under §49.8 of this chapter (relating to Threshold Criteria) are not originally submitted in the Application (i.e. financing commitment missing entirely from

the Application) staff will recommend termination of the Application. However, for information missing in part from the Application (i.e. financing commitment is submitted but it is not executed by the lender) staff will request the missing or corrected information via an Administrative Deficiency. For exhibits and other information required under §49.9 of this chapter (relating to Selection Criteria) not originally submitted in the Application (i.e. Community Revitalization Plan or letter from Appropriate Local Official missing entirely from the Application) staff will not award points for that item, even if points were requested in the Applicant's Self Scoring Form. For information missing in part from the Application (i.e. the letter from the Appropriate Local Official does not include all required information) staff will request the missing information via an Administrative Deficiency and award points provided the information submitted in response to the Administrative Deficiency is satisfactory to the Department.

- (A) **Administrative Deficiencies for Applications submitted under the State Housing Credit Ceiling and Rural Rescue Applications.** If an Application contains Administrative Deficiencies which, in the determination of the Department staff, require clarification or correction of information submitted at the time of the Application, the Department staff may request clarification or correction of such Administrative Deficiencies. Because the review for Eligibility, Selection, Threshold Criteria, Quantifiable Community Participation (QCP) and review for financial feasibility by the Department's Real Estate Analysis Division may occur separately, Administrative Deficiency requests may be made during any of these reviews. The Department staff will request clarification or correction in a deficiency notice in the form of an e-mail, or if an e-mail address is not provided in the Application, by facsimile, and a telephone call (only if there has not been confirmation of the receipt of the e-mail within twenty-four (24) hours) to the Applicant and one other party identified by the Applicant in the Application advising that such a request has been transmitted. If Administrative Deficiencies are not clarified or corrected to the satisfaction of the Department by 5:00 p.m. on the fifth business day following the date of the deficiency notice, then five (5) points shall be deducted from the Selection Criteria score for each additional day the deficiency remains unresolved. If Administrative Deficiencies are not clarified or corrected by 5:00 p.m. on the seventh business day following the date of the deficiency notice, then the Application shall be terminated. The time period for responding to a deficiency notice begins at the start of the business day following the deficiency notice date. Deficiency notices may be sent to an Applicant prior to or after the end of the Application Acceptance Period. An Applicant may not change or supplement any part of an Application in any manner after the filing deadline, and may not add any Set-Asides, increase the requested credit amount, revise the Unit mix (both income levels and bedroom mixes), or adjust their self-score except in response to a direct request from the Department as a result of an Administrative Deficiency or by approved amendment of an Application after a commitment or allocation of tax credits as further described in §49.13(b) of this chapter (relating to Board Reevaluation) (§2306.6708). This Administrative Deficiency process applies to requests for information made by the Real Estate Analysis Division during their review. To the extent that the review of Administrative Deficiency documentation during the review alters the score assigned to the Application, Applicants will be re-notified of their final score.
- (B) **Administrative Deficiencies for Tax Exempt Bond Applications.** If an Application contains deficiencies which, in the determination of the Department staff, require clarification or correction of information submitted at the time of the Application, the Department staff may request clarification or correction of such Administrative Deficiencies. Because the review for Eligibility, Threshold Criteria, and review for financial feasibility by the Department's Real Estate Analysis Division may occur separately, Administrative Deficiency requests may be made during any of these

- (6) **Limitation on Allocation.** No more than \$350,000 in credits will be forward committed from the 2011 State Housing Credit Ceiling. To the extent Applications are received that exceed the maximum limitation; staff will prepare the award for Board consideration noting for the Board that the award would require a waiver of this limitation.

549.8. Threshold Criteria.

The Threshold Criteria listed in this section are mandatory requirements that must be submitted at the time of Application submission unless specifically indicated otherwise. If any of the Threshold Criteria indicated below are not resolved, clarified or corrected to the satisfaction of the Department, through the Administrative Deficiency process the Application will be terminated.

- (1) **Submission of the Application.** Includes the entire Uniform Application and any other supplemental forms which may be required by the Department and in the format prescribed by the Department. (§2306.1111)
- (2) **Governing Body Resolutions.** The following resolutions, if applicable to the proposed Development, must be submitted by the Resolutions Delivery Date as indicated in §49.3 of this chapter (relating to Program Calendar) and may not be more than one year old from the date the Volume 1 is submitted to the Department.
- (A) **Twice the State Average.** If the Development is located in a municipality or in a valid Extra Territorial Jurisdiction (ETJ) of a municipality, or if located completely outside a municipality, a county, that has more than twice the state average of units per capita supported by Housing Tax Credits or private activity bonds at the time the Application Round begins (or for Tax-Exempt Bond Developments at the time the Certificate of Reservation is issued by the Texas Bond Review Board) the Applicant must obtain prior approval of the Development from the Governing Body of the appropriate municipality or county containing the Development. Such approval must reference this rule and authorize an allocation of Housing Tax Credits for the Development; (§2306.6703(a)(4))
- (B) **One Mile Three Year Rule.** If the Applicant proposes to construct a Development proposing New Construction or Adaptive Reuse (excluding New Construction of non-residential buildings) that is located one (linear mile (measured by a straight line on a map) or less from a Development that: (§2306.6703(a)(3))
- (i) Serves the same type of household as the new Development, regardless of whether the Development serves families, elderly individuals, or another type of household; and
 - (ii) has received an allocation of Housing Tax Credits or private activity bonds for any New Construction at any time during the three-year period preceding the date the Application Round begins (or for Tax-Exempt Bond Developments the three-year period preceding the date the Volume I is submitted); and
 - (iii) has not been withdrawn or terminated from the Housing Tax Credit Program;
 - (iv) an Application is not ineligible under this paragraph if:
 - (I) the Development is using federal HOPE VI funds received through the United States Department of Housing and Urban Development; locally approved funds received from a public improvement district or a tax increment financing district; funds provided to the state under the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. §§12701 et seq.); or funds provided to the state and participating jurisdictions under the Housing and Community Development Act of 1974 (42 U.S.C. §§5301 et seq.); or
 - (II) the Development is located in a county with a population of less than one million; or
 - (III) the Development is located outside of a metropolitan statistical area; or

funds represented in the Application and shall be provided in one or more of the following forms described in subclauses (I) - (IV) of this clause:

- (I) Financing is in place as evidenced by:
 - (-a-) A valid and binding loan agreement; and
 - (-b-) Deed(s) of trust in the name of the Development Owner as grantor; or
 - (-c-) For TRDO-USDA §515 Developments involving, an executed TRDO-USDA letter indicating TRDO-USDA has received a notification of the tax credit Application; or
 - (II) Commitment or term sheet for the interim and permanent loans issued by a lending institution or mortgage company that is actively and regularly engaged in the business of lending money which is addressed to the Development Owner and includes the following as identified in items (-a-) - (-d-) of this subclause:
 - (-a-) Has been executed by the lender; and
 - (-b-) A minimum loan term of fifteen (15) years with at least a thirty (30) year amortization; and
 - (-c-) An expiration date; and
 - (-d-) All the terms and conditions applicable to the financing including the mechanism for determining the interest rate, if applicable, and the anticipated interest rate, any required Guarantors, and anticipated developer fees paid during construction and anticipated deferred developer fees. Such a commitment may be conditional upon the completion of specified due diligence by the lender and upon the award of tax credits; or
 - (III) Any federal, state or local gap financing, whether of soft or hard debt, must be identified at the time of Application as evidenced by:
 - (-a-) A term sheet or commitment from the lending agency which clearly describes the amount and terms of the funding must be submitted. If applying for points under §49.9(a)(5) of this chapter then documentation must be submitted as required by the deadlines stated therein; and
 - (-b-) Evidence of application for funding from another Department program is not required except as indicated on the Uniform Application, as long as the Department funding is on a concurrent funding period with the Application submitted and the Applicant clearly indicates that such an Application has been filed as required by the application checklist in the Tax Credit (Procedures) Manual; and
 - (IV) If the Development will be financed through more than 5% of Development Owner contributions, provide a letter from a Third Party CPA verifying the capacity of the Development Owner to provide the proposed financing with funds that are not otherwise committed together with a letter from the Development Owner's bank or banks confirming that sufficient funds are available to the Development Owner. Documentation must have been prepared and executed not more than six (6) months prior to the close of the Application Acceptance Period;
- (ii) A written narrative describing the financing plan for the Development, including any non-traditional financing arrangements; the use of funds with respect to the Development; the funding sources for the Development including construction, permanent and bridge loans, rents, operating subsidies, and replacement reserves; and the commitment status of the funding sources for the Development. This information must be consistent with the information provided throughout the Application; and (§2306.6705(1))
 - (iii) Provide a term sheet or letter of commitment from a syndicator that, at a minimum, provides an estimate of the amount of equity dollars expected to be raised for the Development in conjunction with the amount of Housing Tax Credits requested for allocation to the Development Owner, including pay-in schedules, anticipated developer fees paid during construction and anticipated deferred developer fees,

EXHIBIT H

Quantifiable Community Participation/ Neighborhood Organization Support



FORM FOR QUALIFIED NEIGHBORHOOD ORGANIZATIONS TO SUBMIT TO TDHCA FOR QUANTIFIABLE COMMUNITY PARTICIPATION

Texas Department of Housing and Community Affairs

02-17-11A10:46 RCWD

Certify to each requirement by checking each box as required and accurately filling in all blanks. All attachments must be included in QCP submission package.

1. This organization is submitting this form and attachments regarding the following proposed application:

Development Name: Main Street Commons TDHCA #: 11077
 Development Location: 3610 North Main Street
 Development City: Taylor Development County: Williamson

2. The persons signing this form have the authority to sign on behalf of this organization.

Organization Name: Main Street Neighborhood Organization
 1st Contact Name and Title: CAROL BACHMAYER Authorized Representative
 1st Contact Mailing Address: 1902 OLD COUPLAND RD
 1st Contact City: TAYLOR 1st Contact Zip Code: 76574
 1st Contact Day Phone: 512 365 9617 1st Contact Fax: 512 352 5400
 1st Contact Evening Phone: " 1st Contact E-Mail: c1b9617@yahoo.ca

3. This organization is also providing the following additional contact and information for our organization:

2nd Contact Name: Nalin Werchan
 2nd Contact Mailing Address: 3310 N. MAIN
 2nd Contact City: Taylor 2nd Contact Zip Code: 76574
 2nd Contact Day Phone: 512-2494 2nd Contact Fax: - 0 -
 2nd Contact Evening Phone: - 0 - 2nd Contact E-Mail: - 0 -

4. **Boundary Description and Map:** Provide a written description of the geographical boundaries of the neighborhood organization. (Example: North boundary is Main St, East boundary is a railroad track, South boundary is First St and West boundary is Jones Ave) Submit a boundary map. The boundary map should be legible, clearly marked with the geographical boundaries of the neighborhood organization, and indicate the location of the proposed development. The written description and boundary map should have the same geographical boundaries.

Written Boundary Description:

West Boundary is Main Street, East Boundary is railroad Track,
North Boundary is northernmost property line of 4002 N. Main
Street, South Boundary is southernmost property line of
3310 N. Main Street.

CB NW
 Initials of Signer

5. This organization certifies that the boundaries of this organization include the proposed Development site in its entirety. This organization acknowledges that annexations after March 1, 2011 are not considered eligible boundaries and a site that is only partially within the boundaries will not satisfy the requirement that the boundaries contain the proposed Development site.

6. This organization certifies that it meets the definition of "Neighborhood Organization"; defined as an organization of persons living near one another within the organization's defined boundaries that contain the proposed Development Site and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood. This organization further certifies that it is a (must check on of the following boxes):

Homeowners Association

Property Owners Association

Resident Council and our members occupy the existing development

Other (Explain _____)

7. **Certification of Record:** Choose one box. Registration with the county or with the Secretary of State both requires proof of registration. All 3 selections require evidence of the organization's existence (ex. bylaws, newsletter, minutes, etc.) and the process to provide notice to persons living within the boundaries to join or participate in the affairs of the organization (ex: letter, posting notice, etc.).

This organization certifies that it was:

On record, as of March 1, 2011, with the county in which the development is proposed to be located. (Attach documentation from the county of registration and required documentation)

On record, as of March 1, 2011, with The Secretary of State as an incorporated entity in good standing. (Attach documentation from the Secretary of State of registration and required documentation)

Requesting to be on record, as of March 1, 2011, with The Texas Department of Housing and Community Affairs (the "Department"). (Attach required documentation)


8. **Statement of Support/Opposition:** (Choose only one box and clearly and concisely state at least one or more reason(s) for the organization's support/opposition; use additional sheets, as needed.)

This organization certifies that we:

Support the application for Competitive Housing Tax Credits referenced above for the following reasons:

We believe that this development will benefit the community as well as bring added value to surrounding property.

Oppose the application for Competitive Housing Tax Credits referenced above for the following reasons:


Initials of Signer

9. Certify the following:

- This organization acknowledges that this form and attachments must be submitted **no later than March 1, 2011**

- This organization certifies that it was not formed by any Applicant, Developer or any employee or agent of any Applicant in the 2011 Competitive Housing Tax Credit Application Round; the organization, and any members, did not accept money or a gift to cause the neighborhood organization to take its position of support or opposition; the Applicant, Developer or any employee or agent of any Applicant has not provided any assistance, other than education and information sharing, to the neighborhood organization for any application in the Application Round (i.e. hosting a public meeting, providing the "TDHCA Information Packet for Neighborhoods" to the neighborhood organization, or referring the neighborhood organization to TDHCA staff for guidance are acceptable forms of assistance); and that the Applicant, Developer or any employee or agent of any Applicant has not provided any "production" assistance for any application in the Application Round (i.e. use of fax machines owned by the Applicant, use of legal counsel related to the Applicant, delivery of form or assistance drafting a form).

- This organization acknowledges that this completed form and required attachments must be submitted to Texas Department of Housing and Community Affairs, Attention: Director of Multifamily Finance, Neighborhood Input, P.O. Box 13941 (MC 332-10), Austin TX 78711-3941. For overnight or courier delivery use the following physical address: 221 East 11th Street, Austin TX 78701-2410. **Do not use P.O. Box address for overnight or courier delivery.** Form and Attachments may also be faxed to (512) 475-1895 or toll free at (800) 733-5120.

- This organization certifies that all certifications contained herein are true and accurate. **(First and Second Contacts must sign below):**



(First Contact Signature)

2-9-11

(Date)

CAROL BACHMAYER

(Printed Name)

Authorized Representative

(Title)



(Second Contact Signature)

2-9-11

(Date)

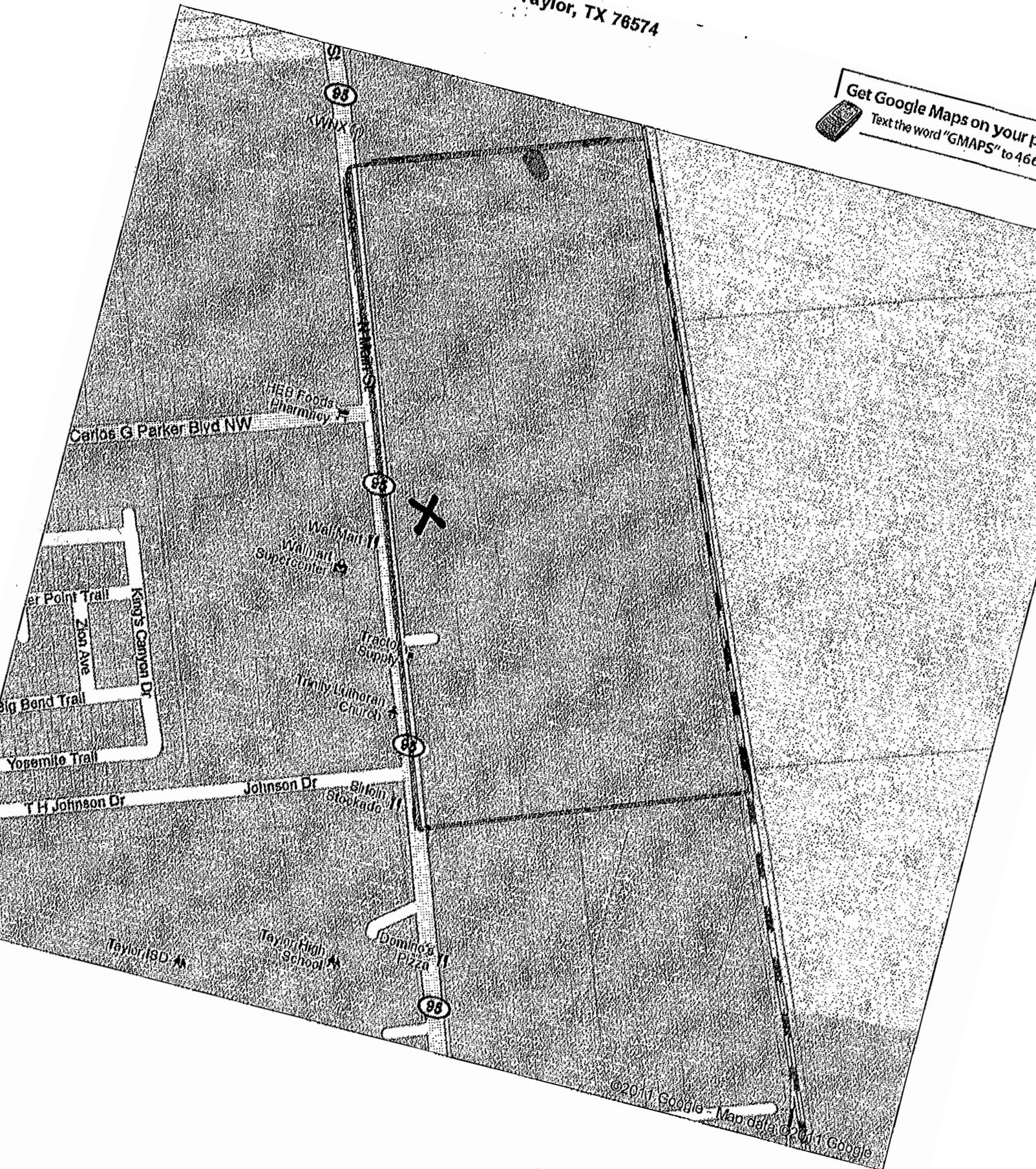
Robin Wachan

(Printed Name)

Authorized Representative

(Title)

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Notice of Property Owner's Meeting

Date: Wednesday, February 9, 2011

Time: 6:00pm

Location: City Hall, 400 Porter Street

You are invited to attend a property owner's meeting to learn more about a proposed multifamily residential development called Main Street Commons, which will be located on the east side of Main Street in between AAA Self-Storage and the Tractor Supply Co. Please plan on attending this meeting to learn more about the development and ask questions.

Please contact Kevin Carter or Jason Seal at

(979) 846-4384 for more information.

MAINSTREET COMMONS MTG 2-9-11 6 P.M.

Rod LEPZ

James Martinka

DAN DOS

Gene Randig

Betty Randig

Nalin Weichan

Carol Buchmayer

Carol Buchmayer

Jim Lee

Mike Koderer

Main Street Neighborhood Organization

Special Meeting

Meeting Minutes

Date: 02/09/2010

Time: 6pm

Location: 400 Porter Street

Attendees: Ron Leps, James Martinka, Dan Dos, Gene Randig, Betty Randig, Nolin Werchen, Carol Bachmayer, Carrol Bachmayer, Jason Seal, Mike Roderer

Minutes:

Special meeting of Main Street Neighborhood Organization was called to order at 6pm

Jason Seal opened meeting by stating reason for calling the special meeting was receipt of the quantifiable community participation packet and to learn about the proposed Main Street Commons development located in between AAA Self-Storage and Tractor Supply Co. on Main Street.

Mr. Seal introduced Mike Roderer as a representative of Herman & Kittle Properties, Inc., the developer of the property.

Mr. Roderer provided some background on Herman & Kittle and stated his company wanted to develop the property as an apartment complex for seniors. Mr. Roderer presented an artist concept of the building and a site plan. Mr. Roderer indicated the property would be 75 units and restricted to adults 55 years and older.

Ms. Bachmayer said she was in favor of any nice developments on the north side of Taylor near her residence on Main Street. She asked if the property would be restricted 100% to adults. Mr. Roderer said that it would be 100% restricted to adults and that it would be a quality development.

Mr. Werchan asked if the site plan was final because it didn't show any landscaping. Mr. Roderer said the site plan was still being worked on with the city, and that the landscaping details would be completed later and conform with the City's landscaping requirements. Mr. Werchan asked what would happen if the property didn't lease up after it was built. Mr. Roderer said that his company's market research indicated a high demand for senior housing in Taylor, but that if the property didn't lease up his company had to provide financial assurances that it would be well kept. Mr. Werchan asked if anyone would be let in at the property if it was having trouble filling up. Mr. Roderer responded that all residents would have to meet the income restrictions and pass background checks. He also said the 55 and older requirement was a deed restriction and couldn't be changed.

Ron Leps asked Mr. Roderer how the development would be financed. Mr. Roderer said his company was apply for tax credits and a low interest loan from the State. Mr. Leps asked if the rents for the property were income based and if there were different income levels. Mr. Roderer said that the rents

were income based depending on the household size and that there were different income levels based on a percentage of the area median income.

Betty Randig asked Mr. Roderer if his company had any other properties in Texas. Mr. Roderer said that this was his firm's first development in Texas but that they had properties in Louisiana and the Midwest. Ms. Randig asked the location of the properties in Louisiana and how old they were. Mr. Roderer said the properties were only 3 years old. Ms. Randig wanted to know what the properties looked like after 10 years. Mr. Roderer said his firm had several properties that were older than 10 years and that he could mail pictures of them.

Mr. Roderer passed out information on his company and his contact information. He said any members of the organization could contact him with any more questions on the Main Street Commons.

Ms. Bachmayer said she would support any quality developments on the north side of Taylor on Main Street. Jason Seal asked if the organization wanted to support the Main Street Commons. Those in attendance agreed the organization should support it. Ms. Bachmayer and Mr. Werchan agreed to be contacts on the form from the TDHCA.

Meeting adjourned at 7:05pm

PUBLIC NOTIFICATIONS INFORMATION AND CERTIFICATION FORM

NEIGHBORHOOD ORGANIZATION(S) (Submit all neighborhood organizations in which the Applicant is/was required to notify per §49.7(c)(3)(B) and/or §49.8(9)(A)(ii) of the QAP.):

Development Name: Main Street Commons

City: Taylor

Name:	<u>NA</u>		
Address:	_____		
City:	State:	Zip:	
Phone:	Fax:	_____	

Name:	_____		
Address:	_____		
City:	State:	Zip:	
Phone:	Fax:	_____	

Name:	_____		
Address:	_____		
City:	State:	Zip:	
Phone:	Fax:	_____	

Name:	_____		
Address:	_____		
City:	State:	Zip:	
Phone:	Fax:	_____	

Name:	_____		
Address:	_____		
City:	State:	Zip:	
Phone:	Fax:	_____	

Name:	_____		
Address:	_____		
City:	State:	Zip:	
Phone:	Fax:	_____	

Name:	_____		
Address:	_____		
City:	State:	Zip:	
Phone:	Fax:	_____	

Name:	_____		
Address:	_____		
City:	State:	Zip:	
Phone:	Fax:	_____	

PART E. CERTIFICATION OF PRINCIPAL or DEVELOPMENT OWNER (cont.)

Development Name: Main Street Commons Development City: Taylor

16) Basic Amenities

At least the minimum point threshold for amenities as further described in §49.8(5)(A) of the 2011 QAP (Common Amenities) will be satisfied.

17) Unit Amenities

The Development will have all of the following Amenities as further described in §49.4(c)(14) of the 2011 QAP at no charge to the tenants.

- All New Construction Units must be wired with RG-6 COAX or better and CAT3 phone cable or better, wired to each bedroom, dining room, and living room
- Laundry Connections
- Blinds or window coverings for all windows
- Screens on all operable windows
- Disposal and Energy-Star rated dishwasher (not required for TRDO-USDA Developments; SRO Developments; Rehabilitation Developments exempt from dishwasher if one was not originally in the unit)
- Energy-Star rated Refrigerator (Not required for SRO Developments)
- Oven/Range
- Exhaust/vent fans (vented to the outside) in bathrooms
- Energy-Star rated ceiling fans in living areas and bedrooms
- Energy-Star rated lighting fixtures in all Units which may include compact fluorescent bulbs
- Plumbing fixtures (toilets and faucets) must meet design standards at 30 TAC §290.252
- All Units must be air-conditioned
- Fire sprinklers in all Units where required by local code

18) Minimum Unit Size

The Development will satisfy the minimum threshold for size of Units as further described in §49.8(5)(B) of the 2011 QAP.

19) Texas Property Code

The Development will adhere to the Texas Property Code as further described in §49.8(5)(C) of the 2011 QAP.

20) Compliance with State and Federal Laws

The Applicant is in compliance with state and federal laws as further described in §49.8(5)(D) of the 2011 QAP.

21) Attempting to Ensure Involvement of Minority Owned Businesses

The Applicant will attempt to ensure that at least 30% of the construction and management businesses with which the Applicant contracts in connection with the Development are Minority Owned Businesses as further described in §49.8(5)(E) of the 2011 QAP.

22) Accessibility

The Development will comply with the accessibility standards as further described in §49.8(5)(F) and §49.8(5)(G) of the 2011 QAP.

23) Minimum Standard Energy Saving Devices

The Development will be equipped with energy saving devices as further described in §49.8(5)(H) of the 2011 QAP.

24) General Contractor Requirement (Not Applicable to HOME)

I (We) certify that the Development will be built by a General Contractor as further described in §49.8(5)(I) of the 2011 QAP.

25) Reserve Account

The Development Owner agrees to establish a reserve account as further described in §49.8(5)(J) of the 2011 QAP.

26) Neighborhood Organizations (Not Applicable to HOME)

The Applicant, Developer, or any employee or agent of the Applicant has not formed a Neighborhood Organization for purposes of §49.9(a)(2) of the 2011 QAP, as further described in §49.8(5)(K) of the 2011 QAP.

PART E. CERTIFICATION OF PRINCIPAL or DEVELOPMENT OWNER (cont.)

Development Name: Main Street Commons Development City: Taylor

27) Cooperation with Local Housing Authorities

I (we) will operate in accordance with the requirements pertaining to rental assistance in §60 of the Texas Administrative Code as further described in §49.8(5)(L) of the 2011 QAP.

28) Criminal Background Checks

I (we) will contract with a Management Company through out the Compliance Period that will perform criminal background checks on all adult tenants, head and co-head of households as further described in §49.8(5)(M) of the 2011 QAP.

29) Marketing to Veterans

I (We) will affirmatively market to veterans as further described in §49.8(5)(N) of the 2011 QAP.

The individual whose name is subscribed hereto, in his or her individual capacity, on behalf of Applicant, and in all other related capacities described above, as applicable, expressly represents, warrants, and certifies that all information contained in this certification and in the Application, including any and all supplements, additions, clarifications, or other materials or information submitted to the Department in connection therewith as required or deemed necessary by the materials governing the Housing Tax Credit Program are true and correct and the Applicant has undergone sufficient investigation to affirm the validity of the statements made. Further, the Applicant hereby expressly represents, warrants, and certifies that the individual whose name is subscribed hereto has read and understands all the information contained in Part E. (this section) of the Application. By signing this document, the undersigned, in their individual capacity, on behalf of Applicant, 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.

Check all capacities in which you are signing:

- Applicant/Development Owner: Main St Commons Senior, L.P.
- Principal of Development Owner

[Handwritten Signature]
Signature

Jeffrey L. Kittle
Printed Name

02/16/2011
Date

STATE OF: Indiana
COUNTY OF: Hamilton

I, the undersigned, a Notary Public in and for said County and State, do hereby certify that Jeffrey L. Kittle, whose name is signed to the foregoing statement, and who is known to be one in the same, has acknowledged before me on this date, that being informed of the contents of this statement, executed the same voluntarily on the date same foregoing statement bears.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this

16 day of Feb, 2011

(Seal)



LISA J. McNABB
Resident of Hamilton County, IN
Commission Expires: November 4, 2015

[Handwritten Signature]
Notary Public Signature

Notary Public, State of _____
County of _____
My commission expires: _____

- (G) For Developments involving New Construction (excluding New Construction of non-residential buildings) where some Units are two-stories or single family design and are normally exempt from Fair Housing accessibility requirements, a minimum of 20% of each Unit type (i.e. one bedroom, two bedroom, three bedroom) must provide an accessible entry level and all common-use facilities in compliance with the Fair Housing Guidelines, and include a minimum of one bedroom and one bathroom or powder room at the entry level. A similar certification will also be required after the Development is completed from an inspector, architect, or accessibility specialist.
- (H) A certification that the Development will be equipped with energy saving devices that meet the standard statewide energy code adopted by the state energy conservation office, unless historic preservation codes permit otherwise for a Development involving historic preservation. The measures must be certified by the Development architect as being included in the design of each tax credit Unit at the time the 10% Test Documentation is submitted and in actual construction upon Cost Certification. (§2306.6725(b)(1))
- (I) A certification that the Development will be built by a General Contractor hired by the Development Owner or the Applicant; if the Applicant serves as General Contractor, must demonstrate a history of constructing similar types of housing without the use of federal tax credits.
- (J) A certification that the Development Owner agrees to establish a reserve account consistent with §2306.186 of the Texas Government Code and as further described in §1.37 of this title (relating to Reserve for Replacement Rules and Guidelines).
- (K) A certification that the Applicant, Developer, or any employee or agent of the Applicant has not formed a Neighborhood Organization for purposes of §49.9(a)(2) of this chapter, has not given money or a gift to cause the Neighborhood Organization to take its position of support or opposition, nor has provided any assistance to a Neighborhood Organization outside of the assistance allowed under §49.9(a)(2)(A)(viii) to meet the requirements under §49.9(a)(2) of this chapter as it relates to the Applicant's Application or any other Application under consideration in 2011.
- (L) Operate in accordance with the requirements pertaining to rental assistance in Chapter 60 of this title.
- (M) A certification that the Development Owner will contract with a Management Company throughout the Compliance Period that will perform criminal background checks on all adult tenants, head and co-head of households.
- (N) A certification that the Development Owner will affirmatively market to veterans through direct marketing or contracts with veteran's organizations. The Development Owner will be required to identify how they will affirmatively market to veterans and report to the Department in the annual housing report on the results of the marketing efforts to veterans. Exceptions to this requirement must be approved by the Department.
- (O) A certification that the Applicant, Development Owner, Developer or Guarantor involved with the Application has not been voluntarily or involuntarily removed from a rent or income restricted multifamily Development by a lender, equity provider, or other investors or owners as a Principal during the previous ten (10) years, however designated, or any combination thereof or if any litigation to effectuate such removal has been instituted and is continuing at the time of Application. If an Applicant or Developer signs the certification, and the Department learns at a later date that a removal did take place as described, then the Application will be terminated and any Allocation made will be rescinded.

- (B) A statement in the commitment letter, or other form deemed acceptable by the Department, indicating that the lender's assessment finds that the Development will be feasible for fifteen (15) years.
 - (C) For Developments maintaining existing financing from TRDO-USDA, a current note balance must be provided or other form of documentation of the existing loan deemed acceptable by the Department to meet the requirements of this section.
 - (D) To qualify for an additional 8 points, the commitment letter from the permanent or construction lender must indicate that they have reviewed the Applicant's financial position and credit worthiness and have determined that the Applicant meets the financial liquidity or net worth standards that such lender would require in connection with the proposed Development. Furthermore, the letter must describe those standards that such lender would require in connection with the proposed Development. If at any time the Application is under consideration by the Department and the lender changes, the Applicant must provide a subsequent letter from the new lender addressing net worth and liquidity under the new lender's standards in order to remain eligible for the additional 8 points.
- (2) **Quantifiable Community Participation.** (§2306.6710(b)(1)(B); §2306.6725(a)(2)) Points will be awarded based on written statements of support or opposition from Neighborhood Organizations on record with the state or county in which the Development is to be located and whose boundaries contain the proposed Development Site. It is possible for points to be awarded or deducted based on written statements from organizations that were not identified by the process utilized for notification purposes under §49.8(9) of this chapter if the organization provides the information and documentation required in subparagraphs (A) and (B) of this paragraph. It is also possible that Neighborhood Organizations that were initially identified as appropriate organizations for purposes of the notification requirements will subsequently be determined by the Department not to meet the requirements for scoring. If an organization is determined not to be qualified under this paragraph, the organization may qualify under paragraph (11)(B) of this subsection.
- (A) **Submission Requirements.** Each Neighborhood Organization may submit the form as included in the QCP Neighborhood Information Packet that represents the organization's input. In order to receive a point score, the form must be received, by the Department, or postmarked, if mailed by the U.S. Postal Service, no later than the Quantifiable Community Participation Delivery Date as identified in §49.3 of this chapter (relating to Program Calendar). Forms received after the deadline will be summarized for the Board's information and consideration, but will not affect the score for the Application. The form must:
- (i) State the name and location of the proposed single Development;
 - (ii) Certify that the letter is signed by two officials or board members of the Neighborhood Organization with the authority to sign on behalf of the Neighborhood Organization, and include:
 - (I) the street and/or mailing addresses for the signers of the letter;
 - (II) day and evening phone numbers for the signers of the letter;
 - (III) email addresses and/or facsimile numbers for the signers of the letter and one additional contact for the organization; and
 - (IV)a written description and map of the organization's geographical boundaries;
 - (iii) Certify that the organization has boundaries, and that the boundaries in effect on or before the Full Application Delivery Date identified in §49.3 of this chapter contain the proposed Development Site;
 - (iv) Certify that the organization meets the definition of "Neighborhood Organization"; defined as an organization of persons living near one another within the organization's defined boundaries that contain the proposed Development Site and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood (§2306.004(23-a)). For

purposes of this section, "persons living near one another" means two (2) or more separate residential households. "Neighborhood Organizations" include homeowners associations, property owners associations, and resident councils in which the council is commenting on the Rehabilitation or Reconstruction of the property occupied by the residents. "Neighborhood Organizations" do not include broader based "community" organizations;

- (v) Include documentation showing that the organization is on record as of the Full Application Delivery Date with the state or county in which the Development is proposed to be located. The receipt of the QCP form that meets the requirements of this subsection and further outlined in the QCP Neighborhood Information Packet will constitute being on record with the State. The Department is permitted to issue an Administrative Deficiency notice for this registration process and if satisfied, the organization will still be deemed to be timely placed on record with the state;
 - (vi) A Neighborhood Organization must take reasonable measures to provide notice to persons eligible to join or participate in the affairs of the organization of that right. Examples of reasonable measure would be giving notice in a newsletter distributed where residents will likely see them; posting notice (in compliance with local signage requirements); or distribution flyers. The Department may exclude from consideration Neighborhood Organizations that do not comply with their own bylaws or other constitutive or governing documents;
 - (vii) While not required, the organization is encouraged to hold a meeting to which all the members of the organization are invited to consider whether the organization should support, oppose, or be neutral on the proposed Development, and to have the membership vote on whether the organization should support, oppose, or be neutral on the proposed Development. The organization is also encouraged to invite the Developer or Applicant to this meeting; and
 - (viii) The form from the Neighborhood Organization for the purposes of this subsection must be submitted to the Department by the Neighborhood Organization and not the Applicant. This documentation must be submitted independent of the Application. Furthermore, while the Applicant may assist the Neighborhood Organization in the Administrative Deficiency process or any other request from the Department as it relates to this item, the Administrative Deficiency Notice from the Department will be issued to the Neighborhood Organization with a copy to the Applicant; however, the Deficiency response must be submitted to the Department directly by the Neighborhood Organization.
- (B) Scoring. The input must clearly and concisely state each reason for the Neighborhood Organization's support for or opposition to the proposed Development.
- (i) The score awarded for each letter for this exhibit will be based on the following:
 - (I) Support letters (must establish at least one reason for support) will receive 24 points; or
 - (II) Letters that do not establish a reason for support or opposition or that are unclear will be considered ineligible and scored as neutral (+12 points);
 - (III) Applications for which no letters from Neighborhood Organizations are scored will receive a neutral score of +12 points;
 - (IV) Opposition letters (must state at least one reason for opposition) will receive 0 points;
 - (V) If an Application receives multiple eligible letters, the average score of all eligible letters will be applied to the Application.
 - (ii) The final score will be determined by the Executive Director. The Department may investigate a matter and contact the Applicant and Neighborhood Organizations for more information. The Department may consider any relevant information specified



HERMAN & KITTLE PROPERTIES, INC.

Real Estate Development • General Contracting • Property Management

May 25, 2011

Ms. Robbye Meyer
Director, Multifamily Finance Production Division
Texas Department of Housing and Community Affairs
PO Box 13941
Austin, TX 78711

RE: Response to Challenge of 11077 Main Street Commons

Dear Ms. Meyer:

This letter is in response to the challenge presented by Mr. Robert H. Voelker regarding various items on application 11077 Main Street Commons. Please find our responses below in numerical order as presented in Mr. Voelker's letter.

1. Community Revitalization Plan

Mr. Voelker believes points should not be awarded for this item because the City of Taylor has referenced a Comprehensive Plan.

The 2011 QAP clearly defines a Community Revitalization Plan as follows:

A published document under any name, approved and adopted by the local Governing Body or, if the Governing Body has lawfully assigned responsibility for oversight of communication or activities to a body created or sponsored by that Governing Body, the vote of the Governing Body so designated, by ordinance, resolution, or vote that targets specific geographic areas for revitalization and development of residential developments.

While Mr. Voelker has his opinion of what should qualify as a "Community Revitalization Plan," the QAP already defines this. As a "published document under any name," a "Comprehensive Plan" is not prohibited from meeting this definition. As documented in the letter from the City of Taylor, the City of Taylor Comprehensive Plan addresses the city's housing needs and revitalization in the area, and Main Street Commons meets the objectives of this plan. Based on the QAP definition of "Community Revitalization Plan" and the language of the scoring item, points should be awarded.

2. Leveraging of Private, State, and Federal Resources.

Mr. Voelker believes the documentation found in the application for this scoring item is insufficient because the application manual defines the term "Commitment."

The documentation provided in the application is in the same format that has been accepted by the Department for many application cycles and meets the requirements for the scoring item as found in

Ms. Robbye Meyer

May 25, 2011

Page 2 of 4

the QAP. The documentation clearly states that a formal commitment of funds is in place and outlines the terms of the loan. It should also be noted the QAP does not capitalize "commitment" in this scoring item except where there is a reference to the TDHCA Housing Tax Credit Commitment Notice, so we also question why Mr. Voelker has referenced the definition of "Commitment" in his challenge. Regardless, we are happy to provide this funding commitment in any format that the Department requests. Points should be awarded for this scoring item.

3. Third Party Funding Commitment Outside of Qualified Census Tracts

Again, Mr. Voelker believes that the documentation found in the application for this scoring item is insufficient.

The documentation provided in the application is in the same format that has been accepted by the Department for many application cycles and meets the requirements for the scoring item as found in the QAP. The documentation clearly states that a formal commitment of funds is in place and outlines the terms of the loan. It should also be noted that the QAP does not capitalize "commitment" in this scoring item, so we also question why Mr. Voelker has referenced the definition of "Commitment" in his challenge. Regardless, we are happy to provide this funding commitment in any format that the Department requests. Points should be awarded for this scoring item.

4. HOME Match Requirement

Mr. Voelker believes that this application should be ineligible for HOME funds because the HOME match requirement has not been satisfied.

The HOME Match Requirement is a new requirement this year for multifamily funding in conjunction with Housing Tax Credits. Based on the HOME guidelines, which Mr. Voelker provided in his challenge submission, professional services can be donated and counted as match if those services were not part of a contract. The match provided by S2A Development Consulting LLC was for services not provided under the current contract and were additional services above and beyond those offered on a HTC/HOME application. While TDHCA HOME staff has not yet reviewed this application, another HTC application with TDHCA HOME has been reviewed and this issue was resolved with an administrative deficiency where the applicant was able to use another source for the HOME match. For this application, the issue should be resolved through an administrative deficiency during the HOME review, and thus will still be eligible for HOME funds.

5. Bond Fees

Mr. Voelker believes that the credit enhancement fees and bond premium fees included in the development cost schedule are for a MF Tax Exempt Bond transaction and the deletion of which will result in a loss of tax credits for the application, thus making it infeasible.

The Credit Enhancement Fee is a fee that Herman & Kittle (a member of the Applicant) collects from the LP/taxpayer for providing a payment, performance, completion, and repayment guaranty to the construction lender. It is a percentage of the construction loan amount. The Bond Premium Fee is the projected cost of having to bond the AIA construction contract. Neither of these items have anything to do with tax-exempt bond transactions. If necessary, these items can be discussed with the Multifamily and Real Estate Analysis divisions and will not affect the financial feasibility of the application.

Ms. Robbye Meyer

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Page 3 of 4

6. Threshold Criteria-Financing Requirements.

Mr. Voelker believes that the application should be terminated because the syndicator letter was left out of the application.

Mr. Voelker correctly points out that one component of the financing commitment was inadvertently left out of the Application, but we contend that the QAP language he cited with regard to the Administrative Deficiency Process does not pertain to the omission of a single document to result in termination, but rather that proof of the financing commitment in its entirety is missing. This interpretation is consistent with the definition of Administrative Deficiencies, which states the following:

Administrative Deficiencies--Information requested by the Department that is required to clarify or correct inconsistencies in an Application that in the Department's reasonable judgment, may be cured by supplemental information or explanation which will not necessitate a substantial reassessment or re-evaluation of the Application.

This particular development has six parts to its financing commitment: construction loan, permanent loan, syndication proceeds, local funding (TDHCA HOME funds), a private loan, and a third party loan. Of the six parts, the syndicator letter was accidentally omitted, but reference to it and its terms are outlined throughout the application in the Summary of Sources and Uses, Financing Narrative, Development Team Members, and the lender construction/permanent financing letter. In fact, the lender letter from Capital One submitted with the application references that the equity for the development will come from Red Stone Equity Partners in an amount of \$8,124,387. Considering that reference to the equity is included in various areas of the application and was also analyzed by the construction/permanent lender for purposes of financial feasibility, the syndication is not a new addition to the application. Therefore, the inadvertent omission of the equity letter does not cause a substantial reassessment or reevaluation of the application.

We contend that the information related to the financing commitment as a whole was submitted. Additionally, enough information regarding the syndication was included in the Application that supplemental information would not necessitate a substantial reassessment or re-evaluation of the Application, and should be handled through the course of the Administrative Deficiency process.

Furthermore, we do not believe that this issue would make the application ineligible pursuant to Section 49.4(b) of the QAP. Specifically, 49.4(b)(9) addresses termination relating to the deficiency process:

The Application is submitted after the Application submission deadline (time or date); includes an electronic submission that is unreadable by the Department's computer system; has an entire Volume of the Application missing; or has a Material Deficiency as defined under §1.1 of this title (relating to Definitions). If an Application is determined ineligible pursuant to this subsection, the Application will be terminated without further consideration and the Applicant will be notified of such termination. To the extent that a review was able to be performed, specific reasons for the Department's determination of ineligibility will be included in the termination letter to the Applicant

This paragraph notes that an application *may* be terminated due to a Material Deficiency. The definition of Material Deficiency is as follows:

Ms. Robbye Meyer

May 25, 2011

Page 4 of 4

***Material Deficiency**--Any individual Application deficiency or group of Administrative Deficiencies which, if addressed, would require, in the Department's reasonable judgment, a substantial reassessment or re-evaluation of the Application or which, are so numerous and pervasive that they indicate a failure by the Applicant to submit a substantively complete and accurate Application.*

Again, the omission of one syndicator letter is not a Material Deficiency because it does not require a substantial reassessment or re-evaluation of the application or indicate a failure to submit a substantively complete and accurate application because reference to this letter and the terms are made in numerous areas of the application. This issue would be a **clarification for information** missing only in part from the application, again, does not require a substantial reassessment or re-evaluation of the application, and thus should be handled through the Administrative Deficiency process.

7. Quantifiable Community Participation/Neighborhood Organization Support

Mr. Voelker does not believe that the Neighborhood Organization of record should qualify for points under this scoring item. Mr. Voelker also believes that the Applicant's application certifications are erroneous by suggesting that the applicant formed the neighborhood group for purposes of this scoring item.

The Department does an extremely thorough job of reviewing the Neighborhood Organizations that provide support for HTC applications, and the Department awarded the full 24 points for this application based on the letter of support from the Main Street Neighborhood Organization. While Mr. Voelker has his own opinion of which date an organization should have had a meeting or which date the organization should be in existence in relation to the date a Pre-application is submitted to the Department, the QAP has clearly defined the requirements for a Neighborhood Organization that provides input under this scoring item. Furthermore, the Applicant did not form the Neighborhood Organization or have any involvement with the Neighborhood Organization that would be in violation of the QAP. The Main Street Neighborhood Organization meets the requirements of the QAP and points should be awarded for this scoring item.

Thank you for your attention to this matter. Please contact me with any questions.

Regards,



Michael A. Roderer
Development Director

ACKERMAN & SAVAGE, L.L.C.*Attorneys-at-Law*

8226 Douglas Avenue, Suite 330

Dallas, Texas 75225

(214) 346-4200

Fax: (214) 346-4201

Email: cyh@ackermansavage.com**FACSIMILE TRANSMISSION**

Date: June 15, 2011

To: Robbye Meyer
Raquel Morales

Fax Phone: 512.475.0764

Pages: 60, including cover

From: Cynthia Harris

Subject: Challenge to Points Awarded for
Application Number 11080 Hidden
Valley Estates and Challenge to Points
Awarded for Application Number 11087
Tidwell Lakes Ranch

Notes: Please see attached. If you have any questions, please feel free to call our office.

The information contained in this facsimile message is privileged and confidential information intended for the exclusive and private use of the individual or entity named above. If the reader of this message is not the intended recipient, employee or agent responsible to deliver this message, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you receive this communication in error, please immediately notify our office at 214/346-4200. If you are out of town, please call collect.

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June 15, 2011

Ms. Robbye Meyer
Texas Department of Housing
and Community Affairs
221 East 11th Street
Austin, Texas 78701

*via email: robbye.meyer@tdhca.state.tx.us
and via fax no.: 512.475.0764*

Re: Challenge to Points Awarded for Application Number 11080, Hidden Valley Estates and Challenge to Points Awarded for Application Number 11087, Tidwell Lakes Ranch

Dear Ms. Meyer:

This law firm presents the enclosed Application Challenge to the Texas Department of Community Affairs with respect to the 2011 low income housing tax credit allocation. This Challenge is pursuant to Section 49.10(e) of the 2011 Qualified Allocation Plan.

The Challenges question the validity of the scoring for the items detailed on the attached exhibits.

Please consider the enclosed materials¹ in connection with finalizing the scoring of the application in this Region, and place these materials in the applicant's file for review by the TDHCA Board as allocations are finalized and approved.

¹ Challenge to Points Awarded for Application Number 11080, Hidden Valley Estates and Challenge to Points Awarded for Application Number 11087, Tidwell Lakes Ranch

Ms. Robbye Meyer
June 15, 2011

Page 2

Also, upon review of the TDHCA website it appears that application number 11149 ("Application") for Branch Village Apartments is not available for viewing. This firm requests you make the Application available for review by the public? Also, due to the fact the Application is currently unavailable to the public on-line, this firm requests additional time be afforded after the application deadline for us to review and challenge the Application. Accordingly, I look forward to your response.

Please feel free to contact me if you have any questions.

Sincerely,



W. Randall Ackerman

Cc: Raquel Morales *via email raquel.morales@tdhca.state.tx.us*
and fax no. 512.475.0764

Enclosure

Challenge to Points Awarded for Application Number 11080, Hidden Valley Estates

Item 1

Volume 4, Tab 13 - Applicant claims that the site is located in an area that is covered by a Community Revitalization Plan. The Applicant takes pages from the 2010 City of Houston approved consolidated plan in which the City of Houston appears to direct their housing efforts to Low to Moderate Income Areas (LMI). The Applicant provides a map, but the actual site location is obscured by the I45 symbol. Upon further review of similar maps in the Consolidated Plan it is clear that the Applicant's site is not located in the LMI area as claimed in the LIHTC Application. The Applicant should not receive the three points for being part of a Community Revitalization Area because the site is not located in the LMI Area represented in the LIHTC application. I copy of the LMI map taken from another section of the consolidated plan clearly shows the site for application number 11080 is not in the area represented in the application.

Attachments:

- 1) V4, T13 from LIHTC Application
- 2) City of Houston 2010 Consolidated plan showing area obscured by the I45 symbol in the map provided by the Applicant.

Item 2

Volume 4, Tab 23 - The Applicant claims two points for having a HUB own 51% of the General Partner. The HUB in the ownership structure has an expired certificate and, upon further review from the Comptroller, the HUB is inactive. The Applicant should not qualify for two points for this item since a valid HUB is not part of the ownership structure.

Attachment:

- 1) Expired HUB Certificate from LIHTC Application
- 2) Search results showing and "inactive" HUB for Songhai Ventures LLC

1) V4, T13 from LIHTC Application

Volume 4

Tab 13

Volume 4, Tab 13

COMMUNITY REVITALIZATION or HISTORIC PRESERVATION (§49.9(a)(13))

The Application proposes:

- Community Revitalization**- the Development includes the use of an Existing Residential Development and proposes any Rehabilitation or any Reconstruction that is part of a Community Revitalization Plan. (§42(m)(1)(C)(iii))

Evidence to be provided to satisfy this requirement:

- Volume 2, Tab 1, Part B- 2011 Existing Residential Development Certification Form* is present in Volume 2, and is fully executed.

AND

- A letter from the Appropriate Local Official stating there is a Community Revitalization Plan in effect and the Development is within the area covered by the plan.

If the Applicant is unable to obtain a letter from an Appropriate Local Official, then the following must be provided:

- If the Community Revitalization Plan has specific boundaries, a copy of the Plan adopted by the jurisdiction or its designee and a map showing that the Development is within the area covered by the Community Revitalization Plan.

- Historic Preservation** - The Development includes the use of an existing building that is designated as historic by a federal or state Entity and proposes Rehabilitation (including Reconstruction) or Adaptive Reuse.

Evidence to be provided includes:

- The Development includes* the use of an existing building that is designated as historic by a federal or state entity and proposes Rehabilitation (including reconstruction) or Adaptive Reuse.
- Proof of the historic designation from the appropriate Governmental Body is included.
- Letter from the Texas Historical Commission indicating the effect of the proposed rehabilitation on historical structure is included.

*The Development itself must have the designation; points in this subparagraph are not available for Developments simply located within historic districts or areas that do not have a designation on the building. The Development must include the historic building.

- Rehabilitation** - Application proposes to build solely Rehabilitation.

- Reconstruction** - Application proposes to build solely Reconstruction.

- Adaptive Reuse** - Application proposes to build solely Adaptive Reuse.

- New Construction** - the Development is New Construction and is proposed to be located in an area that is part of a Community Revitalization Plan.

Evidence to be provided includes one of the following:

Evidence to be provided to satisfy this requirement:

- A letter from the Appropriate Local Official stating there is a Community Revitalization Plan in effect and the Development is within the area covered by the plan.

If the Applicant is unable to obtain a letter from an Appropriate Local Official, then the following must be provided:

- If the Community Revitalization Plan has specific boundaries, a copy of the Plan adopted by the jurisdiction or its designee and a map showing that the Development is within the area covered by the Community Revitalization Plan.



REMEMBER TO PLACE YOUR EVIDENCE BEHIND THIS FORM

Priority Housing Needs

Housing remains the centerpiece of all of HCDD's efforts to serve the low and moderate-income citizens of Houston. Using U.S. Census Data, analysis was performed that showed that the size of households most in need were Small Related or 2 – 4 persons in multifamily housing. The income levels were largely within the low-income range of 51%-80% Medium Family Income (MFI) subgroup. Assigning a high priority to requested funds to be used for new construction, rehabbed multifamily housing, homebuyer assistance, is based on the CHAS indicators for family size and income grouping. CHAS data also indicated that at least one-third of the prospective HCDD homebuyers are at least 30 percent or more cost burdened. HCDD programs to address these priority needs are described below.

Multi-Family / New Construction. Increasing access to affordable rental housing for disabled, low income, and senior residents are a top priority. HCDD's annual goal is to make approximately 250 units of multifamily housing available to low and moderate-income residents through grants included in this Consolidated Plan. The Housing and Community Development Department will continue to require the Request for Proposals process as a tool to help finance acquisition, rehabilitation and/or construction of rental units.

Down payment Assistance. The Down payment Assistance Program (DAP) provides direct financial assistance to low to moderate-income homebuyers to purchase decent and safe affordable homes in the City of Houston. Primarily low- and moderate-income families, who must partake in an eight-hour homebuyer counseling education program comprised of program-eligible persons. The HCDD's DAP Division has developed two homebuyer programs: 1) the Homebuyer Assistance Program (HAP) and 2) the Houston Hope Program (HHP) both are provided to approximately 215 low to moderate-income homeowners per year.

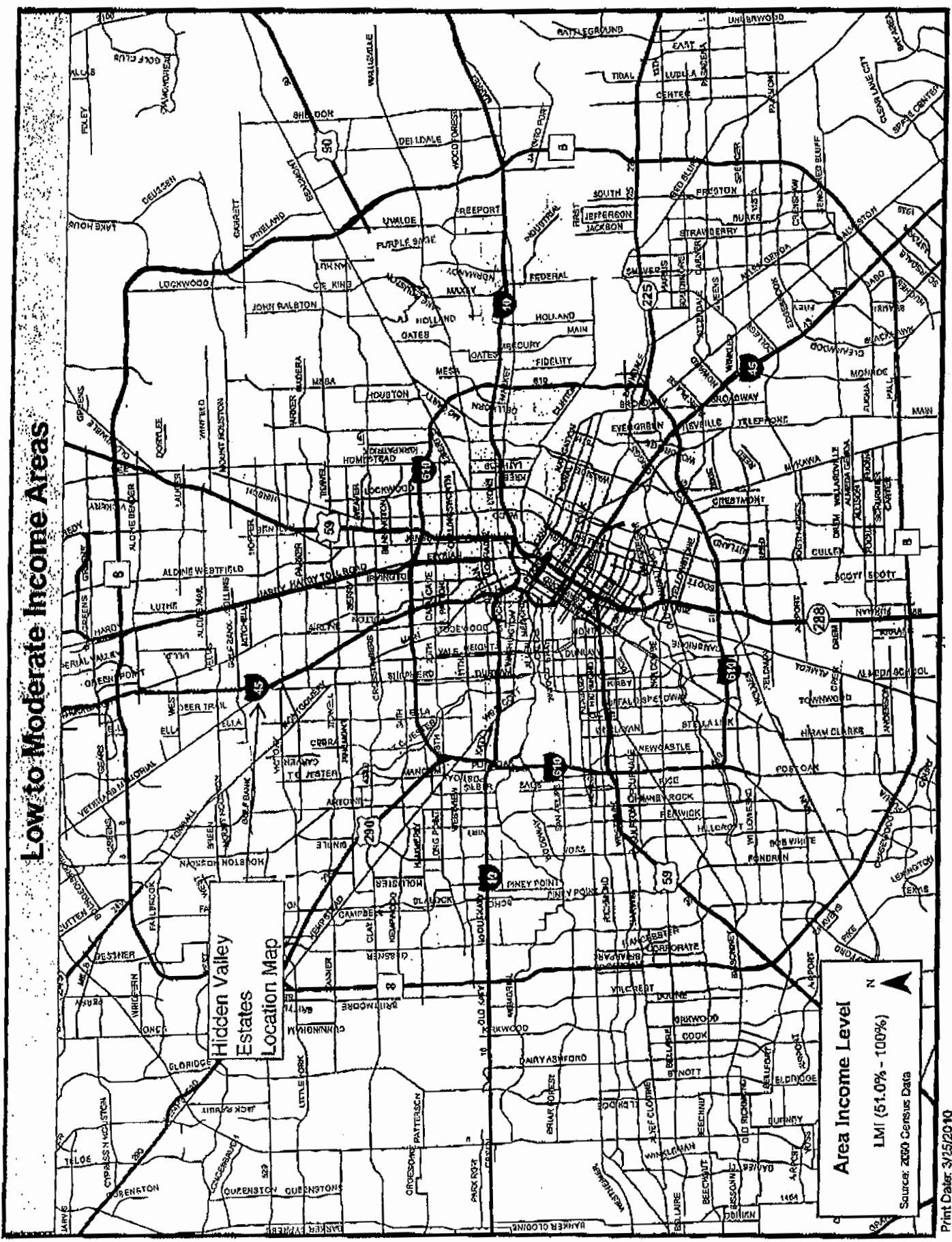
Single Family Home. In addition to accessing affordable housing, there is a growing demand for home repair as the housing stock ages. The following programs reflect the priorities set for this in this plan. The purpose of the Single Family Home Repair Program (SFHRP) is to:

- Address home repairs needed to alleviate specific life, health, and safety hazards resulting from substandard conditions in a home owned and occupied by a resident of the City of Houston ("Homeowner")
- Assist as many disabled, elderly, and low income homeowners as possible
- Keep repair costs at a minimum
- Improve curb appeal and uplift the general street appearance.

The SFHRP goal is to address and alleviate life, health, and safety threats to approximately 241 housing units per year

Priority Homeless Needs

For every five homeless families seeking housing, only two will have access to a permanent supportive housing unit, (See Homeless Needs/Continuum of Care table.) Only 25 percent of permanent housing facilities serve single women with children. To address the needs of homeless children, the Gulf Coast Workforce Board and the Continuum of Care partners train staff to quickly identify families at risk of becoming homeless. Increasing the availability and accessibility of permanent supportive housing units to serve the chronically homeless is the paramount objective for the Houston/Harris County Continuum of Care.

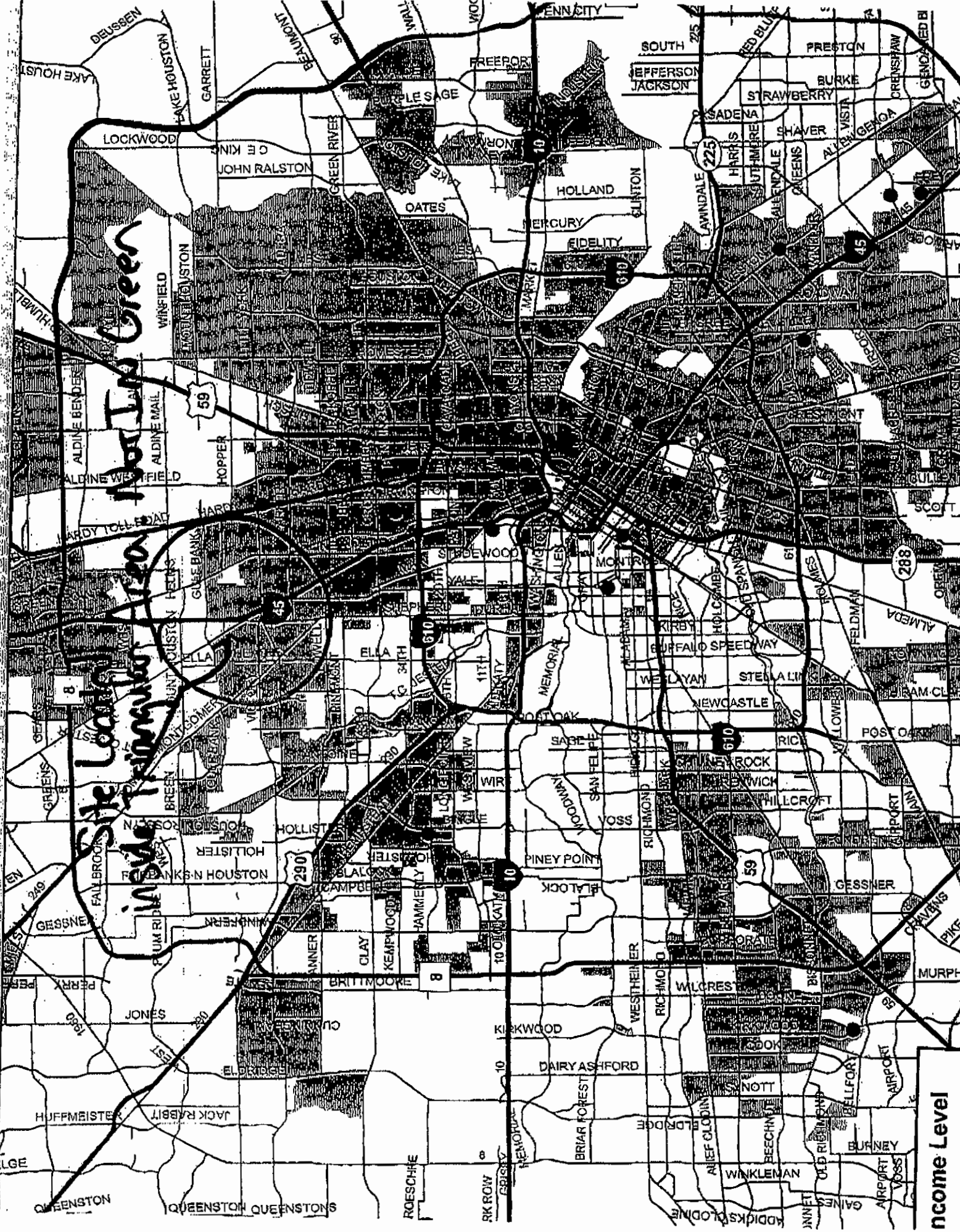


Low to Moderate Income Areas

Hidden Valley Estates Location Map

Area Income Level
 LMI (51.0% - 100%)
 Source: 2000 Census Data

2) City of Houston 2010 Consolidated plan showing area obscured by the I45 symbol in the map provided by the Applicant.



Income Level

1) Expired HUB Certificate from LIHTC Application

SPONSOR CHARACTERISTICS (§49.9(a)(23))

Applicants may qualify to receive a maximum of 2 points. Select appropriate box below for points requested.

 Option A (1 point)

The Applicant has submitted a plan to use Historically Underutilized Businesses (HUB) in the development process consistent with the Historically Underutilized Business Guidelines for contracting with the State of Texas. The Applicant will be required to submit a report of the success of the plan as part of the cost certification documentation, in order to receive IRS Forms 8609.

 Option B (2 points)

There is a HUB as certified by the Texas Comptroller of Public Accounts, has at least 51% ownership interest in the General Partner and materially participates in the Development and operation of the Development throughout the Compliance Period. To qualify for these points, the Applicant must submit a HUB certification from the Texas Comptroller of Public Accounts behind this tab.

HUB REQUIREMENTS

A historically underutilized business, in conformance with Chapter 2161 of the Texas Government Code, means an entity with its principal place of business in the state of Texas that is:

- a. A corporation formed for the purpose of making profit in which 51 percent or more of all classes of the shares of stock or other equitable securities are owned by one or more economically disadvantaged persons who have a proportionate interest and actively participate in the corporation's control, operation, and management;
- b. A sole proprietorship created for the purpose of making a profit that is completely owned, operated, and controlled by an economically disadvantaged person;
- c. A partnership formed for the purpose of making a profit in which 51 percent or more of the assets and interest in the partnership are owned by one or more economically disadvantaged persons who have a proportionate interest and actively participate in the partnership's control, operation and management;
- d. A joint venture in which each entity in the venture is a historically underutilized business, as determined under another paragraph of this definition; or
- e. A supplier contract between a historically underutilized business as determined under another paragraph of this subdivision and a prime contractor under which the historically underutilized business is directly involved in the manufacture or distribution of the goods or otherwise warehouses and ships the goods. Goods are defined as supplies, materials or equipment.

An economically disadvantaged person means a person who is economically disadvantaged because of the person's identification as a member of a certain group, including Black Americans, Hispanic Americans, women, Asian Pacific Americans, and Native Americans, and who has suffered the effects of discriminatory practices or other similar insidious circumstances over which the person has no control.

HUB is at Minority Business Enterprise (MBE)

State of Texas
Historically Underutilized Business
Certification and Compliance Program



The Texas Building & Procurement Commission (TBPC),
hereby certifies that

SONGHAI VENTURES, INC.

has successfully met the established requirements of the
State of Texas Historically Underutilized Business (HUB)
Certification and Compliance Program to be recognized as a HUB.

This certificate, printed 25-MAR-2006, supersedes any registration and certificate previously issued by the TBPC's HUB Certification and Compliance Program. If there are any changes regarding the information (i.e., business structure, ownership, day-to-day management, operational control, addresses, phone and fax numbers or authorized signatures) provided in the submission of the business' application for registration/certification as a HUB, you must immediately (within 30 days of such changes) notify the TBPC's HUB program in writing. The Commission reserves the right to conduct a compliance review at any time to confirm HUB eligibility. HUB certification may be suspended or revoked upon findings of ineligibility.

Paul A. Gibson

Certificate/VID Number: 1743019162100
File/Vendor Number: 25049
Approval Date: 24-MAR-2006
Expiration Date: 24-MAR-2010

Paul A. Gibson
HUB Certification & Compliance Manager
Texas Building & Procurement Commission
(512) 305-9071

Note: In order for State agencies and institutions of higher education (universities) to be credited for utilizing this business as a HUB, they must award payment under the Certificate/VID Number identified above. Agencies and universities are encouraged to validate HUB certification prior to issuing a notice of award by accessing the Internet (<http://www.tbpc.state.tx.us>) or by contacting the TBPC's HUB Certification and Compliance Program at (888) 863-5881 or (512) 463-5872.

2) Search results showing and "inactive" HUB for Songhai Ventures LLC

Results for HUBs only Search

Vendor Name

Stat HUB Phone

Business Description

Songhai Ventures, Inc.

I BL/F 512-458-5577

MULTIFAMILY HOUSING DEVELOPMENT

0 active and 1 inactive vendor found where vendor ID is '1743019162100'.

Memorial Housing, L.P.

June 27, 2011

Via Email

Robbye G. Meyer
Director of Multifamily Finance
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, TX 78701

RE: Response to Application Challenge dated June 15, 2011; Hidden Valley Estates; TDHCA No. 11080

Dear Ms. Meyer:

This letter is a response to the challenge made by Randall Ackerman of Ackerman & Savage, L.L.C. on June 15, 2011 regarding Hidden Valley Estates ("Project").

Item 1 of Mr. Ackerman's Challenge claims that the proposed Hidden Valley Estates site location is not within the City of Houston's Low to Moderate Income Areas (LMI). The map submitted in the application was provided by the City of Houston in its Consolidated Plan and is the relevant document to utilize for projects in an area designated for revitalization and shows the project in such a designated area.

Item 2 of Mr. Ackerman's Challenge states that we should not qualify for the 2 points originally submitted for Volume 4, Tab 23 HUB owned Sponsor Characteristics. As evidenced in the submitted Deficiency Notice response dated March 29, 2011, the Applicant has defaulted to the 1 point category.

We appreciate the Challenge process that the QAP offers but feel that these specific Challenges being submitted do not support any action to be made and would appreciate Staff's concurrence.

Thank you for your consideration in this matter.

Yours truly,



Dru Childre
Authorized Representative
Memorial Housing, L.P.

ACKERMAN & SAVAGE, L.L.C.

Attorneys-at-Law

8226 Douglas Avenue, Suite 330

Dallas, Texas 75225

(214) 346-4200

Fax: (214) 346-4201

Email: cyh@ackermansavage.com

FACSIMILE TRANSMISSION

Date: June 15, 2011

To: Robbye Meyer
Raquel Morales

Fax Phone: 512.475.0764

Pages: 60, including cover

From: Cynthia Harris

Subject: Challenge to Points Awarded for
Application Number 11080 Hidden
Valley Estates and Challenge to Points
Awarded for Application Number 11087
Tidwell Lakes Ranch

Notes: Please see attached. If you have any questions, please feel free to call our office.

The information contained in this facsimile message is privileged and confidential information intended for the exclusive and private use of the individual or entity named above. If the reader of this message is not the intended recipient, employee or agent responsible to deliver this message, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you receive this communication in error, please immediately notify our office at 214/346-4200. If you are out of town, please call collect.

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Facsimile 214-346-4201
www.ackermansavage.com

June 15, 2011

Ms. Robbye Meyer
Texas Department of Housing
and Community Affairs
221 East 11th Street
Austin, Texas 78701

*via email: robbye.meyer@tdhca.state.tx.us
and via fax no.: 512.475.0764*

Re: Challenge to Points Awarded for Application Number 11080, Hidden Valley Estates and Challenge to Points Awarded for Application Number 11087, Tidwell Lakes Ranch

Dear Ms. Meyer:

This law firm presents the enclosed Application Challenge to the Texas Department of Community Affairs with respect to the 2011 low income housing tax credit allocation. This Challenge is pursuant to Section 49.10(e) of the 2011 Qualified Allocation Plan.

The Challenges question the validity of the scoring for the items detailed on the attached exhibits.

Please consider the enclosed materials¹ in connection with finalizing the scoring of the application in this Region, and place these materials in the applicant's file for review by the TDHCA Board as allocations are finalized and approved.

¹ Challenge to Points Awarded for Application Number 11080, Hidden Valley Estates and Challenge to Points Awarded for Application Number 11087, Tidwell Lakes Ranch

Ms. Robbye Meyer

June 15, 2011

Page 2

Also, upon review of the TDHCA website it appears that application number 11149 ("Application") for Branch Village Apartments is not available for viewing. This firm requests you make the Application available for review by the public? Also, due to the fact the Application is currently unavailable to the public on-line, this firm requests additional time be afforded after the application deadline for us to review and challenge the Application. Accordingly, I look forward to your response.

Please feel free to contact me if you have any questions.

Sincerely,



W. Randall Ackerman

Cc: Raquel Morales *via email raquel.morales@tdhca.state.tx.us*
and fax no. 512.475.0764

Enclosure

Challenge to Points Awarded for Application Number 11087, Tidwell Lakes Ranch

Item 1

Volume 4, Tab 13 - The Applicant makes the claim that being consistent with the consolidated plan is the same as being in a Community Revitalization Zone. The Consolidated Plan is a service area wide document and the site is not located in one of Harris County's Target Areas (see attached map) and also references specific Revitalization Areas (copy attached) of which the Applicant's site is in neither. The Applicant also claims to be in a state enterprise zone, which may be a state zone there is not proof in the application that the Governing Body has lawfully assigned responsibility for oversight of communication or activities to a body created or sponsored by that Governing Body.

The items presented in the LIHTC application do show consistency with the consolidated plan, but fail to show that the Applicant's site is part of a Community Revitalization Area as defined in the 2011 QAP. The Applicant should not receive 3 points for this item.

Attachments:

- 1) V4, T13 from 11087 LIHTC Application
- 2) Harris County Target Area Map
- 3) Harris County Excerpt Defining Revitalization Areas

1) V4, T13 from 11087 LIHTC Application

COMMUNITY REVITALIZATION or HISTORIC PRESERVATION (§49.9(a)(13))

The Application proposes:

- Community Revitalization** - the Development includes the use of an Existing Residential Development and proposes any Rehabilitation or any Reconstruction that is part of a Community Revitalization Plan. (§42(m)(1)(C)(iii))

Evidence to be provided to satisfy this requirement:

- Volume 2, Tab 1, Part B- 2011 Existing Residential Development Certification Form is present in Volume 2, and is fully executed.

AND

- A letter from the Appropriate Local Official stating there is a Community Revitalization Plan in effect and the Development is within the area covered by the plan.

If the Applicant is unable to obtain a letter from an Appropriate Local Official, then the following must be provided:

- If the Community Revitalization Plan has specific boundaries, a copy of the Plan adopted by the jurisdiction or its designee and a map showing that the Development is within the area covered by the Community Revitalization Plan.

- Historic Preservation** - The Development includes the use of an existing building that is designated as historic by a federal or state Entity and proposes Rehabilitation (including Reconstruction) or Adaptive Reuse.

Evidence to be provided includes:

- The Development includes* the use of an existing building that is designated as historic by a federal or state entity and proposes Rehabilitation (including reconstruction) or Adaptive Reuse.
- Proof of the historic designation from the appropriate Governmental Body is included.
- Letter from the Texas Historical Commission indicating the effect of the proposed rehabilitation on historical structure is included.

*The Development itself must have the designation; points in this subparagraph are not available for Developments simply located within historic districts or areas that do not have a designation on the building. The Development must include the historic building.

- Rehabilitation** - Application proposes to build solely Rehabilitation.
- Reconstruction** - Application proposes to build solely Reconstruction.
- Adaptive Reuse** - Application proposes to build solely Adaptive Reuse.

- New Construction** - the Development is New Construction and is proposed to be located in an area that is part of a Community Revitalization Plan.

Evidence to be provided includes one of the following:

Evidence to be provided to satisfy this requirement:

- A letter from the Appropriate Local Official stating there is a Community Revitalization Plan in effect and the Development is within the area covered by the plan.

If the Applicant is unable to obtain a letter from an Appropriate Local Official, then the following must be provided:

- If the Community Revitalization Plan has specific boundaries, a copy of the Plan adopted by the jurisdiction or its designee and a map showing that the Development is within the area covered by the Community Revitalization Plan.



REMEMBER TO PLACE YOUR EVIDENCE BEHIND THIS FORM

**VOLUME 4, TAB 13
TIDWELL LAKES RANCH**

The Harris County Consolidated Plan addresses that the low/moderate income areas are part of its revitalization efforts in various sections. The Economic Development Goal of the plan is to encourage economic revitalization efforts, stimulate economic opportunities in low and moderate income communities throughout the Harris County service area. The median income for the census tract is less than 80% of MSA median income. Harris County target areas represent portions of communities in which 51 percent or more of the residents are low- to moderate-income, thus with more than 50% of the census tract being low income, it would by definition be a target area. Further, the enclosed Certification of Consistency for Harris County establishes the need for affordable housing and is consistent with the needs and strategies of the Consolidated Plan.

The plan shows that only 4% of multifamily housing is four or more bedrooms, thus leading to overcrowding and the need of additional units such as Tidwell Lakes Ranch with four or more bedrooms. Harris County has a goal of adding units to satisfy its needs by 2012.

Tidwell Lakes Ranch is located in a State Enterprise Zone, which by definition in Texas Government Code 2303, is a severely distressed area of the state in need of incentives by state and local government to induce private investment in those areas by removing unnecessary governmental regulatory barriers to economic growth and to provide tax incentives and economic development program benefits. A variety of benefits exist to encourage revitalization of the zone including refunds of sales taxes for development (.505), reduced utility rates and priority of municipal services (.511), and waiver of performance bonds for offsite work (.514).

The consolidated plan defines its area as the entire service area and a map of such is included showing the location of the property.

Lead-Based Paint Hazard Reduction Strategy

Effective September 15, 2000, all housing activities supported by funding administered by HUD's Office of Community Planning and Development must comply with lead-based paint regulations (Title X of the Housing and Community Development Act of 1992). The changes will affect housing rehabilitation activities, tenant-based rental assistance, and acquisition, leasing, support services and operations. The new regulation changes the acceptable work practices and expands the requirements to protect occupants and workers from lead-based paint hazards. In addition, it requires testing for lead, stabilization, control or abatement in the event that lead is found on the property. Certain programs will have the additional responsibility of on-going maintenance and record keeping. The impact of the new regulations on existing programs will be in several areas such as budgeting, productivity, and staff training.

In response to the changes in regulations, Harris County will continue to implement HUD's Lead-Based Paint Hazard Reduction strategy. This strategy includes incorporating the approved Lead-Based Paint Hazard Reduction regulations into all housing programs operated by CEDD and those programs funded/operated by subrecipients. Subrecipient training will continue to include information regarding implementation, documentation and reporting on all housing activities that are affected by changes in regulations.

Other strategies for lead based paint hazard reduction include the continued support of the Harris County Public Health and Environmental Services Department's Childhood Blood/Lead Screening/Abatement program. Through these programs Harris County will actively pursue the reduction of the number of lead based paint hazards in the Harris County service area.

Goals and Measurable Objectives

HOUSING GOAL: To create the opportunity for adequate, affordable, accessible housing for extremely low-, very low-, and low-income persons through eventual elimination of lead based paint hazards, encouragement of homeownership, minor home repair, rehabilitation of single-family and multi-family housing, provision of rental assistance, new construction, and development of partnerships.

Owners

Objective 1: Homeownership (13)

To provide 800 individuals and families with the opportunity for homeownership by February 28, 2012, thus improving quality of life and supplying decent housing. This objective will be accomplished through financial assistance to prospective homebuyers. Financial assistance includes, but is not limited to downpayment and closing cost assistance. Programs providing Downpayment and Closing Cost services should provide a minimum of \$10,000 in downpayment and closing costs per eligible program

Renters/Owners

Of all low-income households, renter households make up 42 percent (554,905 households) and owners comprise 58 percent. Based on these totals, both renters and owners are in need of some form of housing assistance, such as rental assistance, housing rehabilitation, and construction of affordable units. Renter and owner households in need of housing were determined based upon the estimated housing cost deficits and rehabilitation needs of those households. Households with housing needs are identified by high ("H"), medium ("M") and low ("L") need level in Table 5.1, Priority Housing Needs /Investment Plan Table.

Table 5.1 Priority Housing Needs/Investment Plan Table (Table 2A)

PRIORITY HOUSING NEEDS (households)		Priority		Unmet Need
Renter	Small Related	0-30%	H	32,360
		31-50%	M	24,910
		51-80%	L	10,235
	Large Related	0-30%	H	12,025
		31-50%	H	6,370
		51-80%	M	1,357
	Elderly	0-30%	M	10,474
		31-50%	M	5,414
		51-80%	L	3,112
	All Other	0-30%	H	22,955
		31-50%	M	20,000
		51-80%	H	12,760
Owner	Small Related	0-30%	H	10,485
		31-50%	H	10,705
		51-80%	M	14,690
	Large Related	0-30%	H	5,085
		31-50%	H	5,805
		51-80%	M	5,140
	Elderly	0-30%	M	12,324
		31-50%	M	7,299
		51-80%	L	5,114
	All Other	0-30%	H	5,325
		31-50%	H	3,320
		51-80%	M	4,914
Non-Homeless Special Needs	Elderly	0-80%	H	7,016
	Frail Elderly	0-80%		
	Severe Mental Illness	0-80%		
	Physical Disability	0-80%	H	14,400
	Developmental Disability	0-80%		
	Alcohol/Drug Abuse	0-80%		
	HIV/AIDS	0-80%	H	1,500
Victims of Domestic	0-80%			

Table 5.4 Priority Housing Needs/Investment Plan Goals (Table 2A)

Priority Need	Yr. 1 Goal Plan	Yr. 1 Goal Plan	Yr. 2 Goal Plan	Yr. 3 Goal Plan	Yr. 4 Goal Plan	Yr. 5 Goal Plan
Renters						
0 - 30 of MFI	90	18	18	18	18	18
31 - 50% of MFI	117	23	23	23	24	24
51 - 80% of MFI	173	35	35	35	34	34
Owners						
0 - 30 of MFI	128	25	25	26	26	26
31 - 50 of MFI	375	75	75	75	75	75
51 - 80% of MFI	512	104	102	102	102	102
Homeless*						
Individuals	1,000	200	200	200	200	200
Families						
Non-Homeless Special Needs						
Elderly	500	100	100	100	100	100
Frail Elderly						
Severe Mental Illness						
Physical Disability	100	20	20	20	20	20
Developmental Disability						
Alcohol/Drug Abuse						
HIV/AIDS	50	10	10	10	10	10
Victims of Domestic Violence						
Total	3,045	610	608	609	609	609
Total Section 215						
212 Renter						
215 Owner						

* Homeless individuals and families assisted with transitional and permanent housing



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Geocoding System

MSA Code: 26420	State Code: 48	County Code: 201	Tract Code: 2323.00
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Summary Census Demographic Information

Tract Income Level	Moderate	Tract Population	10106
Underserved or Distressed Tract	No	Tract Minority %	68.64
2010 HUD Estimated MSA/MD/non-MSA/MD Median Family Income	\$85,100	Minority Population	6936
2010 Est. Tract Median Family Income	\$48,868	Owner-Occupied Units	2178
2000 Tract Median Family Income	\$38,801	1- to 4-Family Units	3138
Tract Median Family Income %	75.05		

[GENERAL DATA](#) |
 [INCOME DATA](#) |
 [POPULATION DATA](#) |
 [HOUSING DATA](#)

Last update: 08/04/2010 07:30 AM

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HARRIS COUNTY, TEXAS

COMMUNITY SERVICES DEPARTMENT

David B. Turkel
Director
Daphne Lemelle
Community Development Director

Office of Housing & Community Development
8410 Lantern Point Drive
Houston, Texas 77054
Tel (713) 578-2000
Fax (713) 578-2190

February 8, 2011

W. Barry Kahn
Tidwell Lakes Ranch, Ltd.
5325 Katy Freeway, Suite One
Houston, Texas 77007

SUBJECT: Tidwell Lakes Ranch Proposed Development
Low Income Housing Tax Credit (LIHTC) Program
Exhibit 202(A), Consolidated Plan, Exhibit 103(B)

Dear Mr. Kahn:

For the purposes of applying for tax credits, the Harris County Community Services Department (CSD) confirms receipt of your request for a letter to be used in connection with your organization's application for Low Income Housing Tax Credits (LIHTC) with the Texas Department of Housing and Community Affairs (TDHCA). Please accept this letter as this Department's response to your request. Note, this Certificate of Consistency does not denote support by the county for the individual project or developer, but confirms that the general scope of the project meets the county's 2008-2012 Consolidated Plan goal of promoting safe and affordable housing.

Increasing the supply of affordable rental housing was identified as a critical need, and is a high priority for Harris County in its Consolidated Plan. Your proposed project, with its set aside of 92 multi-family units is consistent with the needs and strategies in the Consolidated Plan. Harris County encourages your organization to consider, as potential tenants, those households on the Harris County Housing Authority's waiting list for assisted or affordable housing.

Attached please find Exhibit 202(A), Certification of Consistency with the Consolidated Plan for Harris County, which establishes the need for affordable rental housing in the county. Your project, Tidwell Lakes Ranch, located 1000 feet north of the 12900 block of Tidwell, Houston, Texas 77044, is located in the CSD service area. If awarded tax credits, the apartments proposed by your organization will contribute to the number of affordable housing units in Harris County.

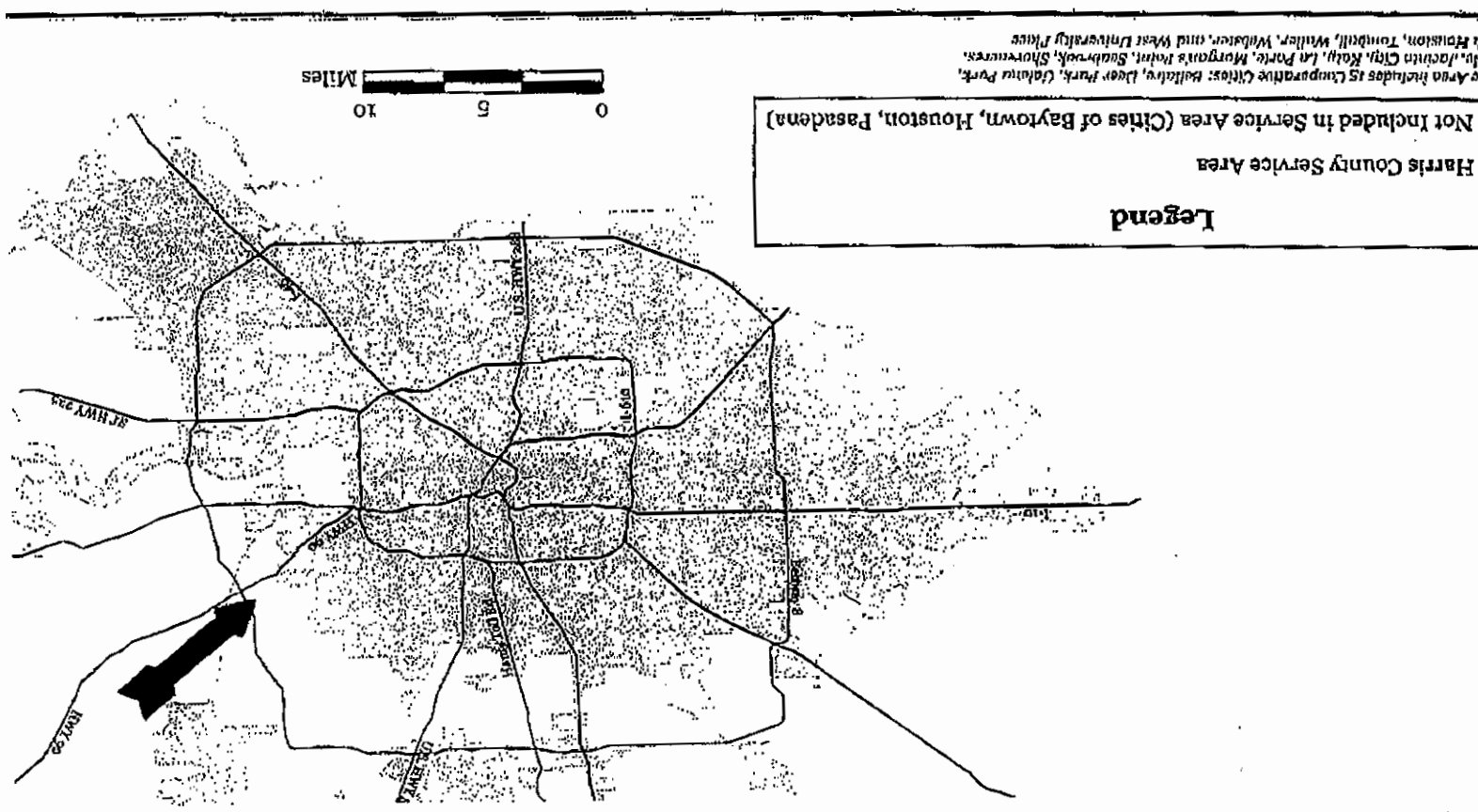
If you need additional information please contact Jared Briggs, Planner at (713) 578-2000.

Sincerely,

A handwritten signature in black ink, appearing to read "David B. Turkel".

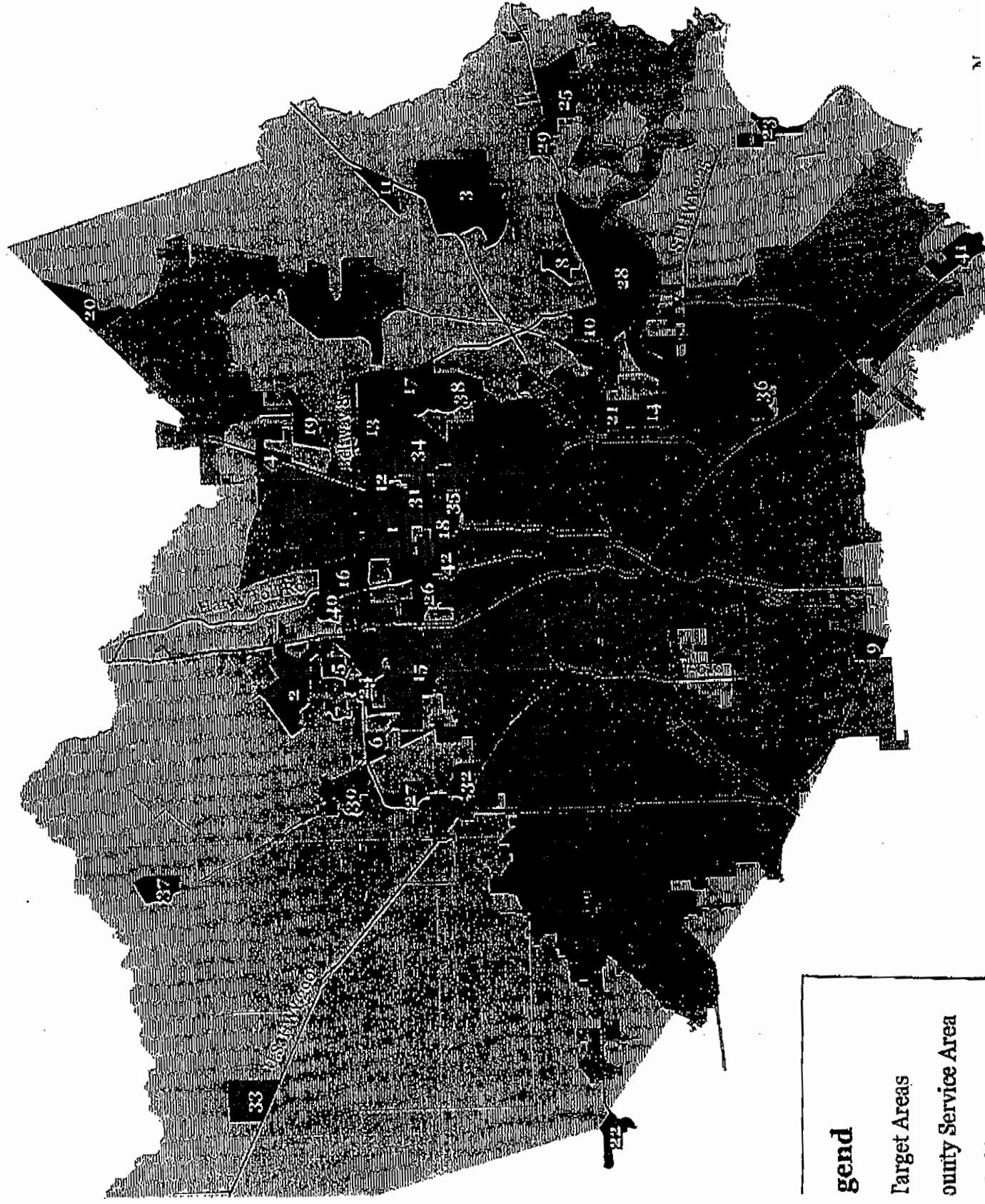
David B. Turkel
Director

DT/DL/cl/jb



Service Area & HUD-Defined Target Areas

3	UNITED NESH
4	Borderville
5	Brough
6	Cedar Point
7	Champron
8	Channahon
9	Clear Creek
10	Clowleaf
11	Crossy
12	El Dorado
13	Fall Creek
14	Galena Park
15	Grainfield
16	Greenbriar
17	Greenwood
18	Greenwood
19	Humble
20	Idlewild
21	Jachno Cly
22	Katy
23	La Park
24	Liacon Gre
25	Linus
26	Little York
27	Maple
28	Marwood-D
29	McNair
30	Meadow Vi
31	Northington
32	Oakhollow
33	Rinck Coun
34	Riverwood
35	Silverwood P
36	South House
37	Totals-off
38	Yates-Koves



gend
 Target Areas
 county Service Area

2) Harris County Target Area Map

3) Harris County Excerpt Defining Revitalization Areas

<http://www.csd.hctx.net/PYConsolidatedPlan.aspx>

Taken from link above. Only area with revitalization according to Harris County.

Airline Neighborhood Revitalization Strategy Area

Introduction

The Airline Community has developed a Neighborhood Revitalization Strategy Area (NRSA) in accordance with the 2008-2012 Consolidated Plan regulations, 24 CFR Part 91.215 (e)(2). The Airline Community NRSA was submitted with the 2008-2012 Harris County Consolidated Plan. The Department of Housing and Urban Development (HUD) established criteria for approving locally determined strategies for revitalizing an area that is among the community's most distressed. The criteria to be met are as follows:

1. The NRSA must be submitted with the 5-Year Consolidated Plan or it must be made an amendment to the existing Consolidated Plan.
2. Grantee must clearly identify the neighborhood's boundaries and the boundaries must be contiguous.
3. The designated area must be primarily residential and contain at least 70 percent low-to moderate-income persons as determined by the most recent census data.
4. The strategy must be developed in consultation with the area's stakeholder, residents, owners/operators of businesses and financial institutions, non-profit organizations, and community groups that are in or serve the neighborhood.
5. An economic assessment of the area must be completed.
6. The economic development assessment must examine opportunities for Improvement within the area.
7. The economic development assessment must examine problems that are likely to be encountered.
8. The implementation plan must promote the area's economic progress with a focus on activities that will create meaningful jobs for the unemployed and low- and moderate-income residents of the area.
9. The plan must promote activities for the substantial revitalization of the neighborhood.
10. The strategy must identify the results (e.g., physical improvements, social initiatives and economic empowerment) expected to be achieved in terms that are readily measurable or "benchmarks."

In 1996, the Department of Housing and Urban Development issued a Community Planning and Development notice [CPD 96-01] encouraging Community Development Block Grant (CDBG) entitlement grantees to develop comprehensive revitalization strategies. HUD identified the development of NRSAs to be the best tool for creating measurable impacts at the neighborhood level. The HUD notice states, "Successful neighborhood revitalization strategies are those that bring together the neighborhoods' and the larger community's stakeholders to forge partnerships that:

- Obtain commitments to neighborhood building;
- Make neighborhoods attractive for investments, thereby creating a market for profit;
- Generate neighborhood participation to ensure that the benefits of economic activity are reinvested in the neighborhood for long-term community development;
- Support the use of neighborhood intermediary institutions to bridge the gaps between local government agencies, the business community, community groups, and residents; and
- Foster the growth of resident-based initiatives to identify and address their housing, economic, and human services needs."

Benefits of NRS

The incentives for entitlement communities to submit and secure approval for a revitalization strategy are described below.

- **Job Creation/Retention as Low/Moderate Income Area Benefit:** Job creation/retention activities undertaken pursuant to the strategy may be qualified as meeting area benefit requirements, thus eliminating the need for a business to track the income of persons that take, or are considered for, such jobs. (24 CFR 570.208 (a)(1)(vii) and (d)(5)(i).
- **Aggregation of Housing Units:** Housing units assisted pursuant to the strategy may be considered to be part of a single structure for purposes of applying the low- and moderate-income national objective criteria, thus providing greater flexibility to carry out housing programs that revitalize a neighborhood. (24 CFR 570.208 (a)(3) and (d)(5)(ii).
- **Aggregate Public Benefit Standard Exemption:** Economic development activities carried out under the strategy may, at the grantee's option, be exempt from the aggregate public benefit standards, thus increasing a grantee's flexibility for program design as well as reducing its record-keeping requirements (24 CFR 570.209 (b)(2)(v)(L) and (M).

- **Public Services Cap Exemption:** Public services carried out pursuant to the strategy by a Community-Based Development Organization (CBDO) will be exempt from the public service cap (24 CFR 570.204 (b)(2)(ii).

The Airline Neighborhood Revitalization Strategy is an effort to make a significant and measurable impact in the Airline community.

The Airline community seeks the opportunity to utilize CDBG funds to leverage private resources and make a lasting impact on the community. This focused funding approach will result in the revitalization of the Airline neighborhood, including development of new housing, new jobs, increased transportation options, and improved access to jobs, services, and public amenities.

In 2007, the Airline Improvement District received \$408,000.00 in CDBG funds from Harris County to acquire land for a park which was one of their planned activities in their 5 year revitalization plan.

Airline NRSA Boundaries

The Airline target area is located in northern Harris County, just north of the City of Houston, south of Greenspoint Mall and situated within unincorporated Harris County - Precinct One. Airline is bound by West Road, Hambrick Road, Lillja Road, and Aldine Mail Road to the north; the Hardy Toll Road, Bauman Road and the City of Houston limits to the east; East Canino Road and Carby Road to the south; and Sweetwater Lane to the west. The Airline target area consists of approximately 2,809.60 acres.



Table 1.1 details the location of Airline by key map, census tracts and block groups, county precinct, zip code and school district.

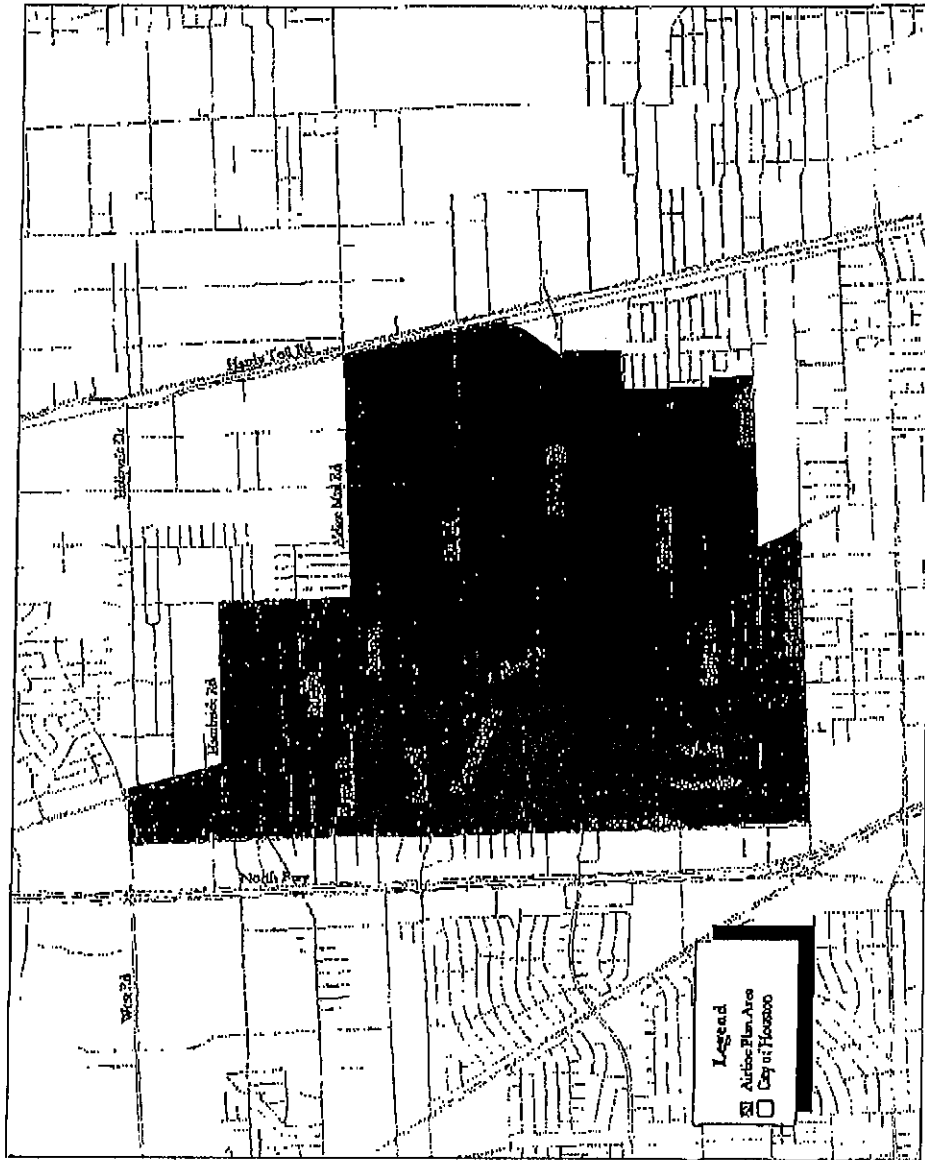
Table 1.1: Location Analysis of Airline

Identifier	Location/Information
Key Map, 2003 (pages)	412 and 413
Census Tracts	Tract 2216 (Block Groups 1,2, and 4) Tract 2217 (Block Groups 1 and 3) Tract 2224 (Block Groups 3 and 4)

County Precinct	Precinct One - Commissioner El Franco Lee
Zip Code	77037
School District	Aldine ISD

Source: Harris County Community & Economic Development Department, 2005

Map 1.1: Airline Target Area



Source: Harris County Community & Economic Development Department, 2005

Demographic Criteria

Understanding current conditions and trends of the target area establishes the foundation for recommendations about effective ways to transform the area from its current state to what the residents envision it can become. Key opportunities and challenges for the target area are revealed through the analysis of residents' characteristics, specifically, population density, race/ethnicity, income, educational attainment, and language proficiency.

A community's population size and location is dependent upon a number of factors, including, but not limited to:

- the effect of growth on a community's ability to provide acceptable levels of service for basic public services and facilities such as police, fire, emergency medical services, streets, parks, libraries, schools, and utilities at a cost that is politically acceptable to the community's taxpayers;
- the impact of growth on the natural environment;
- the effect of growth on traffic flow and congestion in the community;
- the impact of growth on community quality of life issues such as the aesthetic quality of new development ; and
- the effect of growth on the supply of housing for various age and income groups

Demographics and Land Use

Understanding current conditions, trends and land use in the target area establishes the foundation for recommendations regarding effective ways to transform the area from its current state to what the residents' visions of the future.

Demographics

- More than 16,500 residents inhabit the 4.39 square mile Airline community. The population has increased almost 30 percent since the 1990 Census.
- More than 60 percent of the Airline population is Hispanic or Latino. The community experienced a 187 percent increase in the Hispanic/Latino population between the 1990 and 2000 Censuses.
- Approximately 26 percent of the Airline population is 19 years of age or younger.
- Approximately 52 percent of Airline residents 25 years of age or older are not high school graduates. Only 3.95 percent of Airline residents 25 years of age or older have a bachelor's degree or higher.
- The median household income is \$35,701, approximately \$7,000 less than Harris County.
- Approximately 17 percent of Airline residents below poverty level. The greatest percentage of residents below the poverty level is children under the age of five.

- Approximately 74 percent of all children ages 5 to 17 in Airline speak English 'very well'. More than 67 percent of all adults ages 18 to 64 speak English 'very well' and adults ages 65 and older speak English 'very well'.

Land Use

- Airline is predominantly an urban area with facets of a suburban and rural landscape. While urban communities similar to Airline are commonly typified by high density residential land use, it has suburban and rural development—specifically parcels/lots larger than .5 acres and mobile home communities—clustered along major thoroughfares and other arterials in the community.
- Airline has a number of abandoned properties and vacant lots prime for (re)development. Several vacant and abandoned properties are ideal for a community center, pocket parks, or conducive for an infill housing development program.

Housing Primarily Residential

- While urban communities are typified by high density residential land use, Airline has suburban and rural development—specifically parcels/lots larger than .5 acres and mobile home communities— clustered along major thoroughfares and other arterials in the community.
- More than 75 percent (75.51 percent) of Airline residents reside in owner occupied housing; approximately 25 percent (24.49 percent) reside in renter occupied housing.

This indicates that the Airline community is stable as residents have made an economic investment in the community. More than 73 percent of the Airline population resides in owner occupied single family detached homes; 24 percent reside in owner occupied mobile homes.

As Map 2.2 illustrates, the predominant land uses in Airline are single and multi-family residential. Single family residential land use accounts for more than 75 percent of the total land use in the target area. Single family residential land use in Airline is primarily characterized by neighborhood/subdivision development in the south and southwestern parts of the target area. The Bellmar and Northline Terrace subdivisions either have water and sewer service provided by a private service, Nitsch & Sons Industries, or well and septic systems. The homes in these neighborhoods are typically constructed on concrete slab with brick masonry. This part of the target area is primarily void of sidewalks; shallow ditches and curbs and gutters are seen in this part of the target area.

Map 2.2: Land Use in Airline



Source: Harris County Appraisal District, 2003

The single family residential homes in the north and northwest parts of the Airline community either have water and sewer service provided by Sunbelt Freshwater Supply District (Sunbelt FWSD) or well and septic systems. The single family homes constructed in this part of the target area are typically constructed on concrete slab with brick masonry. These homes are also void of sidewalks; shallow and deep, unkempt ditches are representative of this part of the target area.

The east and southeastern parts of the target area have single family residential lots that are primarily larger than .5 acres. McClosky Road, Castledale Road, Hartwick Road, and Turner Place Rd, have large, multi-floor, suburban ranch-style homes built of brick masonry and siding. Residents either have water and sewer services provided by well and septic tanks or privately maintain their own water tanks. Single family residences in this part of the community are more rural in nature. Several residences are home to livestock—typically horses, cattle, and poultry.

Multi-family residential land use accounts for less than 2 percent of land use in Airline. Nevertheless, it is a contributing factor to the increasing population.

density in the community. Many single family residential parcels are inhabited by multi-family apartment complexes and mobile home communities. There are approximately 17 mobile home communities and apartment complexes in Airline. Multi-family residences in Airline either have water and sewer service provided by a private water company or their own water system.

Consultation

To assist communities, HCCEDD utilizes a community planning process that engages residents, business owners, civic leaders and potential investors to actively recognize community challenges, visions, goals and resources to seek viable solutions and develop a comprehensive community revitalization plan. This plan not only serves as a flexible roadmap to revitalization and reinvestment, but also reflects an innovative approach to rebuilding communities through civic participation at the local level with a comprehensive focus. Strategies and recommendations are devised to improve transportation and infrastructure, housing, community facilities and public services, public health and human services, economic development and urban design. Harris County Community and Economic Development Department, in partnership with State Representative Kevin Bailey and Harris County Precinct One Commissioner El Franco Lee worked with Airline residents, business owners, and civic leaders to develop a community revitalization plan for the Airline locale.

Developing a community revitalization plan is a community's primary approach to initiating a comprehensive, coordinated effort to enhance the social, economic, and environmental conditions of its residents. This plan will enable the community to organize their revitalization efforts and when necessary seek federal, state, local and private foundation funding for implementation, as the plan represents an organized and clear strategy for comprehensive (re)development. Residents, the business community, educators, and civic leaders were charged with the development of a community plan and its implementation. Essentially, planning is the process of thinking systematically through a situation to devise a better recommendation and/or solution. If residents are to be empowered, each individual must act and participate in a systematic fashion that characterizes planning. Planning is merely a conduit for the most efficient use of scarce resources through:

- Identifying the highest priorities to which resources will be directed
- Devising alternative to address community challenges
- Designing projects that meet several needs at once

Community-based planning and revitalization is imperative as it separates successful communities from declining communities in the new millennium. The following factors illustrate examples of a community's revitalization agenda:

- Renovating an aging or non-existent water and sewer infrastructure with increasingly scarce resources for its upgrading

- Providing a socially and economically healthy environment for investments by corporations and individuals for commercial and retail activities
- Providing recreational opportunities and social services for children and adolescents to prevent and/or halt criminal activity and promote future educational prospects

Articulating a comprehensive community revitalization agenda relies on mobilizing human, social, physical and financial resources. The HCCEDD Planning staff was contacted in March 2005 by State Representative Kevin Bailey and Harris County Precinct One representatives to develop a comprehensive revitalization strategy for the Airline community. Thus, in May 2005 a diverse group of community leaders – residents, business owners, law enforcement personnel, and educators formed the Airline Vision Team and officially partnered with HCCEDD to begin the community development planning process.

In partnership with HCCEDD, Airline Vision Team members organized a community meeting in late June 2005. With more than 110 residents in attendance, citizens discussed concerns about housing, flooding; crime prevention and police patrol; traffic control, improving water and sewer service, youth and senior programs, and economic development. In late July 2005, the Airline Vision Team and HCCEDD organized an urban design meeting. Architects and urban designers from STOA/Golemon/Bolullo Architects assisted residents in envisioning a renewed future in Airline. Ideas and suggestions discussed the June 2005 community meeting were visually discussed at the urban design meeting. Pictures and design sketching of commercial developments, public facilities, streetscapes, sidewalks, park improvements, and traffic control improvements and other visual additions provided much conversation and commentary for area residents. In August 2005, HCCEDD and the Airline Vision Team organized a community business owners' meeting and an educators' meeting with Aldine Independent School District (AISD) and Houston Independent School District (HISD) teachers and administrators of Airline area schools.³ Issues and concerns discussed at all meeting were analyzed by HCCEDD staff and the Airline Vision Team and serve as the basis for goals, proposals and recommendations in this community plan.

A community plan is merely a blueprint for all revitalization efforts in a specific locality. Two scenarios can immediately doom any community plan:

1. A plan is prepared by a government entity or a consultant with minimal contact and input with residents; or
2. A plan is prepared by some residents –usually self-selected—that do not involve other residents, community organizations, business leaders, educators.

Residents involved in community planning should be recruited from a range of community organizations to ensure that the plan represents the consensus of a community, not just a small faction of residents. Community plans are most effective when a collaborative effort among government entities and neighborhood residents (including commercial residents and educators), such as the case between HCCEDD, the Office of State Representative Kevin Bailey, and the Office of Harris County Precinct One Commissioner El Franco Lee with the Airline community.

The Airline Community Revitalization Plan recommends strategies, solutions, and initiatives to address challenges facing Airline residents, business owners, and educators. It is organized to examine the area's demographics and land use, transportation and infrastructure, housing, community facilities and public services, public health and human services, economic development and urban design challenges, goals, and recommendations. Proposed goals and recommendations were derived from citizen input at community meetings and prioritized by the Airline Vision Team and the HCCEDD Planning staff. An implementation timeline details project and program information to be completed over the next five years.

Based on the planning and strategies focused on the revitalization of Airline, a comprehensive targeted approach to revitalization through a Neighborhood Revitalization Strategy Area has been determined to be the best use of CDBG and HOME funds for the next five years. Presentations for this approach have been made to area elected officials, businesses, boards and commissions, non-profit organizations, and citizens. All groups have enthusiastically supported this new approach.

Assessment

Economic Development

Economic development refers to progress toward a community's economic goals, including increases in economic productivity and competitiveness; employment; and business activity and investment. Economic development reflects qualitative factors such as human health, environmental quality and social equity, community development. When describing economic development, it is common to think of a series of job creation, retention, and training programs; a series of public and private capital investments; and a process of capacity building that allows a community to influence its economic future. This chapter details the current economic conditions and business environment in Airline. A market analysis was conducted analyzing the profitability of the Airline community to sustain retail (re)development.

Labor Force Characteristics

- According to the Bureau of Labor Statistics, Harris County's average weekly wage has been increasing at a modest rate. This indicates economic

growth and an enhanced quality of life for residents in Airline and Harris County.

- More than 67 percent of all males in the Airline community 16 years and older are in the labor force. Approximately 58 percent of all females in the Airline community 16 years and older are in the labor force.
- Construction, manufacturing and retail trade are the primary employment industries in Airline. A growing number of residents are employed in the arts, entertainment, and recreation industry.
- While more than 65 percent of Airline workers have commute times between 15 and 45 minutes, the 2000 Census reveals the travel time to work and the number of residents that work at home have increased since the 1990 Census.
- Approximately 65 percent of Airline workers drive their own vehicle to work; 3 percent use public transportation to get to work.

Business Environment

- Airline is home to a multitude of automotive-related businesses, childcare establishments, flea markets, professional services; feed and supply stores; trailer and boat storage; tractor sales; taqueria stands; appliance stores; washaterias; convenience stores; bridal and quinceañera shops; and hair and beauty establishments.
- There is no chain grocery store or fast food establishment located in the Airline target area.
- Since January 2000, more than 26 percent of all commercial permits issued in Airline have been for warehouse structures.
- As an integral economic engine in the community, the cluster of flea markets along Airline Drive attracts tens of thousand of shoppers every weekend.

Market Analysis

- Income density (purchasing power) data and supply indicators illustrate that Airline residents have a lack of retail establishments and levels of purchasing power comparable to other suburban locations in Harris County well-served by retail and could potentially support new retail establishments.
- Retail centers within the boundaries of the Airline target area function as destinations for multi-purpose shopping trips and attract more customers than stand alone businesses.

Goals

The Airline Improvement District is committed to improving the retail/commercial (re)investment and development in the Airline community. There are several overarching goals for strengthening and promoting retail development in Airline. These goals should inform the articulation of criteria for the selection of sites and choices of retail development.

1. Increase local access to goods and services at reasonable prices for Airline residents
2. Attract and retain businesses
3. Provide destinations and nodes to attract visitors/new residents to Airline
4. Reuse the existing commercial fabric in Airline
5. Provide employment for area residents
6. Increase the tax base
7. Reinforce and stimulate other investment in Airline
8. Encourage local entrepreneurship

Recommendations

The purpose of the following recommendations and goals is to support the Airline Improvement District commitment to sustainable economic development through the implementation and enforcement of appropriate organizations, incentives and programs, and legislation.

To support the Airline Improvement District's and the community's commitment to sustainable economic development, recommendation strategies include:

- The creation of an economic development council
- Enforcement of HB 414 (junkyard legislation approved in May 2005)
- Enforcement of HB 2509 (curbstoning law)
- Small business education workshops
- Locating a chain or independent grocery store in Airline
- The creation of a flea market business development organization

Transportation and Infrastructure

Transportation and infrastructure investment is fundamental to meeting the challenges of growth, development and shifting priorities in the Airline community. Strategic transportation and infrastructure investments will enable Airline to achieve economic, housing, and quality of life goals concurrently. This chapter examines the current transportation and infrastructure options available to Airline residents, identifies inadequacies and delinquencies, and provides recommendations to ensure that the development of facilities and services to keep pace with current and future development.

Transportation

Main Thoroughfares

- Automobile and pedestrian traffic is particularly problematic along Airline Drive on weekends. Not only is Airline Drive the hub of commercial businesses in Airline, but it is inundated with vehicular traffic from the flea markets.
- There are several transportation plans and improvements to major streets in Airline currently proposed, under consideration or in the

development process by the Houston-Galveston Area Council (HGAC), Texas Department of Transportation (TXDOT), the Metropolitan Transit Authority of Harris County (METRO), and the Harris County Public Infrastructure Department – Engineering Division.

METRO Routes in Airline

- Airline is served by four METRO bus routes: (8) South Main/Yale, (9) North Main/Gulfton, (56) Airline Limited, and (59) Aldine Mail Crosstown.
- Airline residents state that the current METRO routes do not adequately serve the population.

Light Rail Service in Airline

- In 2005, METRO officials submitted a revised transit system plan to the Federal Transit Administration (FTA) in response to the low rating the North Corridor (of which the Airline community is part of) light rail extension received.
- METRO has proposed installing bus rapid transit service along Airline Drive and maintains that once ridership in the corridor grows sufficiently to support light rail, the conversion will be made.

Infrastructure

Water and Sewer Service

- Water and sewer service is the most seriously delinquent public infrastructure item in Airline. While 99 percent of Airline housing units have complete plumbing facilities, there are a number of homes without access to public water or sewage services. Many housing units use underground water wells and septic tanks.
- Public infrastructure does not create economic growth in a community, but it does influence the location of growth. Water and sewer lines will not necessarily magically create economic development, but it is necessary for community growth and improvement.

Drainage

- Airline's drainage system consists of ditches, driveway culverts, road crossing culverts and few gutters.
- The eastern portion of the Airline community (closest to the Hardy Toll Road) is either in a floodway or in the 100 or 500 year flood plain.

Roads and Sidewalks

- The Airline community is virtually void of sidewalks. A lack of sidewalks is particularly difficult and dangerous for children as they are commonly forced to walk on street or deep ditches to avoid oncoming traffic.
- Many of the Airline roadways are paved, but some consist of rocks and concrete. Many streets are plagued with potholes and ruts.

Goals

Transportation & Infrastructure is the foundation of a community. Streets, water lines, sewer lines, sidewalks, and lighting are all part of the transportation and infrastructure framework. Basic services exist because of a solid infrastructure. An organized transportation system allows residents to access businesses both for employment and leisure. Transportation options, such as buses, walkways, and bike paths, diversify communities, reduce traffic, and enhance quality of life.

1. Improve traffic management of flea market patrons on weekends
2. Install flashing school zone speed signs
3. Install traffic signals at the intersection of Gulfbank Road and Cobbleshire Road
4. Improve pedestrian traffic control at the flea markets
5. Restripe yellow lines
6. Investigate installing speed bumps on Rockcliff, Lillja, and Karen Streets
7. Increase and improve METRO bus service
8. Prevent drivers from using turn lanes as passing lanes
9. Investigate feasibility bussing flea market patrons into community from nearby Park & Ride lots

Recommendations

The following recommendations will assist the Airline community in developing an effective transportation network in the community to assist current and future residents.

The following recommendations will assist the Airline community in developing an effective transportation network in the community to assist current and future residents:

- Installing of sidewalks
- Installing of streetlights
- Water and sewer service
- Addressing flooding and drainage issues with appropriate government entities
- Bilingual signage
- Restriping of major thoroughfares
- More flashing school zone speed signs
- Developing alternate routes to deal with weekend flea market traffics with the appropriate government entities
- Installing crosswalk signals and widening streets
- Working with METRO to provide additional bus routes in Airline
- Becoming a partner agency with the Harris County Coordinated Transportation Program

Community Facilities and Public Services

The provision of community facilities and public services are the primary activities of local government and non-profit organizations. This element of the plan analyzes the current community facilities and public services available to Airline residents, identifies inadequacies and delinquencies, and provides recommendations to ensure that the development of facilities and services keep pace with current and future development.

Parks

- Airline residents have a fraction of park space per person recommended by the National Recreation and Park Association (NRPA). Currently, Airline has less than 1/20 of the recommended park space per person. The necessary park space recommended by NRPA for urban communities accounts for less than 4 percent of the total acreage in Airline.
- Dow Park is the only park/recreational sports field located in the Airline target area.

Community Centers/Facilities/Programs

- There are no community centers in Airline. Pep Mueller Community Center and Hardy Community Center are within several miles of the Airline target area.
- Opportunities exist in the community for a multi-purpose community center and Sheriff storefront.

Crime and Police/Fire Services

- Between 2002 and 2004, crimes of assault, burglary, drug-related activity, and theft increased 24.50 percent. This indicates that Airline needs a more visible and unified law enforcement presence.
- Between 2002 and 2004, automobile accidents increased 7.29 percent; driving under the influence (DUI) traffic offenses decreased 10.00 percent.
- The nearest Harris County Sheriff's Department community storefronts/substations are located in the Aldine community and Greenspoint Mall.
- The Little York Volunteer Fire Department has an Insurance Services Office, Public Protection Classification System (ISO) rating of 6 (the best rating is 1 and the worst rating is 10). This rating is a critical determinant in what area residents will pay for the fire protection portion of their homeowner's insurance.

Education

- The Airline community is home to twelve early childhood/pre-kindergarten, elementary, middle and high schools. Of the twelve schools, only five are directly situated in the Airline plan/target area. The balance of schools is not located in the target area, but children from the target area attend their campuses.

- The Airline community is home to two school districts: Aldine Independent School District (AISD) and Houston Independent School District (HISD). AISD earned a *Recognized* accountability rating from the Texas Education Agency (TEA) for the 2004-2005 academic year. HISD earned an *Acceptable* accountability rating from the TEA for the 2004-2005 academic year.
- Several junior and community colleges located in proximity to the Airline community offer adult education programs in English as a Second Language (ESL), adult basic education, and general education development (GED).

Goals

Community Facilities constitute the cultural, educational, and social gathering places of a neighborhood. There are two types of community facilities: public and private. Public facilities include parks, schools, community centers, and any other site specifically designed for general resident gathering and owned by the public. Private facilities include churches, hospitals, theaters, and any other sites privately owned. Community centers, elementary schools, parish churches, and local libraries help define the sense of place within a given area. They provide a location for the collective energies of a community.

1. Locate a Harris County Sheriff's Department Storefront at the intersection of Airline Drive and Gulfbank Road.
2. Locate a community center in the target area
3. Provide greater police presence throughout the entire Community & Economic Development Department
4. Initiate a Weed & Seed Program in Airline
5. Clean up parks and locate new parks (possibly small pocket parks) in the Community & Economic Development Department

Recommendations

The following recommendations have been suggested to ensure that community facilities and public services meet current and future residents' needs and contribute to an enhanced quality of life.

The following recommendations are suggested to ensure that the community facilities and public services meet current and future residents' needs and contribute to an enhanced quality of life:

- Designation as a Weed and Seed community
- Annual National Night Out celebrations
- Hiring contract deputies to patrol the Airline Improvement District
- Hiring nuisance abatement officers
- Locating new parks in Airline
- Locating a community center in Airline

- Developing a newsletter and website
- Developing a community beautification program
- Organizing and partnering with community organizations to have after-school programs, summer and youth mentoring programs; and senior citizen programs
- Locating a Harris County Sheriff Storefront/Substation in Airline

Public Health and Human Services

Public health refers to the overall mental and physical health of a community. It includes the surveillance and control of infectious disease and promotion of healthy behaviors among members of a community.

- An assessment of the Airline community reveals that the area is void of hospitals and 24-hour medical clinics. There are a minimal number of physician's offices and dental clinics in the community.
- Data from the 2003 Harris County Public Health and Environmental (HCPHES) Retrospective Immunity Survey state that only 56 percent of children in the Airline community were appropriately immunized at age two.
- Litter and debris are threatening public health in Airline. Illegal dumping of household items and litter can collect water, which harbor and attract vermin and pests. Improperly stored automotive equipment can release noxious toxins into the water table and contaminate drinking water.

Goals

Human Services connect people to each other. They assist people in meeting health, welfare, employment, and other basic needs. Human service providers can be public or private, non-profit or for-profit, and range from day care to drug counseling to job training. Human services create the social fabric that supports a community.

1. More heavy trash collection days (4 times a year)
2. Develop a community watch program
3. Better litter control of public places
4. Provide more after-school programs/activities for children and adolescents (investigate partnerships with school districts and other youth organizations)
5. Investigate locating a 24-hr medical clinic in the community
6. Provide adult education programs
7. Make childcare more affordable

Recommendations

A community health initiative that merges existing and imminent health resources will provide more efficient services to Airline residents. The following recommendations will assist in this objective:

- Locating a 24-hour clinic in Airline
- More heavy trash collection days and litter control
- Ditch/culvert cleaning

Housing

Housing of profound importance to Airline residents. Housing is an anchor, providing a link to family, neighbors, and the greater community. The home provides an important foundation for obtaining and maintaining employment, creating a secure and supportive environment for raising children, accessing public and private services, and building the web of relationships that underpin a socially cohesive community.

Housing Supply

- Approximately 70 percent of all Airline residents reside in single-family detached housing. More than 23 percent of Airline residents reside in manufactured homes (mobile homes). The balance of residents lives in multi-family housing.
- More than 75 percent of Airline residents reside in owner-occupied housing. In contrast, approximately 60 percent of Harris County residents live in owner occupied housing.

Housing Tenure

- Homeownership enhances the lives of individual households and increases the social capital of communities.
- More than 75 percent of all housing units in Airline are owner-occupied. In contrast, 55 percent of all housing units in Harris County are owner-occupied.

Overcrowding

- Many residents find overcrowding a threat to property values, public safety, and public infrastructure. It also creates problems for trash removal and debris. This is a common occurrence in Airline as many families commonly live in housing units with a large number of intergenerational family members living in a single home.
- Approximately 28 percent of Airline households have five persons or more; nearly 15 percent of Harris County households have five persons or more.

Vacancy

- Housing vacancy rates are an indicator of the saturation of the total housing stock.
- Approximately 6 percent of housing units in Airline are vacant compared to 7.13 percent for Harris County.

Housing Values

- According to the National Association of Realtors, the average single-family home price in Airline is \$111,368; in Harris County, \$133,555.
- Almost 40 percent of owner occupied housing units in Airline are valued less than \$50,000.
- Approximately 70 percent of Airline renters pay between \$300 and \$699/month for housing.

Age of Housing Structures

- Airline did not equally share in the substantial growth in housing construction that occurred in Harris County in the 1970s and 1980s. The median year housing was built in Airline is 1968; in Harris County it is 1976.
- More than 58 percent of Airline's housing stock was constructed before 1969. Subsequently, residents have commented about the lack of resources for home repairs and infill housing to strengthen the housing stock.

Condition of Housing Structures

- The 2002 Harris County Appraisal District (HCAD) Housing Inspection Survey of houses in Airline indicates that the majority of dwellings are classified as *average*.
- No homes in Airline were classified as excellent. Homes west of Airline Drive are classified as *good*, *average*, or *fair*. Housing units to the north and east are primarily classified as *fair* and *average*, yet populated with several *poor*, *very poor* and *unsound* units.

Goals

The following goals support the Airline Improvement District and the community's commitment to sustainable, quality and affordable housing:

- Demolish abandoned properties
- Deed restriction enforcement
- Homeownership program/campaign
- Infill housing program
- Home repair program
- Nuisance abatement of garbage, noise, weeds, rodents, insects, and junk
- Restrictions on trucks with more than two axles in residential neighborhoods

Housing specifies places where one raises a family and displays personal items. Homes can be single-family, multi-family, and mobile, contain garages or patios, and generally portray any characteristics a resident wishes to display. It is important that housing contain basic services, such as safe drinking water, as well as providing both a sense of privacy and connection to the larger community.

1. Improve flooding and drainage problems

2. Greater enforcement of deed restrictions
3. Restrict multiple families (housing units) living on one lot
4. Restrict trucks with more than 2 axles on residential streets
5. Install streetlights and sidewalks along major thoroughfares and residential neighborhoods
6. Limit the number of mobile home communities
7. Remove abandoned cars from street and yards
8. Landscape trees and cut overgrown lawns to beautify community
9. Demolish burnt and abandoned homes
10. Clean yards of trash and debris

Recommendations

The purpose of the following recommendations and goals is to support the Airline Improvement District and community's commitment to sustainable, quality and affordable housing through the implementation and enforcement of appropriate incentives and programs.

The following recommendations and goals support the Airline Improvement District and the community's commitment to sustainable, quality and affordable housing:

- Demolish abandoned properties
- Deed restriction enforcement
- Homeownership program/campaign
- Infill housing program
- Home repair program
- Nuisance abatement of garbage, noise, weeds, rodents, insects, and junk
- Restrictions on trucks with more than two axles in residential neighborhoods

Economic Empowerment

The Airline Improvement District is committed to improving the retail/commercial (re)investment and development in the Airline community. There are several overarching goals for strengthening and promoting retail development in Airline. These goals should inform the articulation of criteria for the selection of sites and choices of retail development.

1. Increase local access to goods and services at reasonable prices for Airline residents
2. Attract and retain businesses
3. Provide destinations and nodes to attract visitors/new residents to Airline
4. Reuse the existing commercial fabric in Airline
5. Provide employment for area residents
6. Increase the tax base
7. Reinforce and stimulate other investment in Airline

8. Encourage local entrepreneurship

Recommendations

The purpose of the following recommendations and goals is to support the Airline Improvement District commitment to sustainable economic development through the implementation and enforcement of appropriate organizations, incentives and programs, and legislation.

1. Economic Development Council

The creation of a local economic development council will benefit the Airline business community by creating a more favorable business environment; enhancing communication between businesses, government, and residents; and attracting new industries and businesses. To develop this organization:

- Determine if the organization should become private, nonprofit, or a membership driven organization
- Determine the focus of the organization (attracting, strengthening, and recruiting new businesses; encourage public/private cooperative partnerships)
- Create partnerships with the civic associations, the Airline Improvement District, the North Harris Greenspoint Chamber of Commerce, schools, Harris County Precinct One, the Greater Houston Partnership, University of Houston Small Business Development Center, SCORE: Counselors to America's Small Businesses
- Seek funding (grants and loans) to pay for business development or expansion, employee and business training, G.E.D. courses, remedial education, vocational training, professional certification, and advanced degrees

An economic development council, separate, but in coordination with the Airline Improvement District and North Houston Greenspoint Chamber of Commerce, will reinforce the Airline community's role in the regional business community. This organization will give citizens and business owners and employees the opportunity to enhance/improve local business networking opportunities and achieve greater economic prosperity for all business through a united and aggressive organization.

2. Enforcement of HB 414 (Junkyard Legislation)

The uncontrolled growth of automotive salvage and junkyards adjacent to residential homes, schools, and churches over the years in unincorporated Harris County has lead to the violation of state laws regulating distance requirements. Junkyard owners routinely pay the occasional Class C misdemeanor fine and consider it an expense of doing business in Airline.

Residents in Airline and other affected communities commonly live on small lots with backyard water wells that are 25-50 feet deep. Several schools have encroaching junkyards moving closer with cars piled high above fences, if indeed the back of the salvage and/or junkyard is fenced. The chemicals used at these

salvage and junkyards run-off into the local water table and penetrate the residents' shallow backyard water wells and cause other deleterious impacts to the potable water in the community. Rusting cars and automotive parts are commonly in violation of height requirements and are considered to be a visual blight on the community and threaten the public health and safety of all residents.

Thus, during the 79th Texas Legislative session, State Representative Kevin Bailey introduced legislation aiding Harris County in enforcing current laws restricting automotive wrecking and salvage yards from violating regulations and requirements for distance from existing homes, schools, and churches. The legislation, passed into law in May 2005, provides injunctive relief that will give Harris County a much desired tool in enforcing the existing law (Chapter 397, Texas Transportation Code – Automotive Wrecking and Salvage Yards in Certain Counties).

Enforcement of this law will quell Airline residents concerns with the lack of aesthetic attention junkyard owners give to their property. Retail establishments commonly locate in communities with a strong and stable housing stock and high property values. Economic prosperity can occur in harmony with the natural environment. Prospective businesses will not establish themselves in Airline if the drinking water is negatively impacted by other businesses.

3. Locate a Chain or Independent Grocery Store in Airline

The Airline Improvement District, in partnership with the North-Houston Greenspoint Chamber of Commerce, Airline residents, Airline business owners, and other concerned individuals must unite to locate a chain or large, independent grocery store in Airline. The Fiesta grocery store at West Rd. and Airline Drive is the closest grocery store to Airline.

A chain or independent grocery store in Airline will fill the voids that small convenience stores and fast food restaurants leave in the community. A chain or independent grocery store with a varied target niche to the community will provide higher wages to workers, yet provide staple and ethnic foods to consumers at lower prices. To locate a chain or independent grocery store in Airline:

- Create a partnership with the North Houston Greenspoint Chamber of Commerce, Airline business owners, residents, and other concerned individuals
- Seek subsidies and tax breaks from Harris County to locate a chain grocery store in Airline
- Locate vacant buildings/land for a grocery store
- Identify large developable parcels and parcel owners
- Raise support and interest of large land owners in redevelopment of land
- Gain control of land
- Issue a request for proposals to identify and attract potential developers

- **Contract with a developer**

Attempting to locate a large scale development in Airline will possibly take several years. While attempting to locate a chain grocery store in the community, ask independent grocers to begin carrying more staple foods at lower prices.

4. Flea Market Business Development Organization

A flea market business development organization/association will serve as a separate, but collaborative organization with the Airline Improvement District and the Airline Economic Development Council. This organization will benefit the community by regaining and maintaining public trust in Airline residents to engage in ethical businesses practices, controlling noise and traffic along major corridors and residential streets, providing greater police protection to consumers and community members, and facilitating revitalization in Airline.

5. Enforcement of HB 2509 (Curbstoning Law)

Curbstoning, or the illegal sale of automobiles on a street curb, right of way or in parking lots by individuals, licensed and unlicensed dealers, is a consumer protection issue. Not only does it reduce business of licensed dealers but it causes blight in local neighborhoods and brings an unsavory criminal element into communities. Curbstoners do not pay taxes on vehicle sales or transfer titles, thus creating a loss of revenue for the Airline Improvement District. Harris County has the power to adjudicate curbstoning cases.

6. Small Business Education Workshops. Small business education workshops strengthen local businesses and assist in attracting new and retaining businesses through employee and owner education and training.

Performance Measurement

Community Vision

The Airline Community created the Airline Improvement District which was created by House Bill #1458, authored by State Representative Kevin Bailey and sponsored in the Senate by Mario Gallegos in the 79th Regular Session of the Texas Legislature. The bill creating the District took effect June 17, 2005.

The Harris County Community and Economic Development Department (HCEDD), in coordination with the offices of State Representative Kevin Bailey and County Commissioner El Franco Lee, worked with area business and community leaders in a planning process for the Airline community's revitalization. The group, referred to as the Airline Drive District Community Plan Vision Team, held a series of public meetings conducted by area business and community leaders that helped develop a revitalization plan and established priorities for the District.

The District is located completely within unincorporated Harris County and is solely within a portion of the 77037 zip code. The District is predominately urban with some facets of suburban and rural landscape. It is approximately 4 square miles, has approximately 16,000 residents and is north of Downtown Houston. The District is surrounded by the City of Houston but is outside its corporate limits. Like many areas in unincorporated portions of North Houston it has experienced economic decline and social change. These elements have combined to create public needs that state laws do not empower county governments to serve.

The District's mission is to promote, develop, encourage and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety and the public welfare of the District. It is the desire of the District to improve the overall quality of life and create an environment where people want to live, work and raise their families.

The District generates revenue through a 1% retail sales tax that brings the total effective tax rate to 8.25% and began January 1, 2006 within the boundaries of the District. The revenue generated by the sales tax remains in the community to pay for projects improving such things as public safety, transportation and drainage, along with the costs of operating the District.

Key Strategies

The Airline Improvement District will implement the following strategies to promote economic empowerment for low- to moderate-income individuals and families.

Airline Projects and Recommendations

The following goals and recommendations have been organized to provide a systematic approach to community development and revitalization. The projects and recommendations are arranged in a matrix by year from one (2006) to five (2010). Each project or recommendation is described, objectives and responsible actors identified, and possible resources recognized. Projects and recommendations were developed in cooperation with Airline residents and community leaders utilizing a planning process that combines an understanding of the community's existing resources and innovative community development models.

Economic Opportunity

- 1. The creation of a Local Economic Development Council.** The local economic development council will benefit the Airline business community by creating a more favorable business environment; enhancing communication between businesses, government, and residents; and attracting new industries and businesses.
- 2. Enforcement of HB 414 (Junkyard Legislation).** Enforcement of this law will quell Airline residents concerns with the lack of aesthetic

attention junkyard owners give to their property. Retail establishments commonly locate in communities with a strong and stable housing stock and high property values. Economic prosperity can occur in harmony with the natural environment. Prospective businesses will not establish themselves in Airline if the drinking water is negatively impacted by other businesses.

3. **Locate a Chain or Independent Grocery Store in Airline.** A chain or independent grocery store in Airline will fill the voids that small convenience stores and fast food restaurants leave in the community. A chain or independent grocery store with a varied target niche to the community will provide higher wages to workers, yet provide staple and ethnic foods to consumers at lower prices.
4. **Flea Market Business Development Organization.** A flea market business development organization/association will serve as a separate, but collaborative organization with the Airline Improvement District and the Airline Economic Development Council. This organization will benefit the community by regaining and maintaining public trust in Airline residents to engage in ethical businesses practices, controlling noise and traffic along major corridors and residential streets, providing greater police protection to consumers and community members, and facilitating revitalization in Airline.
5. **Enforcement of HB 2509 (Curbstoning Law).** Curbstoning, or the illegal sale of automobiles on a street curb, right of way or in parking lots by individuals, licensed and unlicensed dealers, is a consumer protection issue. Not only does it reduce business of licensed dealers but it causes blight in local neighborhoods and brings an unsavory criminal element into communities. Curbstoners do not pay taxes on vehicle sales or transfer titles, thus creating a loss of revenue for the Airline Improvement District. Harris County has the power to adjudicate curbstoning cases.
6. **Small Business Education Workshops.** Small business education workshops strengthen local businesses and assist in attracting new and retaining businesses through employee and owner education and training.

Strategies Being Implemented

- **Strategy #1:** Airline Improvement District leveraging funds from the 1 percent tax on commercial properties. Funds are being used for revitalization efforts in Airline.
- **Strategy #2:** Ensure that CDBG and HOME funds are used in the Airline community.
- **Strategy #3:** Created a partnership with the North Houston Greenspoint Chamber of Commerce, Airline business owners, residents, and other concerned individuals.

- **Strategy #4:** Identified a large parcel of land to develop a park. In the process of acquisitioning the land.
- **Strategy #5:** Partnering with the North-Houston Greenspoint Chamber of Commerce, the University of Houston Small Business Development Center, North Harris Montgomery Community College, SCORE: Counselors to America's Small Businesses, residents, other organizations, businesses, schools to assess job skills/training programs needed and currently available in the greater Houston area.

Affordable Housing

1. **Demolish abandoned properties.** Reinvestment of abandoned properties supports the existing housing stock and increases property values in communities.
2. **Deed Restriction Enforcement.** Deed restrictions protect property values, residential character, and guard against locally unwanted land uses in communities. Northline Terrace and Bellmar Civic Associations have active deed restrictions that limit lots to residential use only. The Northline Terrace and Bellmar Civic Associations must work with property owners to ensure the proper and effective enforcement of deed restrictions in communities.
3. **Homeownership Program/Campaign.** Homeownership provides economic, social and civic benefits to communities. The Harris County CEDD Down-payment Assistance Program (DAP) assists prospective homeowners with down-payment and closing cost assistance. The Airline Improvement District will partner with the HCCEDD DAP to educate families about homeownership.
4. **Infill Housing Program.** Infill housing is an alternative for providing affordable housing to many low-income residents in Airline.
5. **Home Repair Program.** A home repair and rehabilitation program that includes minor home repairs and lead-based paint screening will assist local residents, particularly seniors, the disabled population, and families with young children with repairs, painting, etc.
6. **Nuisance Abatement (garbage, noise, weeds, rodents, insects, junk etc.).** The Neighborhood Nuisance Abatement Act (NNAA) is designed to abate public nuisances in unincorporated areas of Texas counties.
7. **Restrictions on Trucks with more than 2 Axles in neighborhoods.** To restrict trucks in the Airline community with more than 2 axles in neighborhoods (ex. Northline Terrace and Bellmar):

Strategies Being Implemented

- **Strategy #1:** Identified properties (residential and commercial) that need to be demolished in the Airline community. Met with the Harris County Public Health & Environmental Services Department to determine the process to clear abandoned properties in the area.

- **Strategy #2:** Investigating re-use opportunities for properties (possible pocket parks, infill housing, community center)
- **Strategy #3:** Developing a program to implement Infill Housing. The Airline Improvement District along with the civic associations contacted LISC for housing program development information. Members of the civic associations and members of the Airline Improvement District will develop a CDC to become a certified CHDO (Community Housing Development Corporation) and build affordable housing on vacant lots.
- **Strategy #4:** Selecting and purchasing vacant properties within existing neighborhoods and the entire Airline Improvement District for infill housing development.
- **Strategy #5:** Meeting with housing developers and realtors, banks, renters to discuss needs in community and plan programs.

Transportation and Infrastructure

1. **The installation of Sidewalks.** The installation of sidewalks will not only provide an alternate route of transit for residents, but it provides protection for children and other residents in the presence of vehicular traffic. The installation of sidewalks must be phased over several years to manage expenses, acquire right of way, establish plan for maintenance, etc.
2. **The installation of Streetlights.** The installation of streetlights in Airline will not only provide additional lighting and serve as a deterrent to crime. The installation of streetlights must be phased over several years to manage expenses, acquire right of way, establish plan for maintenance, etc.
3. **The installation of Water & Sewer Service.** The installation of water and sewer service is crucial for economic development, public health, public safety and overall quality of life. The installation of water and sewer service must be phased over several years to manage expenses, acquire right of way, establish plan for maintenance, etc.
4. **Eliminating Flooding and Drainage Issues.** Flooding and adequate drainage are critical issues for the Airline community. Flooding and inadequate drainage destroy private property, economic development opportunities, and infrastructure. The installation of adequate drainage must be phased over several years to manage expenses, acquire right of way, establish plan for maintenance, etc.
5. **Bilingual signage.** Hispanics/Latinos comprise 60.98% of all residents in Airline. Thus, in an effort to meet the need of all members of the Airline community, bilingual signage must be a consideration.

6. **Restriping of major thoroughfares.** The restriping of major thoroughfares is necessary for traffic safety – pedestrian and vehicular.
7. **Flashing school zone speed signs.** To combat traffic violations (speeding, pedestrian right of way) and ease traffic flow (particularly along Gulf Bank Rd. with the impeding construction and the September 2005 death of a Bussey Elementary school student), and protect the safety of all children in school zones, the installation of flashing school zone speed signs and other traffic calming techniques is needed.
8. **Flea market traffic.** Work with the flea market owners, engineering firms, and the Harris County Public Infrastructure Department regarding traffic on Airline Drive (develop alternate routes in and out the main area, provide more parking, work with METRO to use the nearest Park & Ride to alleviate congestion in the community).
9. **Cross walk signals/Widening of streets.** Investigate which intersections need cross walk signals and widening of streets (traffic feasibility studies done by an engineering or transportation firm). Met with Harris County PID – Engineering to discuss the plans to put cross walk signals at target intersections in the Airline Improvement District; possible traffic feasibility study conducted by Harris County PID. Met with Harris County PID – Engineering and TXDOT to discuss projected and impending construction plans.
10. **Greater bus service in the Airline community.** Discuss with METRO plans to add additional routes in the target area and increase frequency of pick-ups. Discuss with METRO plans to include the Airline community its transportation plans for light rail and/or bus rapid transit (BRT)

Strategies Being Implemented

- **Strategy #1:** The Airline Improvement District must develop a phased implementation program (budget, financing, location of sidewalks, design of sidewalks, acquiring right of way)
- **Strategy #2:** Partner with Precinct One to acquire, install, and maintain sidewalks (particularly with the installation of stormwater drains).
- **Strategy #3:** The Airline Improvement District is developing a phased implementation program (budget, financing, location of streetlights, design of lights, operating costs) and applying for grants.

- **Strategy #4:** The Airline Improvement District is in the process of hiring a consultant to do a water and sewer feasibility study to assess installation of lines and linkage to current water and sewer lines, etc.
- **Strategy #5:** Partnering with Precinct One, the Harris County Flood Control District, and water districts to deal with the installation of stormwater drains.

Community and Education Services

1. **24-Hour Medical Clinic.** Airline does not have a 24-Hour Medical Clinic. Residents must leave Airline for all emergent care needs.
2. **Provide adult education programs.** Partner with the Galena Park ISD and local community college to bring classes to local churches and schools in the evenings.

Strategies Being Implemented

- **Strategy #1:** Partnering with the Harris County Health Department and Harris County Precinct One to explore possibilities of bringing a mobile health provider or a 24 Hour Health Clinic to Airline.
- **Strategy #2:** Identify possible locations for a health clinic (existing or leased structure), possibly a community health clinic housed in a community center.
- **Strategy #3:** Identify school sites and local churches where classes can be held.
- **Strategy #4:** Investigate/explore partnerships with Precinct One, the Harris County Public Health & Environmental Services Department (HCPHES) to provide healthcare (immunizations, checkups, etc.) in the community (decide on frequency). The Airline Improvement District and the HCPHES should partner to bring mobile immunization units to the community. The Airline Improvement District can schedule immunization services with HCPHES to ensure that services are provided at convenient times for families (including evenings and weekends). The Airline Improvement District and HCPHES can distribute the information to the civic associations, schools, churches, apartment complexes, mobile home communities, and child care centers.
- **Strategy #5:** Investigate funding opportunities with other organizations to develop a clinic.

Economic Actions

Enforcement of County Salvage yard Regulations

Harris County Commissioners Court has created a committee to review how the county can administer and enforce county salvage yard regulations. The committee is made up of representatives from each Court member, the County Attorney's Office, Public Health and Environmental Services as well as industry representatives.

The Airline Improvement District supports the County's decision to enforce Chapter 397 of the Transportation code that governs auto salvage yards. The District is interested in the counties enforcement of the regulations so that both salvage yards and residents can operate and live in the same community while taking quality of life issues into account for area residents.

The Harris County Public Health and Environmental Services Department has requested the County Attorney to file suit on Ortiz Auto Parts located at 8401 Airline Drive to compel compliance with current regulations. Commissioners Court approved the order on August 22, 2006.

National Night out Celebration

The Bellmar and Northline Terrace Civic Clubs joined together to celebrate National Night Out. Teri Koerth, Executive Director for the Airline Improvement District presented the Deputies with a plaque in appreciation for their dedication and commitment to the District. "Police presence is a top priority of the District," said Airline Improvement District President Glenn Nitsch. "The goal of the Airline Improvement District is to improve our community where people want to live, work, and raise their families. To do that, we have been proactive in creating that environment and making sure people feel safe. Participating in the County's Contract Deputy Program was a huge step in that direction."

The Contract Deputy Program has provided Sheriff's deputies on patrol devoted strictly within the District boundaries since January 1, 2006 when the legislation authored by State Representative Kevin Bailey creating the District became effective.

Among the attendees, were approximately 65 citizens, staff from State Representative Kevin Bailey and Congressman Gene Green's offices, Glenn Nitsch, President of the Board of the Airline Improvement District, the Little York Volunteer Fire Department as well as Harris County Sheriff's Department Captain Tommy Wilson, Deputy J. Shriver, Deputy Mallnowski and Reserve Deputy K. Horton. Also on hand was one of the Sheriff Department's mobile command centers.

Community Service Award The President of the Board of the Airline Improvement District received an award for community service from the North Houston - Greenspoint Chamber of Commerce during their annual Public Safety

awards luncheon on October 19, 2006. Glenn Nitsch was recognized by the Chamber for his continued dedication to the Airline area. Mr. Nitsch has been active in the community for many years and has testified in the Texas House and Senate on many occasions on topics such as noise levels, salvage yards, county rule making, creation of the Improvement District and water utility issues.

Joe Shriver, a Contract Deputy for the Airline Improvement District, also received an award from the Chamber for his outstanding performance during the past year. Deputy Shriver grew up near the Airline area and has chosen to come back and help the community with its revitalization plan. His dedication to making the Airline area a safer place is giving residents and businesses a renewed sense of hope and commitment to the Airline community.

The Airline community has already taken many positive steps to achieve thriving revitalization of the Airline community. According to the 2006 Airline Revitalization Plan, Airline has already taken positive steps to revitalizing their neighborhood.

Locke Lord Bissell & Liddell LLP

Attorneys & Counselors

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June 27, 2011

VIA HAND DELIVERY

Ms. Raquel Morales
Texas Department of Housing and Community Affairs
221 West 11th Street
Austin, Texas 78701

Re: Tidwell Lakes Ranch (Houston)
TDHCA No. 11087

Dear Raquel:

We represent Tidwell Lakes Ranch, Ltd. (our "**Client**"), which is the Applicant for tax credits for Tidwell Lakes Ranch in Houston (the "**Development**"), bearing application number 11087. Our Client is responding to a letter dated June 15, 2011 from Randall Ackerman of Ackerman & Savage L.L.C. with respect to scoring of its Application (the "**Challenge**").

The Challenge is not entirely clear but alleges that the Development does not qualify for points for location in an area that is part of a Community Revitalization Plan under Section 49.9(a)(13) of the Qualified Allocation Plan (the "**QAP**")¹. Our Client believes that any question about whether the Development is located in an area that is part of a Community Revitalization Plan has been satisfactorily resolved by additional documentation provided in the Administrative Deficiency process.

The Development is located in an unincorporated area of Harris County. Therefore, it is subject to Harris County's Consolidated Plan, which is a five-year document. According to the Harris County website:

The Consolidated Plan represents the Harris County's vision for improving the quality of life in Harris County, **particularly in low- and moderate-income areas.** (emphasis added)

The Consolidated Plan is updated by an Annual Action Plan, which is required by HUD.

The PY2011 Annual Action Plan identifies itself as "the County's blueprint for facilitating change **within the lower-income communities.**" (emphasis added) Concentration of low-income persons is a criterion used to determine priorities, with a

¹ Capitalized terms used but not defined in this letter will have the meanings given them in the QAP.

concentration of low-income persons being defined as a block group in which at least 51% or more of the total population is low-income. "Low-income" is defined as earning less than 80% of the area median family income. The Annual Action Plan includes a map that identifies the areas with 51% or greater low-income population. These areas are highlighted in pink on the map enclosed. The Development is located within one of these pink areas, as shown.

In fact, in a similar challenge against another Applicant, Mr. Ackerman asserts that location in a low-income area is essential to being in a targeted area for a Community Revitalization Plan. See the challenge for Hidden Valley Estates on page 363 of the Supplemental materials for this week's Board Book, posted on TDHCA's website.

Further, the Annual Action Plan states that there is a need to alleviate overcrowding for larger households having five or more persons. The Plan affirms there is an overabundance of one and two bedroom units but a void in meeting the needs of larger households, requiring three bedrooms or more. Applicant's four bedroom houses target this shortage. Relevant pages from the Annual Action Plan are enclosed.

Recent census data, also enclosed, confirms that the Development is in a census tract with a median family income of 75% of the area median family income. The census tract qualifies as low-income and therefore is a priority under the county's Annual Action Plan update to the Consolidated Plan.

Finally, the challenge suggests a lack of evidence as to the location of the Development in a state enterprise zone. We believe any question about the location in an enterprise zone was resolved during the Administrative Deficiency process with a letter from the Harris County Community Services Department.

We trust that this response provides adequate information to show that the allegation in the Challenge is without merit and the points that have been awarded to the Application are consistent with the QAP requirements and should remain. However, if you need additional information, please feel free to contact me or our Client.

Thank you very much.

Sincerely,



Cynthia L. Bast

cc: Barry Kahn

Executive Summary

Harris County anticipates receiving \$15,421,045 for use towards community development activities during Program Year 2011 (PY2011), which begins March 1, 2011 and ends February 28, 2012. The U.S. Department of Housing and Urban Development (HUD) determines this allocation amount based on Harris County's Service Area population, poverty, housing overcrowding and age of housing. Based on this funding formula, the total HUD Entitlement Grant funds will be comprised of \$11,683,390 in Community Development Block Grant (CDBG) Program funds, \$3,263,385 in HOME Investment Partnerships (HOME) Program funds, \$474,270 in Emergency Shelter Grants (ESG) Program funds, \$1,079,180 in 2009 prior year funds plus an estimated \$29,733 in program income for a total of \$16,500,522. Please note that the anticipated allocation for CDBG and HOME funding have been voluntarily reduced by \$29,436 and \$443,500 respectively as resolution to program findings.

In accordance with HUD's philosophy of comprehensive community development, Harris County is proposing to fund 51 projects addressing the PY2008-2012 Consolidated Plan's priority need areas of housing, homelessness, public facilities, infrastructure, public services and other needs.

Project allocations for PY2011 total \$12,968,909 in a combination of CDBG, HOME and ESG funds. The following matrix reflects Harris County's funding allocations by Consolidated Plan Need area:

Consolidated Plan Need Area	Number of Projects	Amount Allocated
Housing	7	\$4,494,000
Homelessness	12	\$716,798
Public Facilities	2	\$383,100
Infrastructure	9	\$5,801,110
Public Services	20	\$1,423,901
Other *	1	\$150,000
Total Allocations	51	\$12,698,909
Unprogrammed Funds		\$839,688
Administration		\$2,691,925
Total Funds		\$16,500,522

*Project classified in the Other category include a demolition/nuisance abatement project.

Harris County believes its comprehensive and community-based approach to solving the complex socio-economic ailments within the County is the most effective way to stimulate private reinvestment in the County's most underserved areas. The PY2011 Annual Action Plan (AAP) is the County's blueprint for facilitating change within lower-income communities and ultimately improving the quality of life in Harris County.

Introduction

The AAP is the annual update to the five-year Consolidated Plan, which sets forth Harris County's long-term community development goals and strategies. Program Year 2011 will be the fourth year of the Consolidated Plan for Harris County. The AAP process has been specifically created to assist in mapping one-year actions for community development and making good use of available federal, state, and local resources.

In addition, the AAP details the allocation of Harris County resources and entitlement grants, allocated by HUD, toward improving the quality of life for Harris County residents. Resources reported in this document will be available between March 1, 2011 and February 28, 2012.

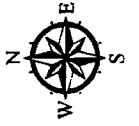
The majority of these resources are utilized within Harris County's Service Area (Map 1), which includes unincorporated Harris County and fifteen smaller cities within the County which have signed cooperative agreements with Harris County. The cities of Baytown, Houston and Pasadena utilize their own community development resources and, therefore, are not within the Harris County service area.

Resources available through the County are almost exclusively dedicated toward improving the living conditions for low-income individuals. Low-income is defined as earning less than 80 percent of the median family income (MFI). The MFI for the Houston, Texas, Primary Metropolitan Statistical Area is \$61,100 for a family of four. *Table 1* denotes MFI limits for FY2010.

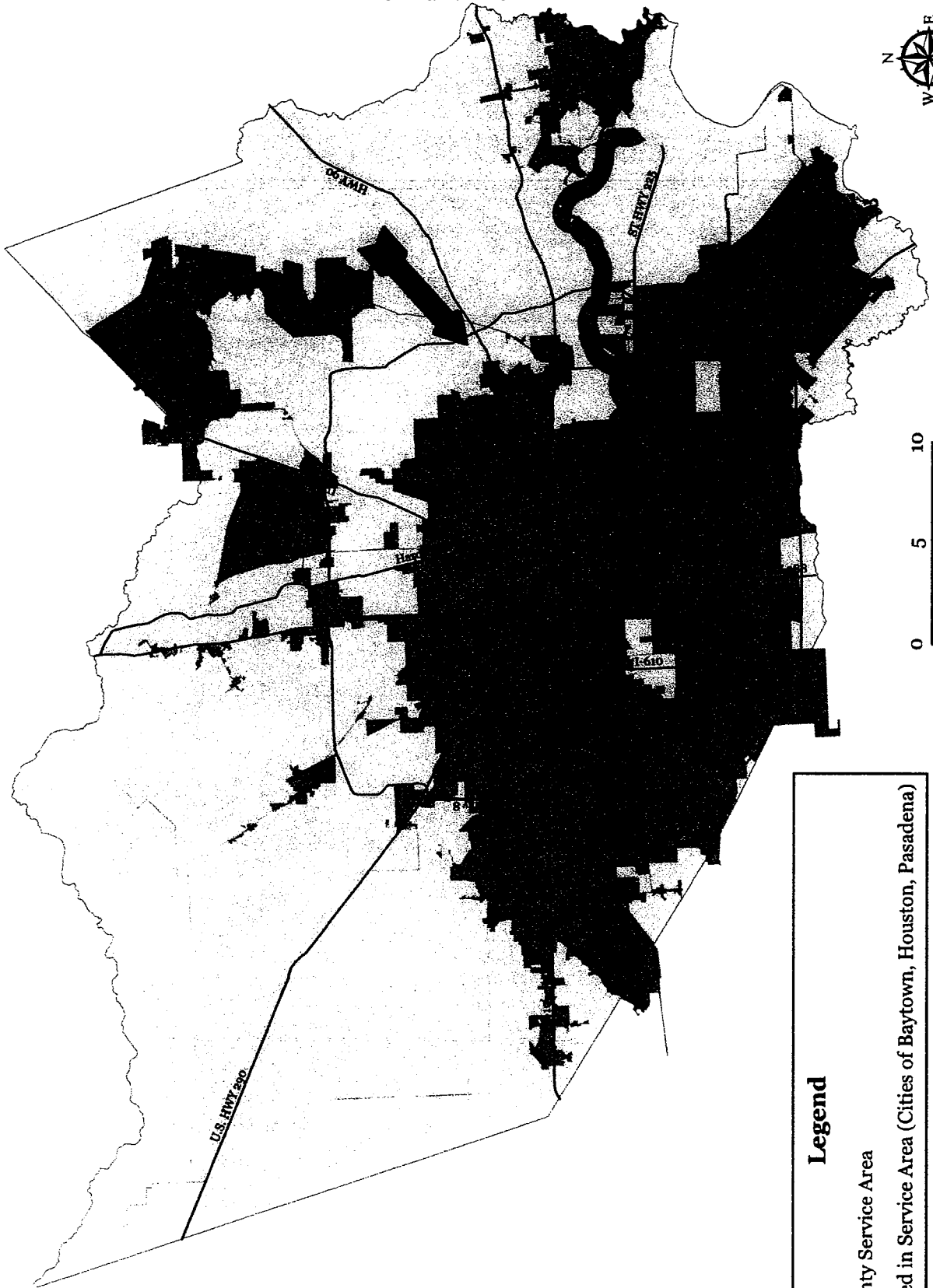
Table 1: FY 2010 Median Family Income (MFI) Limits*

Income Levels*	% of MFI	Amount
Extremely Low Income	0-30%	\$19,550
Very-Low Income	31-50%	\$32,550
Low Income	51-80%	\$52,100

**Based on a family of four
U.S. Department of Housing and Urban Development,
<http://www.huduser.org/datasets/il/il2010/2010summary.odn>*



Harris County Service Area



Legend

-  Harris County Service Area
-  Not Included in Service Area (Cities of Baytown, Houston, Pasadena)



Note: Service Area includes 15 Cooperative Cities: Bellaire, Deer Park, Galena Park, Humble, Jacinto City, Katy, La Porte, Morgan's Point, Seabrook, Shoreacres, South Houston, Tomball, Waller, Webster, and West University Place

comply with affirmative marketing requirements will be found out of compliance and may be unable to receive future federal assistance until corrective action is taken. If the project sponsor fails to take corrective action in a timely manner, one or all of the following actions may result:

- a. Expended funds will be due and payable upon demand
- b. The withholding of federal funds for current projects/funds for projects will be de-obligated.
- c. Compliance/affordability period extension.
- d. Exclusion from participation in future Requests for Proposal process.

The following table details the number of minority households estimated to be assisted with HCCSD's DAP in PY2011. This information is based upon data collected during the previous program year.

Ethnicity	Number	Percentage
Asian	6	4.4%
Black	57	41.6%
Hispanic	53	38.7%
White	16	11.7%
Totals	137	100%

Geographic Distribution

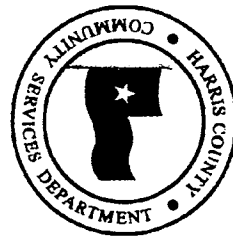
When selecting projects to receive funding, HCCSD considers geographic location to ensure equitable distribution of resources throughout Harris County. Factors considered include concentration of low-income persons, concentration of minorities, proximity to other similar projects, proximity to amenities and consistency with community needs.

Concentration of Low-Income Persons

Harris County defines a concentration of low-income persons as a block group in which at least 51 percent or more of the total population is low-income according to HUD guidelines. Forty-two (42) areas within the County meet this criterion, and HUD has designated these areas as Target Areas for community development. Priority consideration is given to projects that impact these target areas, particularly those that provide local impact, such as infrastructure projects and community centers.

For PY2011, ten projects were selected to specifically meet infrastructure and public facility needs in nine (9) of the 42 target areas, including Aldine, Channelview, Crosby, Jacinto City, Greenwood Heights, Granada, McNair, Northington-Kenwood and Woodsdale.

Appendix D contains a map illustrating all proposed projects in relation to the low-income areas of the county.

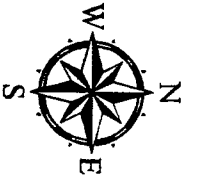
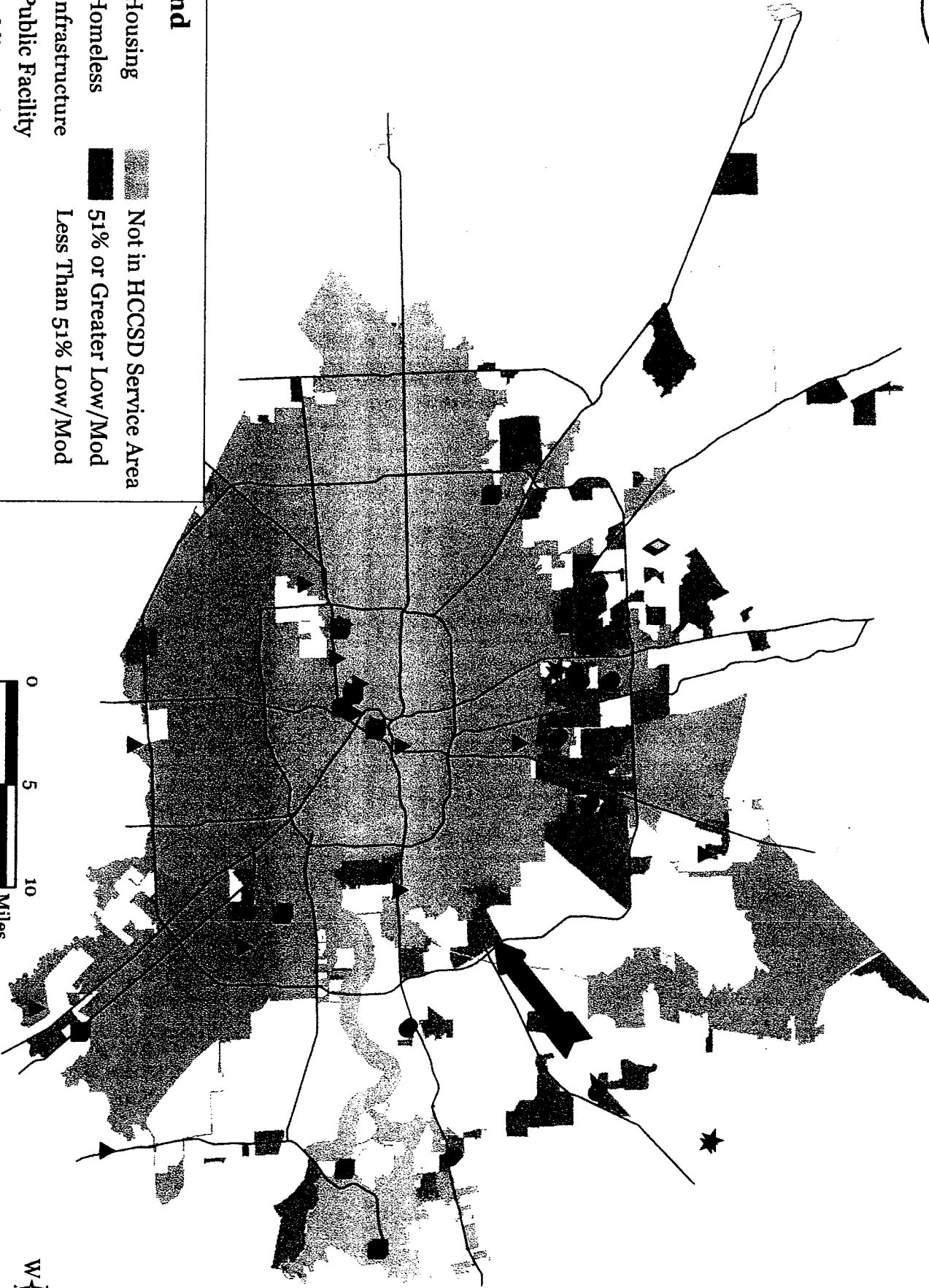


PY 2011 Proposed Projects and Low-Income Areas

MF RCVD 6/27/11 1:34

Legend

- Housing
- Homeless
- Infrastructure
- Public Facility
- Public Service
- Not in HCCSD Service Area
- 51% or Greater Low/Mod
- Less Than 51% Low/Mod



Housing

Currently, interest rates have been the lowest in 30 years. This has sparked a buying frenzy; however, while the housing market is strong in Harris County, current statistics show that the developers are responding to the demands of higher income households and thus are producing a housing product that does not meet the needs of all Harris County households. Low-income households—those households earning less than 80 percent of the median family income—are faced with a housing market that is not meeting their specific housing needs.

The most pressing housing need of low-income households is the availability of affordable housing. According to the Houston Association of Realtors MLS report, as of December 2007, “the median price of single-family homes soared to \$159,000. If the price of a typical monthly home mortgage payment is one percent of the total cost of the home, the median price of a family’s monthly mortgage payment would be \$1,590. This is far above what is considered affordable for low-income families (an affordable monthly housing cost is considered to be no more than 30 percent of a family’s total monthly income, see Housing Market Analysis). Other housing needs of low- and moderate-income households include housing with adequate space for large households and structurally sound and hazard free housing for all households.

Overview

- The most pressing housing need of low-income households is the availability of affordable housing.
- In 2000, there were 157,039 overcrowded housing units in Harris County, 13 percent of the total housing stock, a 5 percent increase from 1990.
- According to the analysis of the condition of housing in the CEDD service area, approximately 122,257 single-family housing units are in need of replacement or major rehabilitation.

Household Types in Need

Low-income households

Low-income households are expected to increase over the next five-year period. By 2002, HUD projected that 41 percent of all Harris County households qualified as low-income according to 2002 Consolidated Housing Affordability Strategy (CHAS) Table 1c. This represents 419,045 low-income households. Of this number, 136,764 households will reside within the CEDD service area, a 44.1 percent increase in low-income households from 1990. If conditions remain constant, by 2005 low-income households will increase to 153,175 in the CEDD service area. If current housing trends continue, approximately 71 percent of low-income households will be in need of affordable housing.

Renters/Owners

Of all low-income households, renter households make up 42 percent (554,905 households) and owners comprise 58 percent. Based on these totals, both renters and owners are in need of some form of housing assistance, such as rental assistance, housing rehabilitation, and construction of affordable units. Renter and owner households in need of housing were determined based upon the estimated housing cost deficits and rehabilitation needs of those households. Households with housing needs are identified by high (“H”), medium (“M”) and low (“L”) need level in Table 5.1, Priority Housing Needs /Investment Plan Table.

Table 5.1 Priority Housing Needs/Investment Plan Table (Table 2A)

PRIORITY HOUSING NEEDS (households)		Priority		Unmet Need
Renter	Small Related	0-30%	H	32,360
		31-50%	M	24,910
		51-80%	L	10,235
	Large Related	0-30%	H	12,025
		31-50%	H	6,370
		51-80%	M	1,357
	Elderly	0-30%	M	10,474
		31-50%	M	5,414
		51-80%	L	3,112
	All Other	0-30%	H	22,955
		31-50%	M	20,000
		51-80%	H	12,760
Owner	Small Related	0-30%	H	10,485
		31-50%	H	10,705
		51-80%	M	14,690
	Large Related	0-30%	H	5,085
		31-50%	H	5,805
		51-80%	M	5,140
	Elderly	0-30%	M	12,324
		31-50%	M	7,299
		51-80%	L	5,114
	All Other	0-30%	H	5,325
		31-50%	H	3,320
		51-80%	M	4,914
Non-Homeless Special Needs	Elderly	0-80%	H	7,016
	Frail Elderly	0-80%		
	Severe Mental Illness	0-80%		
	Physical Disability	0-80%	H	14,400
	Developmental Disability	0-80%		
	Alcohol/Drug Abuse	0-80%		
	HIV/AIDS	0-80%	H	1,500
Victims of Domestic	0-80%			

**Number of units was determined using the 2000 Consolidated Housing Affordability Strategy (CHAS)*

Large Households

Large, related renter households of five or more persons, account for 13 percent of all low-income households. Based upon estimated housing cost deficits, large households earning less than 50 percent of the MFI are identified as having a high housing cost burden. In particular, large households earning less than 30 percent of the MFI are faced with cost deficits as much as \$454 in meeting the fair housing market rent of housing units with three or more bedrooms. There are an estimated 4,756 large, low-income households who are in need of some form of housing assistance. Large households are threatened with housing cost burdens due to the cost of existing housing and the lack of large, affordable rental housing units. According to O'Connor & Associates, the average monthly rent for three-bedroom units in the Greater Houston housing market area was \$1,024 in 2007. For very-low (0-30 percent MFI) and low- (31-50 percent MFI) income families of five or more persons a rent at this cost creates a housing deficit and poses a severe cost burden.

Small Related Households

Small, related households of two to four persons are also in need of some form of housing assistance. This household type accounts for 52 percent of all low- and moderate-income households. Small related households earning less than 30 percent of the MFI face housing affordability deficits. There are 7,084 small related households with housing needs.

Other Households

All other households, primarily single persons living alone, account for 36 percent of all households. Other households earning less than 50 percent of the MFI face are in need of some form of housing assistance. There are 10,721 households of this type with housing needs.

Elderly Households

Elderly households are estimated to account for almost 12.9 percent of the all households in the Harris County service area by 2006. Numerically, this accounts for 297,327 elderly households. Of low-income households, elderly households represent 29,511, or 13.3 percent. Elderly renter households earning less than 30 percent of the MFI and nearly all elderly owner households will be in need of housing assistance over the next five years. There are approximately 30,149 households of this type with housing needs.

Public Housing Residents

There are approximately 30 subsidized multi-family, renter occupied low-income housing units available in Houston/Harris County supported through federal and state programs. These units are supported by HUD's Section 8 Project Based Housing and the Texas Department of Housing and Community Affairs Low Income Housing Tax Credits Program. In addition, to these units, the Harris County Housing Authority assists more than 12,000 individuals and families with housing vouchers for housing units, located throughout Harris County. However, we are still experiencing a major shortage of subsidized housing especially for a county of this size.

Persons with Disabilities

According to the 2006 American Community Survey (ACS) profile for Harris County, there were 424,659 persons age 5 and over with disabilities living in the Houston MSA. As of 2006, the percentage of disabled persons who earned incomes below the poverty level was over twice that of the percentage of the total population of Harris County with similar income levels. The median monthly earnings of men and women between 21 and 64 years of age with a severe disability, respectively is \$1,262 and \$1,000.

Persons with HIV/AIDS

According to the Centers for Disease Control, Texas ranks as one of ten leading with the highest number of cumulative AIDS cases as of June 2007, with 24,398 reported cases. According to the AIDS Foundation Houston, one in ninety Houstonians is HIV positive. AIDS has dropped to the second leading cause of death in Texas for men 25 to 44 years of age and has remained the third leading cause of death for Texas women 25 to 34 years of age according to the Texas Department of Health Bureau of HIV/STD. Persons with HIV/AIDS generally have a more difficult time retaining employment due to discrimination and/or illness and risks of exposure to illness. These factors, combined with the high costs of health care, result in a greater likelihood for persons with HIV/AIDS to have low incomes and a greater need for affordable housing.

Harris County CEDD will be seeking projects that provide a variety of independent and assisted-living housing environments. CEDD has placed a priority on projects that serve the elderly. Housing construction projects will have the ability to convert housing plans for those in need of enhanced accessibility (i.e. wheel chair ramp or lower countertops). Rehabilitation projects will be available to add accessibility elements to existing housing stock.

Housing Problems and NeedsCost Burden/Extreme Cost Burden

While median family income (MFI) has increased in proportion to single family housing cost, a substantial affordability gap still exists. Affordability deficits are as much as \$788 for families making less than 50 percent of the MFI. There are an estimated 24,022 renter households with housing cost deficits or extreme housing cost burdens paying 30 percent or more of their income for rent or mortgage payments.

Overcrowding

Overcrowding is often a problem for large households (five or more persons), when the housing market fails to provide an adequate supply of housing units with three or more bedrooms. Analysis of Harris County housing development trends, particularly multi-family development, shows that the market is pumping out an abundant supply of one- and two bedroom housing units in response to estimated and projected increase of smaller households. However, the market's response to meet the needs of smaller households has created a void in meeting the needs of large households, thus enhancing the issue of overcrowding.

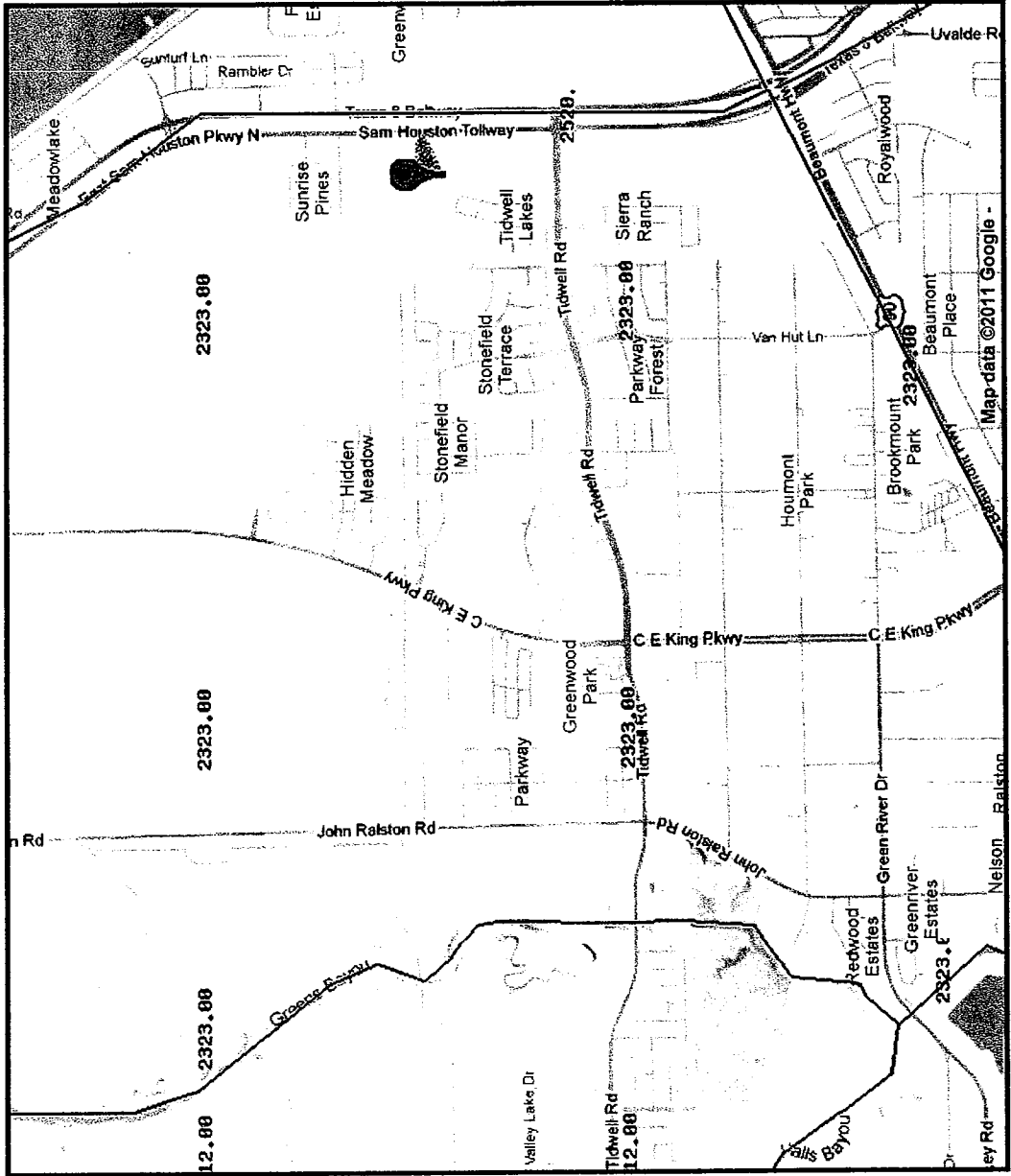
Table 5.4 Priority Housing Needs/Investment Plan Goals (Table 2A)

Priority Need	5-Yr. Goal Plan	Yr. 1 Goal Plan	Yr. 2 Goal Plan	Yr. 3 Goal Plan	Yr. 4 Goal Plan	Yr. 5 Goal Plan
Renters						
0 - 30 of MFI	90	18	18	18	18	18
31 - 50% of MFI	117	23	23	23	24	24
51 - 80% of MFI	173	35	35	35	34	34
Owners						
0 - 30 of MFI	128	25	25	26	26	26
31 - 50 of MFI	375	75	75	75	75	75
51 - 80% of MFI	512	104	102	102	102	102
Homeless*						
Individuals	1,000	200	200	200	200	200
Families						
Non-Homeless Special Needs						
Elderly	500	100	100	100	100	100
Frail Elderly						
Severe Mental Illness						
Physical Disability	100	20	20	20	20	20
Developmental Disability						
Alcohol/Drug Abuse						
HIV/AIDS	50	10	10	10	10	10
Victims of Domestic Violence						
Total	3,045	610	608	609	609	609
Total Section 215						
212 Renter						
215 Owner						

* Homeless individuals and families assisted with transitional and permanent housing



U.S. Department of Housing and Urban Development
Office of Policy Development and Research



SEARCH

Map options - Clear|Reset

Tract Search

SELECT LAYERS TO BE DRAWN

14 Current Zoom Level

Show Tracts Outline (Zoom 11+)

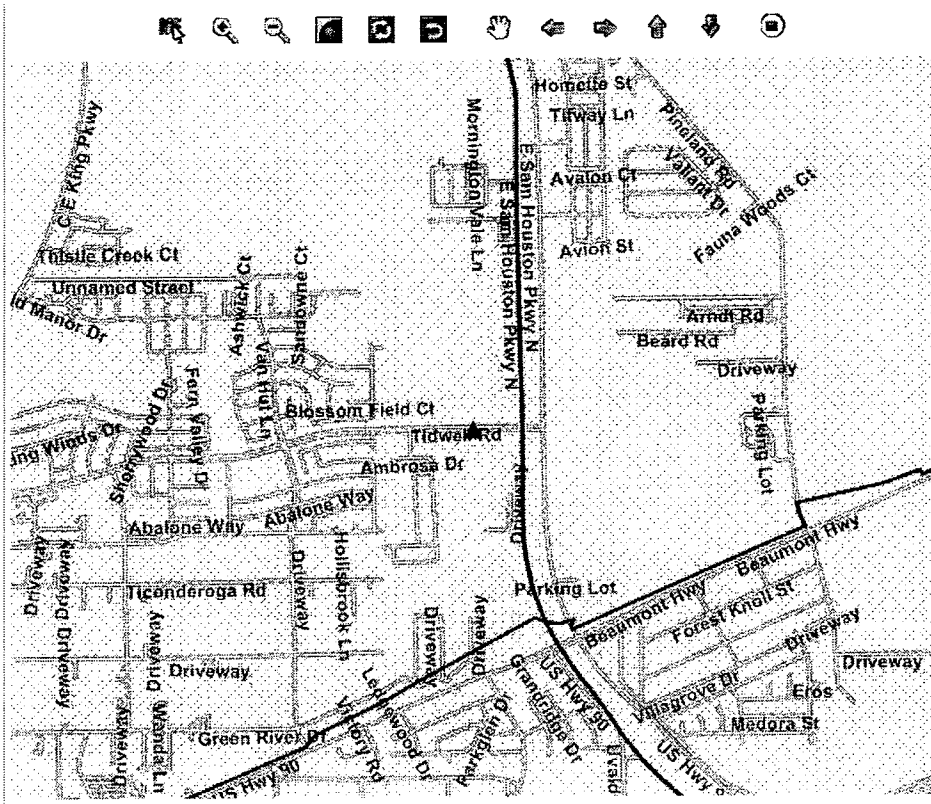
Show LIHTC Projects (Zoom 11+)

Color Qualified Tracts

CENSUS TRACT QUALIFICATIONS

— Tract Outline

Qualified Census Tracts (2010-2011)



2010 Information	
Street Address	13400 TIDWELL RD
City Name	HOUSTON
State Abbr	TX
Zip Code	77044
MSA/MD Code	26420
State Code	48
County Code	201
Tract Code	2323.00

[Get Census Demographic](#)

[Print Map](#)

Legend

- Highway
- Tract
- Street

Note: Click the map -- Re-center Map



[GET STREET MAP](#)
[Help on Data](#)
[Back to Geocode](#)
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Geocoding System

MSA Code: 26420	State Code: 48	County Code: 201	Tract Code: 2323.00
--	---------------------------------------	---	--

Summary Census Demographic Information

Tract Income Level	Moderate	Tract Population	10105
Underserved or Distressed Tract	No	Tract Minority %	68.64
2010 HUD Estimated MSA/MD/non-MSA/MD Median Family Income	\$65,100	Minority Population	6936
2010 Est. Tract Median Family Income	\$48,858	Owner-Occupied Units	2178
2000 Tract Median Family Income	\$38,601	1- to 4-Family Units	3138
Tract Median Family Income %	75.05		

[CENSUS DATA](#) |
 [INCOME DATA](#) |
 [POPULATION DATA](#) |
 [HOUSING DATA](#)

Last update: 08/04/2010 07:30 AM

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Geocoding System

MSA Code: 26420	State Code: 48	County Code: 201	Tract Code: 2323.00
------------------------	-----------------------	-------------------------	----------------------------

Census Income Information

Tract Income Level	Moderate	Tract Median Family Income %	75.05
2004 MSA/MD/statewide non-MSA/MD Median Family Income	\$51,431	2000 Tract Median Family Income	\$38,601
2010 HUD Estimated MSA/MD/non-MSA/MD Median Family Income	\$65,100	2010 Estimated Tract Median Family Income	\$48,858
% below Poverty Line	18.83	2000 Tract Median Household Income	\$35,804

[CENSUS DATA](#) | [INCOME DATA](#) | [POPULATION DATA](#) | [HOUSING DATA](#)

Last update: 08/04/2010 07:30 AM

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Austin, Texas 78701-2748
Telephone: (512) 305-4700
Fax: (512) 305-4800
www.lockelord.com

Locke Lord Bissell & Liddell LLP

Attorneys & Counselors

Request for Runner

Date: June 27, 2011

Time: 10:56 AM

Deadline: 1:00 PM

Sender: Shirley Ford

Ext: 4714

Requesting Attorney: Cynthia L. Bast

Ext: 4707

Delivery:

Pick up:

Round trip:

Address:

Ms. Raquel Morales
Texas Department of Housing & Community Affairs
221 East 11th Street
Austin, TX 78711

Phone: (512) 475-2213

Special Instructions: Morales

Client Name & Number: 0054143.000000

Matter Name & Number: TIDWELL LAKES RANCH TDHCA #11087

Package Contains: Letter

Proof of Delivery Options (check appropriate box):

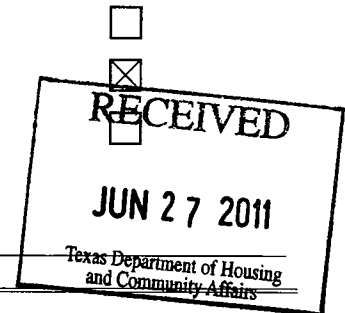
Electronic Confirmation (www.corporatecouriers.com)

Original Signature Confirmation

No Delivery Confirmation Needed

Received By: J. Vega

Date and Time: _____

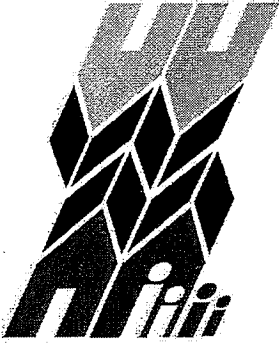


INTERNAL USE ONLY

Completed By: _____

Mileage: _____

Housing and Community Services, Inc.



8610 North New Braunfels, Suite 500
San Antonio, Texas 78217-6397

Phone 210.821.4300
Fax 210.821.4303 • Toll Free 888.732.3394
Email: gilp@hcscorp.org

Gilbert M. Piette
*Executive Director
and CEO*

Board of Directors

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Eugenie A. Blaskovitz
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Diamantina Garcia
Nancy Hard
Adolph D. Jacobson
Lucy Martinez
Anthony Nanes
Rafael Torres
Ernestine Trujillo

June 14, 2011

Robbye Meyer
Director of Multifamily Finance
Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, Texas 78711-3941

Re: Low Income Housing Tax Credit Applications:
11227 Dolphin's Landing Apartments
11115 Castle Manor Apartments
11045 Lexington Vista
11050 Palm Gardens
Clarification QAP -- 49.9(a)(5) Commitment of Development Funding
by Units of General Local Government Clarification of economic
viability

Dear Ms. Meyer:

The purpose of this letter is to request clarification and justification for the points awarded to the above noted applications under 49.9(a)(5) and to inquire how these applications are economically viable without an award of Corpus Christi HOME funds. Region 10 of the 2011 Texas Qualified Allocation Plan incorporates the City of Corpus Christi where six of the project applications are located.

First and foremost, the City of Corpus Christi has not supported the above four referenced applications with any funds. On February 22, 2011 the City Council of Corpus Christi passed a resolution supporting tax credit application 11166, The Palms at Leopard (see Exhibit 1). Further emphasizing this project as a priority for the City, on April 26, 2011 the Corpus Christi City Council awarded all of its 2011 funding for housing (HOME funds) to tax credit application 11166, The Palms at Leopard as it meets multiple housing priorities for the City (see Exhibit 2), including but not limited to, building a new project in an area targeted for redevelopment, transferring residents from an obsolete property which in turn will be torn down, and transferring the project based

section 8 subsidy to the new location. Consequently, none of the above four referenced applications have local funding nor are they a priority for the City.

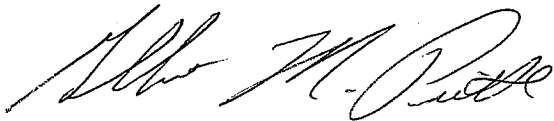
Second, none of the four referenced applications have obtained consent from the applicable Unit of General Local Government as evidenced by an executed Inter-local Agreement. The City of Corpus has not executed an Inter-local Agreement and does not intend to execute one that would allow another application to circumvent the 2011 top priority established by the Corpus Christi City Council at its meeting on February 22, 2011.

In addition, please verify the financial feasibility of applications 11227, 11045 and 11050 each of which included funding from the City of Corpus Christi as part of their financial feasibility. It appears that without funding from the City of Corpus Christi these applications are not financially feasible.

We respectfully request that you deduct the 18 points for the commitment of development funding by units of general local government as the local Governing Body (City of Corpus Christi) where the four referenced projects are located has not provided 2011 general local government support. If these points are deducted from these applications then tax credit application 11166 The Palms at Leopard, which the City of Corpus Christi has designated as its highest priority, would be the top application in Region 10 and would qualify for tax credit funding.

Your earliest consideration of this matter would be greatly appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Gilbert M. Piette". The signature is fluid and cursive, with the first name being the most prominent.

Gilbert M. Piette
Executive Director

Attachments: Exhibits 1 and 2

EXHIBIT 1

**City of Corpus Christi
Council Resolution**

RESOLUTION

DECLARING THE CITY OF CORPUS CHRISTI'S SUPPORT OF THE DEVELOPMENT OF THE PALMS AT LEOPARD STREET

WHEREAS, The Palms at Leopard Street, Ltd. Has proposed a development for affordable rental housing on a tract of land on Palm Avenue between Lipan Street and Leopard Street named The Palms at Leopard Street in the City of Corpus Christi, Texas; and,

WHEREAS, The Palms at Leopard Street, Ltd. Intends to submit an application to the Texas Department of Housing and Community Affairs (TDHCA) for 2011 Housing Tax Credits funds; and,

WHEREAS, The Palms at Leopard Street is intended to serve as a replacement site for the units at the existing Northside Manor Apartments which is in dire need of demolition and relocation of families due to substandard living conditions and deterioration of the neighborhood; and,

WHEREAS, the development of The Palms at Leopard Street will bring much needed reinvestment to a major Urban Core area of the City marked by a medium and high density residential and commercial uses;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CORPUS CHRISTI, TEXAS THAT:

Section 1. The City of Corpus Christi supports the development of The Palms at Leopard Street as its first priority application in the Region 10-Urban area designated by the State of Texas that includes the City.

DULY adopted at a regular meeting of the City Council of the City on the 22nd day of February, 2011.

ATTEST:

CITY OF CORPUS CHRISTI

By: Armando Chapa
Armando Chapa
City Secretary

By: Joe Adame
Joe Adame, Mayor

028973

APPROVED AS TO LEGAL FORM:

FEBRUARY 17, 2011

By:

Carlos Valdez

Carlos Valdez, City Attorney

Corpus Christi, Texas

22nd day of February, 2011

The above Resolution was passed by the following vote:

Joe Adame	<u>Aye</u>
Chris N. Adler	<u>Aye</u>
Larry R. Elizondo, Sr.	<u>Aye</u>
Kevin Kieschnick	<u>Aye</u>
Priscilla Leal	<u>Aye</u>
John E. Marez	<u>Aye</u>
Nelda Martinez	<u>Aye</u>
Mark Scott	<u>Absent</u>
Linda Strong	<u>Aye</u>

028973

EXHIBIT 2

**Excerpts from Corpus Christi City Council
Meeting – 4/26/2011
Award of HOME Funds to The Palms at
Leopard**

MINUTES

CITY OF CORPUS CHRISTI, TEXAS
Regular Council Meeting
April 26, 2011 - 12:00 p.m.

PRESENT

Mayor Joe Adame
Mayor Pro Tem Nelda Martinez

Council Members:

Chris Adler
Larry Elizondo, Sr.**
Kevin Kieschnick
John Marez
Mark Scott
Linda Strong*

City Staff:

Interim City Manager Margie C. Rose
City Attorney Carlos Valdez
City Secretary Armando Chapa

ABSENT

Priscilla Leal

*Arrived at 12:32 p.m.

**Arrived at 1:38 p.m.

Mayor Adame called the meeting to order in the Council Chambers of City Hall.

The invocation was delivered by Council Member Martinez and the Pledge of Allegiance to the United States flag was led by Council Member Marez.

City Secretary Chapa called the roll and verified that the necessary quorum of the Council and the required charter officers were present to conduct the meeting.

Mayor Adame called for approval of the minutes of the Workshop meeting of April 12, 2011 and the regular Council meeting of April 19, 2011. A motion was made and passed to approve the minutes as presented.

Mayor Adame called for consideration of the consent agenda (Items 2 - 18). There were no comments from the public. Council members requested that Items 4, 5, 7, 8, 12 and 15 be pulled for individual consideration. City Secretary Chapa polled the Council for their votes as follows:

2. MOTION NO. 2011-096

Motion approving a supply agreement with Ferguson Enterprises, Corpus Christi, Texas for approximately 3,755 non-shear flexible couplings ranging in size from 3" to 10", in accordance with Bid Invitation No. BI-0030-11, based on low bid, for an estimated annual expenditure of \$76,069.52 of which \$19,017.38 is budgeted for FY10-11. The term of the contract is for twelve months with options to extend for up to two additional twelve-month periods, subject to the approval of the contractor and the City Manager, or designee. These items are purchased into the Warehouse Inventory and charged out to the Wastewater Department.

The foregoing motion was passed and approved with the following vote: Adame, Adler, Kieschnick, Marez, Martinez, and Scott, voting "Aye"; Elizondo, Leal, and Strong were absent.

Minutes – Regular Council Meeting
April 26, 2011 – Page 11

owners were not informed by the City that there were problems with the property at 1414 Leopard and so the property owners concentrated their efforts to demolish the property at 1420 Leopard.

The following topics pertaining to this item were discussed: the date of the last inspection; the anticipated costs to restructure the property; whether the owner has received bids that include a structural analysis; the proposed use for the property; when the property owner would begin improvements to the property if an appeal is granted; concern with the deterioration of the property; and notification to the property owner for 1414 Leopard.

Mayor Adame called for comments from the audience. Abel Alonzo, 1701 Thames, stated that it is not easy to demolish someone's property however based on the presentation by staff the City has no choice but to deny the appeal.

Mr. Kieschnick made a motion to deny the appeal. The motion was seconded by Ms. Martinez. City Secretary Chapa polled the Council for their votes as follows:

23. MOTION NO. 2011-104

Motion to deny an appeal by Mr. Manuel N. Cantu, Jr., of the Building Standards Board's decision to require demolition of a structure(s) located at Lot 4, Block 1, West End, commonly known as 1414 Leopard Street.

The foregoing motion was passed and approved with the following vote: Adame, Adler, Elizondo, Kieschnick, Marez, Martinez, Scott, and Strong, voting "Aye"; Leal was absent.

Mayor Adame opened discussion on Item 25 regarding the Downtown Street (Chaparral) project. Director of Engineering Services Pete Anaya introduced the presentation team including Raymond Gignac with Gignac & Associates and Carl Crull with HDR Engineering. Mr. Anaya explained that this item is for the design of the project and allows the City to go out for bids on Chaparral Street. Mr. Anaya reported that the project would be bid two ways including a complete closure and a partial closure. Mr. Anaya also stated that the City is going to resubmit the U.S. Department Economic Development Administration (EDA) grant in the amount of \$3.7 million. Mr. Gignac referred to a powerpoint presentation including the proposed design for the crosswalks, intersections parking and travel lanes; sidewalk paving; an aerial view; a realistic view of intersection; example of catenary lighting; and the proposed schedule.

The following topics pertaining to this item were discussed: the EDA grant funding; status of the kiosks at the Bayfront Park; start of construction date; and landscaping.

Council Member Martinez requested a future agenda item on the kiosks at the Bayfront Park. There were no comments from the audience. City Secretary Chapa polled the Council for their votes as follows:

25. MOTION NO. 2011-103

Motion authorizing the City Manager or designee to execute Amendment No. 2 to the Contract for Professional Services with Gignac Architects of Corpus Christi, Texas, in the amount of \$407,503, for a total re-stated fee of \$757,883 for the Downtown Street (Chaparral) project. (BOND ISSUE 2008)

The foregoing motion was passed and approved with the following vote: Adame, Adler, Elizondo, Kieschnick, Marez, Martinez, Scott, and Strong, voting "Aye"; Leal was absent.

Minutes – Regular Council Meeting
April 26, 2011 – Page 12

Mayor Adame opened discussion on Item 24 regarding the adoption of the FY2011-2012 Consolidated Annual Action Plan. Director of Neighborhood Services Eddie Ortega reported that the City has received the further estimates from the U.S. Department of Housing and Urban Development with a reduction of 16 ½ % and highlighted the following changes: an additional reduction for CDBG- Program Administration in the amount of \$30,315 for a total funding level of \$401,309; a reduction of CDBG-Code Enforcement Program in the amount of \$25,000; a reduction of \$25,000 for the CDBG- Comprehensive Planning Assistance Program; funding of \$100,000 for the CDBG-Ethel Eyerly Senior Center by eliminating funding from the CDBG-Neighborhood Initiative Program & Model Block Revitalization Program in the amount of \$100,000 (working on the assumption that have available funding from previous years to support this year); reduction of \$25,000 for CDBG-Rehabilitation Services; funding for CDBG-Amistad Community Health Center in the amount of \$31,024; reduction from CDBG-Coastal Bend Alcohol & Drug Rehabilitation Center d/b/a Charlie's Place in the amount of \$31,024; and a reduction of \$5,766 to all of the agencies recommended for funding with the exception of CDBG-Boys and Girls Club which was reduced in the amount of \$5,756.

Mr. Ortega announced that the Emergency Shelter Grant (ESG) program received an additional \$56,424 and each ESG program received an additional \$5,936 with the exception of the ESG-Administrative Costs which received an additional \$2,811. Mr. Ortega announced that the HOME program received an additional \$4,174 and highlighted the following changes: HOME Administration/Technical Assistance receiving an additional \$7,745 for a total of \$156,662; HOME-Major Rehabilitation program receiving a total of \$764,965; HOME-Nueces County Community Action Agency receiving a total of \$300,000; and The Palms at Leopard will be recommended for funding in the amount of \$865,000. Mr. Ortega reported that after the last meeting, staff recommended funding Dolphin's Landing and The Palms at Leopard equally, however, after checking with the Texas Department of Housing and Community Affairs, it was determined that the City essentially needs to support one project so that the project can receive the 16 points for tax credits.

Mayor Adame called for comments from the audience. Abel Alonzo, 1701 Thames, stated that MHMR is extremely grateful for the funding that was provided. Eric Martinez, Association Coordinator for the World Changers Projects, thanked Mr. Ortega and Neighborhood Services employees Diana Garza and Tony Recio for their support of the World Changers Project and the CDBG-Neighborhood Initiative Program & Model Block Revitalization Project. Mr. Martinez asked the Council to continue to support the use of anticipated funds available for the Model Block Program. Therese Perez, Corpus Christi Hope House, expressed gratitude for the funding provided for the shelter. Michael Wynn, Atlantic Housing, spoke on behalf of Dolphin's Landing and thanked the Council for listening to concerns during the April 12th meeting. Council Member Martinez reiterated that staff was not supporting funding for Dolphin's Landing. Jaime Nodarse, Amistad Community Health Center, thanked the Council for their reconsideration for funding CDBG-Amistad Community Health Center. Mark Lechner, Lexington Vista and Palm Gardens, stated that it was hard to argue with staff's recommendation for their support to one HOME project to receive tax credits. Mr. Lechner provided information on both proposed projects and requested that Council consider a mechanism to transfer HOME funds to the project that gets awarded by TDHCA. Jose Mascorro, Housing and Community Services, spoke regarding The Palms at Leopard Project and thanked staff for their hard work on this project and the importance of the City supporting the project 100% to ensure tax funding does come to the City of Corpus Christi.

Mr. Scott made a motion to amend the Consolidated Annual Action Plan to include changes as recommended by staff in today's handout. The motion was seconded by Mr. Elizondo.

Minutes – Regular Council Meeting
April 26, 2011 – Page 13

The foregoing motion was passed and approved with the following vote: Adame, Adler, Elizondo, Kieschnick, Marez, Martinez, Scott, and Strong, voting "Aye"; Leal was absent.

City Secretary Chapa polled the Council for their votes as follows:

24. RESOLUTION NO. 029047

Resolution adopting the Fiscal Year 2011-12 Consolidated Annual Action Plan ("CAAP") which includes the Community Development Block Grant (CDBG), Emergency Shelter Grant (ESG), and Home Programs (HOME); authorizing the City Manager or designee to submit the Fiscal Year 2011-12 CAAP to the U. S. Department of Housing and Urban Development ("HUD"); and authorizing the City Manager or designee to execute all necessary documents to make changes in the Fiscal Year 2011-12 CAAP if required by HUD.

The foregoing resolution was passed and approved as amended with the following vote: Adame, Adler, Elizondo, Kieschnick, Marez, Martinez, Scott, and Strong, voting "Aye"; Leal was absent.

Mayor Adame returned to discussion on Item 8 regarding the acceptance of an anonymous donation for the decorative lighting of the Harbor Bridge project. City Secretary Chapa polled the Council for their votes as follows:

8.a. RESOLUTION NO. 029036

Resolution authorizing the City Manager or designee to accept an anonymous donation in the amount of \$300,000 for support of the decorative lighting of the Harbor Bridge project.

The foregoing resolution was passed and approved with the following vote: Adame, Adler, Elizondo, Marez, Martinez, Scott, and Strong, voting "Aye"; Kieschnick voting "No"; Leal was absent.

8.b. ORDINANCE NO. 029037

Ordinance appropriating \$300,000 from an anonymous donation into the No. 1020 General Fund for support of the decorative lighting of the Harbor Bridge project; changing the FY 2010-2011 Operating Budget adopted by Ordinance No. 028683 to increase revenues and appropriations by \$300,000 each.

An emergency was declared, and the foregoing ordinance was passed and approved with the following vote: Adame, Adler, Elizondo, Marez, Martinez, Scott, and Strong, voting "Aye"; Kieschnick voting "No"; Leal was absent.

Mayor Adame opened discussion on Item 12 regarding the Memorial Coliseum Demolition Project. Director of Engineering Services Pete Anaya provided a project budget showing the construction liquidated damages in the amount of \$70,000 and the \$28,000 for Amendment No. 1 to the contract with R.H. Shackelford, Inc. In response to Council Member Scott, the net savings on the project is approximately \$42,000. City Secretary Chapa polled the Council for their votes as follows:



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Arcadia, CA 91007
Telephone, 626 294-9230
Facsimile, 626 294-9270
www.highlandcompanies.com

June 23, 2011

Ms. Robbye Meyer
Director of Multifamily Programs
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701

Subject: Castle Manor Apartments (TDCHA #11115)
Response to Challenge dated June 14, 2011

Dear Ms. Meyer:

This letter is in response to the challenge presented by Mr. Gilbert M. Piette regarding the Commitment of Development Funding by Government Instrumentality for Castle Manor Apartments (TDHCA #11115). Mr. Piette stated that points under QAP Section 49.9(a)(5) should not be awarded to this application because he does not believe the City of Corpus Christi will execute an inter-local agreement with the Capital Area Housing Finance Corporation (CAHFC) that would enable the subject to receive local government funding by the commitment notice date anticipated to occur in Mid-August 2011.

Per QAP Section 49.9(a)(5)(viii), an applicant may provide either (a) a copy of the commitment of funds, (b) a copy of the application to the funding entity, or (c) or a letter from the funding entity indicating that the award of funds with respect to the funding cycle for which the Applicant intends to apply for will be made by August 1, 2011. Please be advised that the subject's application included a letter from CAHFC that stated that a loan funding decision will be made by August 1, 2011, which properly satisfied item (c) described above. Therefore, the application for Castle Manor Apartments met the submission requirements under QAP Section 49.9(a)(5)(viii) of the QAP.

In summary, we believe that based on the application submission requirements of the QAP, it is currently premature to determine the final merit of points to be awarded under QAP Section 49.9(a)(5).

Please feel free to contact me if you have any questions with regard to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Paul Patierno".

Paul Patierno
Vice President

Encl.

cc: Raquel Morales (TDHCA)

section 8 subsidy to the new location. Consequently, none of the above four referenced applications have local funding nor are they a priority for the City.

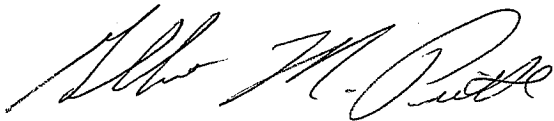
Second, none of the four referenced applications have obtained consent from the applicable Unit of General Local Government as evidenced by an executed Inter-local Agreement. The City of Corpus has not executed an Inter-local Agreement and does not intend to execute one that would allow another application to circumvent the 2011 top priority established by the Corpus Christi City Council at its meeting on February 22, 2011.

In addition, please verify the financial feasibility of applications 11227, 11045 and 11050 each of which included funding from the City of Corpus Christi as part of their financial feasibility. It appears that without funding from the City of Corpus Christi these applications are not financially feasible.

We respectfully request that you deduct the 18 points for the commitment of development funding by units of general local government as the local Governing Body (City of Corpus Christi) where the four referenced projects are located has not provided 2011 general local government support. If these points are deducted from these applications then tax credit application 11166 The Palms at Leopard, which the City of Corpus Christi has designated as its highest priority, would be the top application in Region 10 and would qualify for tax credit funding.

Your earliest consideration of this matter would be greatly appreciated.

Sincerely,



Gilbert M. Piette
Executive Director

Attachments: Exhibits 1 and 2

EXHIBIT 1

City of Corpus Christi Council Resolution

RESOLUTION

DECLARING THE CITY OF CORPUS CHRISTI'S SUPPORT OF THE DEVELOPMENT OF THE PALMS AT LEOPARD STREET

WHEREAS, The Palms at Leopard Street, Ltd. Has proposed a development for affordable rental housing on a tract of land on Palm Avenue between Lipan Street and Leopard Street named The Palms at Leopard Street in the City of Corpus Christi, Texas; and,

WHEREAS, The Palms at Leopard Street, Ltd. Intends to submit an application to the Texas Department of Housing and Community Affairs (TDHCA) for 2011 Housing Tax Credits funds; and,

WHEREAS, The Palms at Leopard Street is intended to serve as a replacement site for the units at the existing Northside Manor Apartments which is in dire need of demolition and relocation of families due to substandard living conditions and deterioration of the neighborhood; and,

WHEREAS, the development of The Palms at Leopard Street will bring much needed reinvestment to a major Urban Core area of the City marked by a medium and high density residential and commercial uses;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CORPUS CHRISTI, TEXAS THAT:

Section 1. The City of Corpus Christi supports the development of The Palms at Leopard Street as its first priority application in the Region 10-Urban area designated by the State of Texas that includes the City.

DULY adopted at a regular meeting of the City Council of the City on the 22nd day of February, 2011.

ATTEST:

CITY OF CORPUS CHRISTI

By: Armando Chapa
Armando Chapa
City Secretary

By: Joe Adame
Joe Adame, Mayor

APPROVED AS TO LEGAL FORM:

FEBRUARY 17, 2011

By: Carlos Valdez
Carlos Valdez, City Attorney

Corpus Christi, Texas

22nd day of February, 2011

The above Resolution was passed by the following vote:

Joe Adame	<u>Aye</u>
Chris N. Adler	<u>Aye</u>
Larry R. Elizondo, Sr.	<u>Aye</u>
Kevin Kieschnick	<u>Aye</u>
Priscilla Leal	<u>Aye</u>
John E. Marez	<u>Aye</u>
Nelda Martinez	<u>Aye</u>
Mark Scott	<u>Absent</u>
Linda Strong	<u>Aye</u>

EXHIBIT 2

Excerpts from Corpus Christi City Council Meeting – 4/26/2011 Award of HOME Funds to The Palms at Leopard

MINUTES

CITY OF CORPUS CHRISTI, TEXAS
Regular Council Meeting
April 26, 2011 - 12:00 p.m.

PRESENT

Mayor Joe Adame
Mayor Pro Tem Nelda Martinez

Council Members:

Chris Adler
Larry Elizondo, Sr.**
Kevin Kieschnick
John Marez
Mark Scott
Linda Strong*

City Staff:

Interim City Manager Margie C. Rose
City Attorney Carlos Valdez
City Secretary Armando Chapa

ABSENT

Priscilla Leal

*Arrived at 12:32 p.m.

**Arrived at 1:38 p.m.

Mayor Adame called the meeting to order in the Council Chambers of City Hall.

The invocation was delivered by Council Member Martinez and the Pledge of Allegiance to the United States flag was led by Council Member Marez.

City Secretary Chapa called the roll and verified that the necessary quorum of the Council and the required charter officers were present to conduct the meeting.

Mayor Adame called for approval of the minutes of the Workshop meeting of April 12, 2011 and the regular Council meeting of April 19, 2011. A motion was made and passed to approve the minutes as presented.

Mayor Adame called for consideration of the consent agenda (Items 2 - 18). There were no comments from the public. Council members requested that Items 4, 5, 7, 8, 12 and 15 be pulled for individual consideration. City Secretary Chapa polled the Council for their votes as follows:

2. MOTION NO. 2011-096

Motion approving a supply agreement with Ferguson Enterprises, Corpus Christi, Texas for approximately 3,755 non-shear flexible couplings ranging in size from 3" to 10", in accordance with Bid Invitation No. BI-0030-11, based on low bid, for an estimated annual expenditure of \$76,069.52 of which \$19,017.38 is budgeted for FY10-11. The term of the contract is for twelve months with options to extend for up to two additional twelve-month periods, subject to the approval of the contractor and the City Manager, or designee. These items are purchased into the Warehouse Inventory and charged out to the Wastewater Department.

The foregoing motion was passed and approved with the following vote: Adame, Adler, Kieschnick, Marez, Martinez, and Scott, voting "Aye"; Elizondo, Leal, and Strong were absent.

Minutes – Regular Council Meeting
April 26, 2011 – Page 11

owners were not informed by the City that there were problems with the property at 1414 Leopard and so the property owners concentrated their efforts to demolish the property at 1420 Leopard.

The following topics pertaining to this item were discussed: the date of the last inspection; the anticipated costs to restructure the property; whether the owner has received bids that include a structural analysis; the proposed use for the property; when the property owner would begin improvements to the property if an appeal is granted; concern with the deterioration of the property; and notification to the property owner for 1414 Leopard.

Mayor Adame called for comments from the audience. Abel Alonzo, 1701 Thames, stated that it is not easy to demolish someone's property however based on the presentation by staff the City has no choice but to deny the appeal.

Mr. Kieschnick made a motion to deny the appeal. The motion was seconded by Ms. Martinez. City Secretary Chapa polled the Council for their votes as follows:

23. MOTION NO. 2011-104

Motion to deny an appeal by Mr. Manuel N. Cantu, Jr., of the Building Standards Board's decision to require demolition of a structure(s) located at Lot 4, Block 1, West End, commonly known as 1414 Leopard Street.

The foregoing motion was passed and approved with the following vote: Adame, Adler, Elizondo, Kieschnick, Marez, Martinez, Scott, and Strong, voting "Aye"; Leal was absent.

Mayor Adame opened discussion on Item 25 regarding the Downtown Street (Chaparral) project. Director of Engineering Services Pete Anaya introduced the presentation team including Raymond Gignac with Gignac & Associates and Carl Crull with HDR Engineering. Mr. Anaya explained that this item is for the design of the project and allows the City to go out for bids on Chaparral Street. Mr. Anaya reported that the project would be bid two ways including a complete closure and a partial closure. Mr. Anaya also stated that the City is going to resubmit the U.S. Department Economic Development Administration (EDA) grant in the amount of \$3.7 million. Mr. Gignac referred to a powerpoint presentation including the proposed design for the crosswalks, intersections parking and travel lanes; sidewalk paving; an aerial view; a realistic view of intersection; example of catenary lighting; and the proposed schedule.

The following topics pertaining to this item were discussed: the EDA grant funding; status of the kiosks at the Bayfront Park; start of construction date; and landscaping.

Council Member Martinez requested a future agenda item on the kiosks at the Bayfront Park. There were no comments from the audience. City Secretary Chapa polled the Council for their votes as follows:

25. MOTION NO. 2011-103

Motion authorizing the City Manager or designee to execute Amendment No. 2 to the Contract for Professional Services with Gignac Architects of Corpus Christi, Texas, in the amount of \$407,503, for a total re-stated fee of \$757,883 for the Downtown Street (Chaparral) project. (BOND ISSUE 2008)

The foregoing motion was passed and approved with the following vote: Adame, Adler, Elizondo, Kieschnick, Marez, Martinez, Scott, and Strong, voting "Aye"; Leal was absent.

The foregoing motion was passed and approved with the following vote: Adame, Adler, Elizondo, Kieschnick, Marez, Martinez, Scott, and Strong, voting "Aye"; Leal was absent.

City Secretary Chapa polled the Council for their votes as follows:

24. RESOLUTION NO. 029047

Resolution adopting the Fiscal Year 2011-12 Consolidated Annual Action Plan ("CAAP") which includes the Community Development Block Grant (CDBG), Emergency Shelter Grant (ESG), and Home Programs (HOME); authorizing the City Manager or designee to submit the Fiscal Year 2011-12 CAAP to the U. S. Department of Housing and Urban Development ("HUD"); and authorizing the City Manager or designee to execute all necessary documents to make changes in the Fiscal Year 2011-12 CAAP if required by HUD.

The foregoing resolution was passed and approved as amended with the following vote: Adame, Adler, Elizondo, Kieschnick, Marez, Martinez, Scott, and Strong, voting "Aye"; Leal was absent.

Mayor Adame returned to discussion on Item 8 regarding the acceptance of an anonymous donation for the decorative lighting of the Harbor Bridge project. City Secretary Chapa polled the Council for their votes as follows:

8.a. RESOLUTION NO. 029036

Resolution authorizing the City Manager or designee to accept an anonymous donation in the amount of \$300,000 for support of the decorative lighting of the Harbor Bridge project.

The foregoing resolution was passed and approved with the following vote: Adame, Adler, Elizondo, Marez, Martinez, Scott, and Strong, voting "Aye"; Kieschnick voting "No"; Leal was absent.

8.b. ORDINANCE NO. 029037

Ordinance appropriating \$300,000 from an anonymous donation into the No. 1020 General Fund for support of the decorative lighting of the Harbor Bridge project; changing the FY 2010-2011 Operating Budget adopted by Ordinance No. 028683 to increase revenues and appropriations by \$300,000 each.

An emergency was declared, and the foregoing ordinance was passed and approved with the following vote: Adame, Adler, Elizondo, Marez, Martinez, Scott, and Strong, voting "Aye"; Kieschnick voting "No"; Leal was absent.

Mayor Adame opened discussion on Item 12 regarding the Memorial Coliseum Demolition Project. Director of Engineering Services Pete Anaya provided a project budget showing the construction liquidated damages in the amount of \$70,000 and the \$28,000 for Amendment No. 1 to the contract with R.H. Shackelford, Inc. In response to Council Member Scott, the net savings on the project is approximately \$42,000. City Secretary Chapa polled the Council for their votes as follows:



CITY OF DALLAS

May 16, 2011

Robbye Meyer
Director of Multifamily Finance
Texas Dept. of Housing & Community Affairs
P.O. Box 13941
Austin, Texas 78711-3941

Re: Low Income Housing Tax Credit Application #11124 People's El Shaddai

Dear Ms Meyer:

The purpose of this letter is to request clarification and justification for points awarded to LIHTC application #11124 People's El Shaddai under the 2011 Qualified Allocation Plan 50.9(i) Selection (5) Local Political Subdivision Funding.

After the application for People's El Shaddai was reviewed by the Dallas City Council on February 23, 2011, the Council voted not to support the project (see attached). The project is not in keeping with the priorities for the City of Dallas. As we understand the nature of the language in the QAP under 50.9(i) Selection (5)(A)(ix), the Governing Body of the Local Political Subdivision should be the City of Dallas, where the project is located. This particular applicant provided a letter of commitment from an Austin based Housing Corporation, Capital Area Housing Finance Corporation. We do not believe that an Austin company should be able to approve projects for Dallas.

Additionally, this particular corporation's by-laws state that their assistance is conditioned on the "consent of the applicable Local Political Subdivision as evidenced by an executed Interlocal Agreement" (see attached). The City of Dallas has not executed an Interlocal Agreement nor do we intend to execute such an agreement.

The City of Dallas would ask TDHCA to deduct the 18 points for Local Political Subdivision Funding given that the Governing Body where the project is located does not support the project.

Sincerely,

A.C. Gonzalez, Assistant City Manager
City Manager's Office

C: Kent Conine, TDHCA Board Chairman
Michael Gerber, Executive Director

05-18-11A08:46 RCVD



City of Dallas

STATE OF TEXAS §
COUNTY OF DALLAS §
CITY OF DALLAS §

I, **DEBORAH WATKINS**, City Secretary of the City of Dallas, Texas, do hereby certify that the attached is a complete true and correct copy of:

FILE NO. 11-0606

filed in my office as official records of the City of Dallas, and that I have custody and control of said records.

WITNESS MY HAND AND THE SEAL OF THE CITY OF DALLAS, TEXAS,
this the 28th day of **February, 2011**.

A handwritten signature in cursive script that reads "Deborah Watkins".

**DEBORAH WATKINS
CITY SECRETARY
CITY OF DALLAS, TEXAS**

PREPARED BY G. S. Ruelas

05-18-11A08:47 RCVD

WHEREAS, on February 10, 2010, the City Council approved a modification to the policy for the acceptance of applications seeking City of Dallas support for low income housing tax credit financing, when the State of Texas does not require direct City of Dallas approval by Resolution No. 10-0498; and

WHEREAS, the Applicant, Owen Metz, submitted an application to the City of Dallas on behalf of Dallas Leased Housing Associates II, Limited Partnership, for support of their application to TDHCA for the 2011 Low Income Housing Tax Credit Program; and

WHEREAS, on February 7, 2011 and February 22, 2011, the Peoples El Shaddai Low Income Housing Tax Credit multifamily project was briefed to the Housing Committee; and

WHEREAS, as a condition for being considered for the award of the 9% tax credit, the Applicant has committed to 100 units or 100% of the units to tenants with household incomes capped at 60% ~~or below the AMFI with rents affordable to tenants whose household incomes are 60% or below the AMFI;~~ and

DENIED

WHEREAS, as with the City of Dallas' funding and endorsement of the TDHCA LIHTC application for Peoples El Shaddai, the owner of the project will provide social services with the project approved by the Housing/Community Services Department, if the owner is utilizing City funding in the financing of the low income housing tax credit project; and

WHEREAS, the City of Dallas desires to provide approval of the TDHCA LIHTC application for the Peoples El Shaddai project located at 2836 East Overton Road; **NOW, THEREFORE**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That the City of Dallas supports the Texas Department of Housing and Community Affairs (TDHCA) 9% low-income housing tax credit allocation for Peoples El Shaddai project located at 2836 East Overton Road for the acquisition and rehabilitation of the 100-unit multifamily residential development for low income family housing, provided, however, that the City's approval of the tax credit financing for this project shall be contingent upon, among other things, future City Council approval of zoning.

SECTION 2. That the City of Dallas' funding and endorsement of the TDHCA LIHTC application for Peoples El Shaddai will be contingent on the following if the owner is utilizing City funding in financing of the low income housing tax credit project: (1) the Project Owner expending a minimum of \$40,000 (a minimum of \$40,000 or \$200 per unit per year, whichever is greater) for social services for, and at no cost to, the residents of the development, based on a survey of residents needs, to be implemented within three months of project completion; (2) inclusion of this requirement in the Land Use Restriction Agreement (LURA) by the Texas Department of Housing and Community Affairs (TDHCA) and the City's Deed Restrictions containing the social services requirement; and, (3) if the LURA does not require the social services expenditures to be made prior to debt service payment, a separate guarantee by an entity or individual acceptable to the City that the social services expenditures will be made. Up to 50% of the social service requirement can be fulfilled with in kind social services provided the Housing/community services department gives prior approval of the social service plan.

DENIED

SECTION 3. That prior to receiving a conditional City of Dallas building permit required by TDHCA prior to closing on the tax credits, the Project Developer will consult with the City of Dallas Sustainable Development and Construction Department with regard to security related design standards.

SECTION 4. That the City of Dallas' funding and endorsement for this project will be contingent on the Project Owner paying to the City an annual monitoring review fee in the amount of \$500, beginning on the anniversary of the closing on the 9% tax credits and ending at the end of the tax credit compliance period, for the cost of monitoring compliance with the social service requirement, if the Project Owner is utilizing City funding in the financing of the low income housing tax credit project.

SECTION 5. That this resolution shall take effect immediately from and after its passage in accordance with the Charter of the City of Dallas, and it is accordingly so resolved.

DISTRIBUTION:

Housing/Community Services Department
City Attorney's Office
Office of Financial Services/Community Development, 4FN

KEY FOCUS AREA: Economic Vibrancy
AGENDA DATE: February 23, 2011
COUNCIL DISTRICT(S): 4
DEPARTMENT: Housing/Community Services
CMO: A. C. Gonzalez, 671-8925
MAPSCO: 56S

SUBJECT

Authorize a resolution in support of the Texas Department of Housing and Community Affairs (TDHCA) 9% low-income housing tax credit (LIHTC) allocation for Peoples El Shaddai located at 2836 East Overton Road for the acquisition and rehabilitation of the proposed 100-unit multifamily residential development for low income families - Financing: No cost consideration to the City
Recommendation of Staff: Denial

BACKGROUND

DENIED

On February 10, 2010, the City Council approved an action item authorizing a modification to the City of Dallas' policy for accepting applications seeking City of Dallas support for low income housing tax credit financing, when the State of Texas does not require direct City of Dallas approval to: 1) allow for only one application to be submitted; and 2) require applicants to submit a \$1,000 fee with the single application to cover administrative costs associated with reviewing the applications for City consideration of funding and endorsement by the City Council.

On January 21, 2011, the Applicant, Owen Metz, submitted an application to the City of Dallas on behalf of Dallas Leased Housing Associates II, Limited Partnership, for support of their application to TDHCA for the 2011 Low Income Housing Tax Credit Program.

The Applicant has committed to 100 units or 100% of the units to tenants with household incomes capped at 60% or below the AMFI with rents affordable to tenants whose household incomes are 60% or below the AMFI.

BACKGROUND (continued)

As a requirement for City of Dallas' funding and endorsement of low income housing tax credit projects, the Applicant(s) are required to conduct a survey of the needs of the tenants as each lease is signed and will provide some or all of the following social services at no cost to the tenants, such as: after-school and summer break care for children, health screenings; counseling/domestic crisis intervention; emergency assistance, computer education, adult education programs (such as: ESL, life skills and nutrition classes, etc.); and social and recreational activities. This requirement only applies if the Applicant(s) is utilizing City funding in the financing of the low income housing tax credit project.

The Housing/Community Services Department is not recommending that City Council grant funding and endorsement of the application to TDHCA for Peoples El Shaddai for the LIHTC program.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

On February 10, 2010, the City Council approved a modification to the policy for the acceptance of applications seeking City of Dallas support for low income housing tax credit financing, when the State of Texas does not require direct City of Dallas approval by Resolution No. 10-0498.

DENIED

On February 7, 2011, the Housing Committee of the City Council was briefed on the Low Income Housing Tax Credit Program.

On February 22, 2011, the Peoples El Shaddai Low Income Housing Tax Credit multifamily project was briefed to the Housing Committee.

FISCAL INFORMATION

No cost consideration to the City.

OWNER(S)

**Dallas Leased Housing Associates II,
Limited Partnership**

Dallas Leased Housing Associates GP II, LLC

David L. Brierton, Chief Manager & President
Jeffery R. Huggett, Vice President

Investor Limited Partner (to be determined)

Dallas Leased Housing Associates SLP II, LLC

David L. Brierton, Chief Manager & President
Jeffery R. Huggett, Vice President

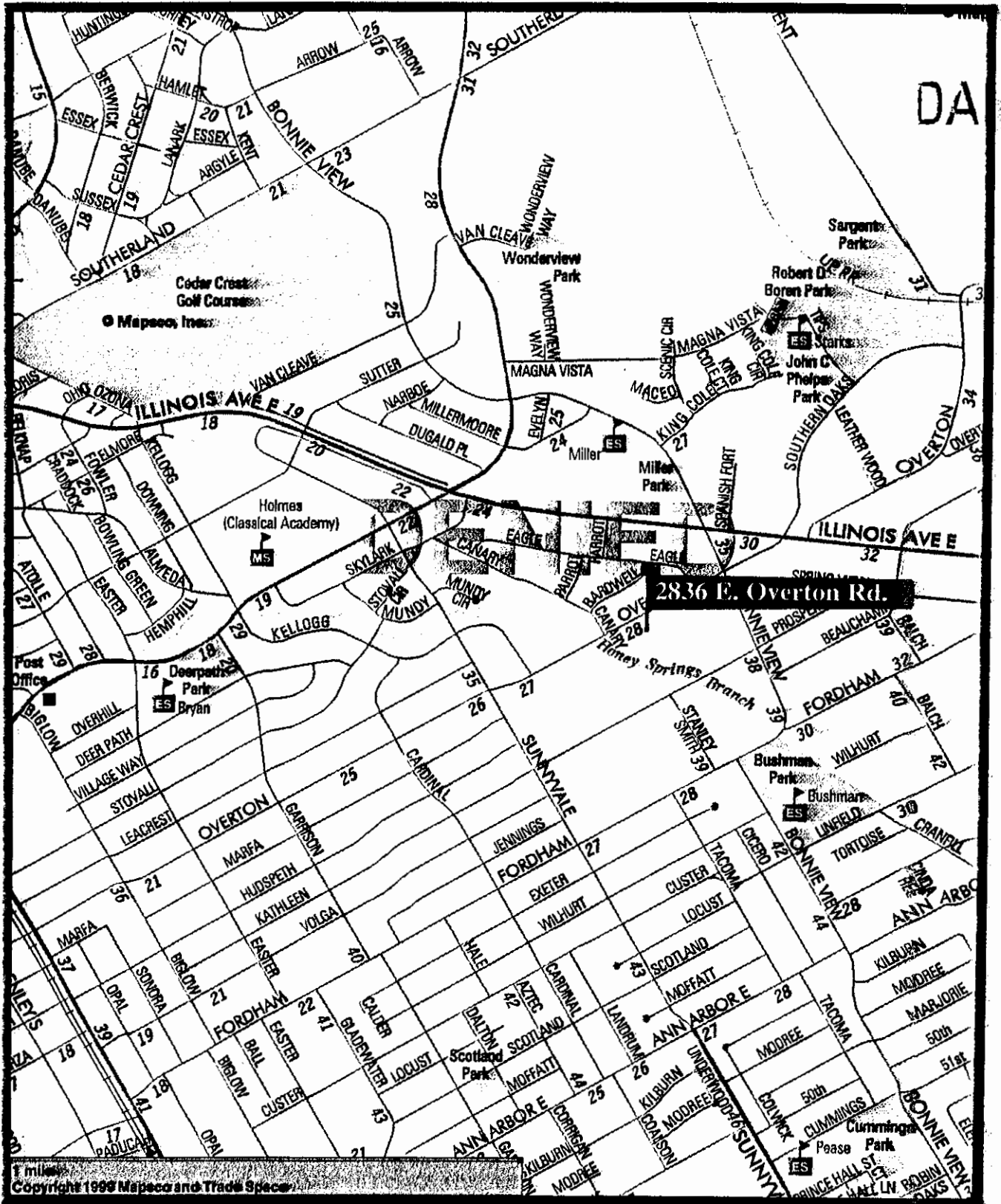
MAP

Attached

DEVELOPER

**Dallas Leased
Housing
Development LLC**

DENIED





Rules for 9% Tax Credit Loans

ABOUT CAHFC

- Mission
- Board Members & Staff
- Service Area / Data
- Contact Us
- Capital Area Affordable Housing, LLC
- Capital Area Multi-Housing

NEWS / RESOURCES

- Publications
- Website Links

BUYERS & RENTERS

- Homes For Sale
- First Time Home Buyer Program
- Find an Affordable Apartment

HOUSING PROGRAMS

- Multi-Family Finance
- Previously Financed Projects

APPLICATIONS

- Financing Qualified Residential Rental Property
- Rules for 9% Tax Credit Loans.

Capital Area Housing Finance Corporation

Rules for Loans in Connection with Obtaining Tax Credits for Multifamily Residential Rental Projects

Article I. Purpose and Scope

Capital Area Housing Finance Corporation (the "*Corporation*") was created as a public non-profit corporation under the provisions of the Texas Housing Finance Corporations Act, Texas Local Government Code, Chapter 394, as amended (the "*Act*"). The Corporation's primary purpose is to assist individuals of low and moderate income to obtain decent, safe, sanitary, and affordable housing. The Corporation is authorized by the Act to make loans to further its purposes thereunder. Applications for loans will be considered in connection with developments located in one or more of the following: Counties of Bastrop, Blanco, Burnet, Caldwell, Fayette, Hays, Lee, Llano and Williamson (collectively, the "*Program Area*") or in locations outside of the Program Area with the consent of the applicable Local Political Subdivision as evidenced by an executed Interlocal Agreement. The Corporation has adopted these Rules to set forth the general requirements and procedures applicable to qualifying for a loan in connection with obtaining tax credits from the Texas Department of Housing and Community Affairs (the "*TDHCA*") in connection with applicant's residential development. The Corporation makes no representation or warranty that the loan will comply with the rules and regulations of the TDHCA.

A. *Application of Rules.* These Rules apply to specific multifamily rental residential developments for which an applicant or a Local Political Subdivision on behalf of an applicant requests the Corporation to make a loan to obtain tax credits in connection with such development

B. *Waiver of Rules.* Specific provisions of these Rules may be waived by a majority vote of the Board of Directors of the Corporation

C. *Amendment of Rules.* These Rules may be amended, revised, repealed or otherwise altered by a majority of the Board of Directors of the Corporation at any time and from time to time and with or without notice.

Article II. General Requirements

The Corporation will not make a loan of funds to any applicant in connection with any financing for any residential development that has not satisfied, as determined by the

May 20, 2011

Peoples El Shaddai Apartments
Dallas, Texas

Deficiency:

- 1.) **Volume 4, Tab 5** – Commitment of Development Funding by Governmental Instrumentality – 18 Points for commitment of funds equal to or greater than \$4,500 per unit
- 2.) **Volume 4, Tab 26** – Leveraging of Private, State and Federal Resources – 1 point for commitment of funds equal to or greater than 2% of the Total Housing Development Costs.

The application for Peoples El Shaddai was submitted to TDHCA requesting points under the above categories by including an application for funds from the Capital Area Housing Finance Corporation. Approval for funds from CAHFC requires consent of the applicable Local Political Subdivision through an executed Inter-local Agreement.

On May 16, 2011 the City of Dallas submitted a letter to TDHCA stating they have not and do not intend to execute an Inter-Local agreement with the Capital Area Housing Finance Corporation for the Peoples El Shaddai Village Project.

Response:

Peoples El Shaddia is currently a 100% Project Based Section 8 property with a twenty (20) year HAP contract dated 9/1/2008. According to Sections 49.9(a)(5) & 49.9(a)(26) of the QAP, Development Based Rental Subsidies are considered an eligible source of funding, provided:

- The Development Based Rental Subsidy must be administered by a Unit of General Local Government.
- Evidence of the remaining value of the contract as of December 31st of the application year, is provided from the Unit of General Local Government. If a signed contract is submitted the remaining value of the subsidies must be evident. It must also be evident that the contract does not include past subsidies.
- Only the value of the contract between August 1, 2011 and the expiration of the current contract will be eligible.

Please see attached:

- 1.) Amended Volume 4, Tab 5 – 18 Points.
- 2.) Amended Volume 4, Tab 26 – 1 Point.
- 3.) The calculation of remaining HAP value from 8/1/2011 until expiration.
- 4.) Executed HAP contract listing the Southwest Housing Compliance Corporation as the Contract Administrator.
- 5.) The executed HAP contract dated 9/1/2008 - 8/31/2028 with the rent schedule and subsidy obligation by HUD.

Volume 4, Tab 5
COMMITMENT OF DEVELOPMENT FUNDING by GOVERNMENTAL INSTRUMENTALITY (49.9)(a)(5)

Applications may qualify to receive up to 18 points for qualifying under this exhibit. An Applicant may submit enough sources to substantiate the point request.

Complete 1 form for each source. Use additional pages if necessary.

All funding, including in-kind contributions (except Development Based Rental Subsidies), must be reflected in the Volume 1, Tab 4, Part A. Summary of Sources and Uses of Funds form and Volume 1, Tab 4, Financing Narrative

1. Name of Unit of General Local Government or Governmental Instrumentality:

Project Based Section 8 HAP Contract: Southwest Housing Compliance Corporation (HUD)

2. Funding Source. Refer to ASPM and QAP for specific requirements of each funding source. Check one box.

Loan:

Loans must have a minimum term of the later of one year and Placed in Service Date, and the interest rate must be at or below the Applicable Federal Rate (AFR) at the time of loan closing

Source : _____ Amount: _____

Source: _____ Amount: _____

Source: _____ Amount: _____

Total Amount attributed to the Total Housing Development Cost: _____ **\$0**

Grant

Source: _____ Amount: _____

Source: _____ Amount: _____

Source: _____ Amount: _____

Total Amount attributed to the Total Housing Development Cost: _____ **\$0**

TDHCA HOME Funds

A resolution, dated on or before March 1, 2011, is submitted with the Application from the Unit of General Local Government authorizing the Applicant to act on behalf of the Unit of General Local Government in applying for HOME Funds from TDHCA for the pa

Total Amount attributed to the Total Housing Development Cost: _____

In-kind Contribution

In-kind contributions must provide a tangible economic benefit that results in a quantifiable reduction in the Total Housing Development Cost; evidence from the Unit of General Local Government that substantiates the value must be provided; the value of t

Source: _____ Amount: _____

Source: _____ Amount: _____

Source: _____ Amount: _____

Total Amount attributed to the Total Housing Development Cost (For all contributions except for land, include value of contribution from August 1, 2011 through Placed in Service date): _____ **\$0**

Type of in-kind contribution: _____

Volume 4, Tab 5

COMMITMENT OF DEVELOPMENT FUNDING FROM LOCAL POLITICAL SUBDIVISION (50.9)(i)(5)

Development Based Rental Subsidy

Total Amount of Remaining Subsidy (from Aug. 1, 2011 through expiration of contract):

\$13,228,684

3. Evidence of Funding. One of the following must be submitted behind this exhibit.

Copy of commitment of funds. The commitment must include a statement that any funds committed were not first provided to the Unit of General Local Government by the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on

Copy of the application to the funding entity and a letter from the funding entity indicating that the application was received. The Application should include the amount and terms of the proposed funding. For in-kind contributions and development based

A letter from the funding entity indicating that the award of funds with respect to the funding cycle for which the Applicant intends to apply for will be made by August 1, 2011 along with a statement from the Applicant with respect to the loan amount to

4. Eligible Points. Check one box (do not round).

6 points for a total contribution of at least \$900 (or \$450 for Rural Developments or Developments located in non-participating jurisdictions) per unit

12 points for a total contribution of at least \$2,250 (or \$1,125 for Rural Developments or Developments located in non-participating jurisdictions) per unit

18 points for a total contribution equal to or greater than \$4,500 (or \$2,250 for Rural Developments or Developments located in a non-participating ju



PLACE EVIDENCE TO SUPPORT THE POINTS REQUESTED UNDER THIS SELECTION CRITERIA BEHIND THIS TAB, EVEN IF IT WAS PROVIDED EARLIER IN THE APPLICATION

Volume 4, Tab 26

LEVERAGING OF PRIVATE, STATE AND FEDERAL RESOURCES (§49.9(a)(26)) (cont.)

Development Based Rental Subsidy

Development based rental subsidies from private, state or federal resource may qualify under this section if evidence of the remaining value of the contract is submitted from the source. In this case, the value of the contract does not include past subsidies

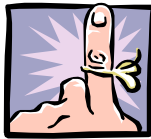
Total Amount of Remaining Subsidy (August 1, 2011 through expiration of contract):

\$500,000

3. Evidence of Funding. One of the following must be submitted.

Copy of commitment of funds. The commitment must include a statement that the provider of funds is not the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application and that none of the f

Copy of the application to the funding entity and a letter from the funding entity indicating that the application was received. The Application should include the amount and terms of the proposed funding. For in-kind contributions and development based



REMEMBER TO SUBMIT YOUR EVIDENCE BEHIND THIS FORM

Volume 1, Tab 2. Populations Served

Part B. Rent Schedule (Cont.)

		% of LI	% of Total	
HOUSING	TC30%	10%	10%	10
	TC40%			0
	TC50%	35%	35%	35
	TC60%	55%	55%	55
TAX	HTC LI Total			100
CREDITS	TCEO			0
	MR			0
	MR Total			0
	TC Total			100
MORTGAGE	MRB30%			0
	MRB40%			0
	MRB50%			0
	MRB60%			0
	MRB LI Total			0
REVENUE	MRBMR			0
	MRBMR Total			0
BOND	MRB Total			0

		% of LI	% of Total	
HOUSING	HTF30%			0
	HTF40%			0
	HTF50%			0
	HTF60%			0
TRUST	HTF80%			0
	HTF LI Total			0
	MR			0
FUND	MR Total			0
	HTF Total			0
HOME	30%			0
	LH/50%			0
	HH/60%			0
	HH/80%			0
	HOME LI Total			0
	EO			0
	MR			0
	MR Total			0
HOME Total			0	
OTHER	Total OT Units			0

Note: Pursuant to §49.8(8)(C)(i), any local, state or federal financing identified in this section which restricts household incomes at any AMGI lower than restrictions required in accordance with the Rules must be identified in the Rent Schedule and the local, state or federal income restrictions must include corresponding rent levels that do not exceed 30% of the income limitation in accordance with §42(g), Internal Revenue Code. The income and corresponding rent restrictions will be continuously maintained over the compliance and extended use period as specified in the Land Use Restriction Agreement.



A Subsidiary of the Housing Authority of the City of Austin

May 27, 2011

Texas Department of Housing & Community Affairs
Attn: Liz Cline
221 E. 11th St
Austin, TX 78701

Re: Peoples El Shaddai Village
TX16M000183

To Whom It May Concern:

The Southwest Housing Compliance Corporation processed a renewal for the units covered by the Housing Assistance Payment (HAP) contract referenced above. The contract renewal date is effective 09/01/2008 and expires on 08/31/2028.

There are approximately 17.10 years remaining in the HAP contract from 08/01/2011 through 08/31/2028 and the current HUD form 92458, rent schedule, has a yearly contract rent potential of \$1,003,800. The estimated remaining value of subsidy payments from 08/01/2011 - 08/31/2028 is \$17,164,980.

If you have any questions, please contact me at 512-474-5332, extension 3150, or lonniew@hacanet.org.

Sincerely,

A handwritten signature in blue ink, appearing to read "Lonnie Winton", is written over the word "Sincerely,".

Lonnie Winton
Financial Analyst
Southwest Housing Compliance Corporation



Southwest Housing Compliance Corporation

A Subsidiary of the Housing Authority of the City of Austin

November 20, 2008

People's Investors, LLC
C/o: PK Management, LLC
880 S. Pleasantburg Dr., Suite 4D
Greenville, Sc 29607
Attn: Brenda Jones, V.P. Southern Region

**Re: Peoples El Shaddai Village
TX16M000183**

Dear Ms. Jones,

We have processed a renewal for the units covered by the Housing Assistance Payments (HAP) contract referenced above. Enclosed is a fully executed copy of the form HUD 92458, Rent Schedule. Also enclosed are the HAP Contract and Notification of Section 8 Contract Rents and Funding. The new rents are effective 09/01/2008.

If you have any questions, please contact me at (512) 474-5332.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lonnie Winton".

Lonnie Winton
Financial Analyst

Cc: PK Management, LLC
Leslie Greene, Regional Property Manager
5521 Davis Blvd.
North Richland Hills, Tx 76180

Enclosures

U.S. Department of Housing and Urban Development
Office of Housing

Project-based Section 8

HOUSING ASSISTANCE PAYMENTS

BASIC RENEWAL CONTRACT

MULTI-YEAR TERM

PREPARATION OF CONTRACT

Reference numbers in this form refer to notes at the end of the contract text.
These endnotes are instructions for preparation of the Basic Renewal Contract.
The instructions are not part of the Renewal Contract

SHCC RECEIVED

NOV 10 2008

Basic Renewal Contract
Multi-Year Term
REV-11-05-2007

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10

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10

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Attachment 11-2

**U.S. Department of Housing and Urban Development
Office of Housing**

Project-based Section 8

HOUSING ASSISTANCE PAYMENTS

BASIC RENEWAL CONTRACT¹

MULTI-YEAR TERM

1 CONTRACT INFORMATION²

PROJECT

Section 8 Project Number: TX16M000183

Section 8 Project Number of Expiring Contract: N/A

FHA Project Number (if applicable): N/A

Project Name: Peoples El Shaddai Village

Project Description:³

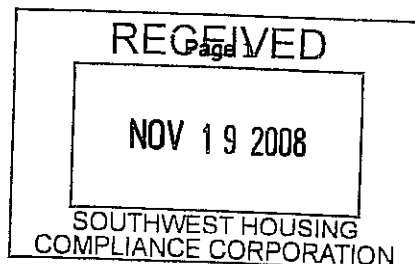
2836 Overton Road, Dallas, TX 75216-4763 Dallas County

Basic Renewal Contract
Multi-Year Term
REV-11-05-2007

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NOV 10 2008

(received from owner)



(received from HUD)

TYPE OF RENEWAL

- Check this box for a project renewed under Section 524(a) of MAHRA (not including a Mark-Up-To-Market renewal).
- Check this box for a project renewed at exception rents under Section 524(b)(1) of MAHRA.

PARTIES TO RENEWAL CONTRACT

Name of Contract Administrator⁴

Southwest Housing Compliance Corporation

Address of Contract Administrator

1124 South IH 35
Austin, TX 78704

2 TERM AND FUNDING OF RENEWAL CONTRACT

- a** The Renewal Contract begins on September 1, 2008⁵ and shall run for a period of twenty (20)⁷ years.
- b** Execution of the Renewal Contract by the Contract Administrator is an obligation by HUD of \$ 949,368,⁸ an amount sufficient to provide housing assistance payments for approximately eleven(11)⁹ months of the first annual increment of the Renewal Contract term.

Basic Renewal Contract
Multi-Year Term
REV-11-05-2007

-
- c** HUD will provide additional funding for the remainder of the first annual increment and for subsequent annual increments, including for any remainder of such subsequent annual increments, subject to the availability of sufficient appropriations. When such appropriations are available, HUD will obligate additional funding and provide the Owner written notification of (i) the amount of such additional funding, and (ii) the approximate period of time within the Renewal Contract term to which it will be applied.

3 DEFINITIONS

ACC. Annual contributions contract.

Anniversary. The annual recurrence of the date of the first day of the term of the Renewal Contract.

Contract rent. The total monthly rent to owner for a contract unit, including the tenant rent (the portion of rent to owner paid by the assisted family).

Contract units. The units in the Project which are identified in Exhibit A by size and applicable contract rents.

Fifth year anniversary. The Renewal Contract annual anniversary that falls at expiration of each 5-year period of the Renewal Contract term.

Fifth year comparability adjustment. An adjustment of contract rents by the contract administrator at the Fifth Year Anniversary. The contract rent for each unit size is set at comparable rent as shown by comparability analysis.

HAP contract. A housing assistance payments contract between the Contract Administrator and the Owner.

HUD. The United States Department of Housing and Urban Development.

HUD requirements. HUD regulations and other requirements, including changes in HUD regulations and other requirements during the term of the Renewal Contract.

MAHRA. The Multifamily Assisted Housing Reform and Affordability Act of 1997 (Title V of Public Law No.105-65, October 27, 1997, 111 Stat. 1384), as amended.

Mid-term comparability adjustment. An adjustment of contract rents by the contract administrator within each 5-year period of the Renewal Contract term (in addition to the comparability analysis and adjustment at the Fifth Year Anniversary). The contract rent for each unit size is set at comparable rent as shown by comparability analysis.

OCAF. An operating cost adjustment factor established by HUD.

PHA. Public housing agency (as defined and qualified in accordance with the United States Housing Act of 1937, 42 U.S.C. 1437 et seq.).

Project. The housing described in section 1 of the Renewal Contract.

Renewal Contract. This contract, including applicable provisions of the Expiring Contract (as determined in accordance with section 5 of the Renewal Contract).

Section 8. Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

4 RENEWAL CONTRACT

a Parties

- (1) The Renewal Contract is a housing assistance payments contract ("HAP Contract") between the Contract Administrator and the Owner of the Project (see section 1).
- (2) If HUD is the Contract Administrator, HUD may assign the Renewal Contract to a public housing agency ("PHA") for the purpose of PHA administration of the Renewal Contract, as Contract Administrator, in accordance with the Renewal Contract (during the term of the annual contributions contract ("ACC") between HUD and the PHA). Notwithstanding such assignment, HUD shall remain a party to the provisions of the Renewal Contract that specify HUD's role pursuant to the Renewal Contract, including such provisions of section 9 (HUD requirements), section 10 (statutory changes during term) and section 11 (PHA default), of the Renewal Contract.

b Statutory authority

The Renewal Contract is entered pursuant to section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), and section 524 of MAHRA.

c Expiring Contract

Previously, the Contract Administrator and the Owner had entered into a HAP Contract ("expiring contract") to make Section 8 housing assistance payments to the Owner for eligible families living in the Project. The term of the expiring contract will expire prior to the beginning of the term of the Renewal Contract.

d Purpose of Renewal Contract

(1) The purpose of the Renewal Contract is to renew the expiring contract for an additional term. During the term of the Renewal Contract, the Contract Administrator shall make housing assistance payments to the Owner in accordance with the provisions of the Renewal Contract.

(2) Housing assistance payments shall only be paid to the Owner for contract units occupied by eligible families leasing decent, safe and sanitary units from the Owner in accordance with statutory requirements, and with all HUD regulations and other requirements. If the Contract Administrator determines that the Owner has failed to maintain one or more contract units in decent, safe and sanitary condition, and has abated housing assistance payments to the Owner for such units, the Contract Administrator may use amounts otherwise payable to the Owner pursuant to the Renewal Contract for the purpose of relocating or rehousing assisted residents in other housing.

e Contract units

The Renewal Contract applies to the Contract units.

5 EXPIRING CONTRACT – PROVISIONS RENEWED

a Except as specifically modified by the Renewal Contract, all provisions of the Expiring Contract are renewed (to the extent such

provisions are consistent with statutory requirements in effect at the beginning of the Renewal Contract term).

- b** All provisions of the Expiring Contract concerning any of the following subjects are not renewed, and shall not be applicable during the renewal term:
 - (1) Identification of contract units by size and applicable contract rents;
 - (2) The amount of the monthly contract rents;
 - (3) Contract rent adjustments; and
 - (4) Project account (sometimes called "HAP reserve" or "project reserve") as previously established and maintained by HUD pursuant to former Section 8(c)(6) of the United States Housing Act of 1937 (currently Section 8(c)(5) of the Act, 42 U.S.C. 1437f(c)(5)). Section 8(c)(5) does not apply to the Renewal Contract, or to payment of housing assistance payments during the Renewal Contract term.
- c** The Renewal Contract includes those provisions of the Expiring Contract that are renewed in accordance with this section 5.

6 CONTRACT RENT

a Initial contract rents

At the beginning of the Renewal Contract term, and until contract rents for units in the Project are adjusted in accordance with section 6b, the contract rent for each bedroom size (number of bedrooms) shall be the initial contract rent amount listed in Exhibit A of the Renewal Contract.

b Contract rent adjustments

(1) OCAF or Budget-Based Rent Adjustments

-
- (a) Except as provided in section 6b(2) below (concerning comparability adjustments at each Fifth Year Anniversary and discretionary comparability adjustments within each five-year term), during the term of the Renewal Contract the Contract Administrator shall annually, on the anniversary of the Renewal Contract, adjust the amounts of the monthly contract rents in accordance with HUD requirements by either of the following methods (as determined by the Contract Administrator in accordance with HUD requirements):
- (i) Using an OCAF; or
 - (ii) At the request of the owner, based on the budget for the Project, as approved by the Contract Administrator in accordance with HUD requirements.
- (b) Adjustments by use of the OCAF shall not result in a negative adjustment (decrease) of the contract rents. The OCAF shall not be used for adjustment of rent at each Fifth Year Anniversary (as determined in accordance with section 6b(2)(b) below).

(2) Comparability adjustments

- (a) **Applicability.** This section 6b(2) is applicable only if the contract has been renewed pursuant to Section 524(a) of MAHRA. This section 6b(2) does not apply to a project renewed at exception rents under Section 524(b)(1) of MAHRA (See section 1 of the Renewal Contract).
- (b) **Fifth year adjustment (comparability adjustment at expiration of each 5-year period, if applicable).**
- (i) This section 6b(2)(b) is only applicable if the term of the Renewal Contract is longer than five (5) years (from the first day of the term specified in section 2a).

-
- (ii) At the expiration of each 5-year period of the Renewal Contract term ("Fifth Year Anniversary"), the Contract Administrator shall conduct a comparability analysis of existing contract rents. At such Fifth Year Anniversary of the Renewal Contract, the Contract Administrator shall make any adjustments in the monthly contract rents, as reasonably determined by the Contract Administrator in accordance with HUD requirements, necessary to set the contract rent for each unit size at comparable market rent. Such adjustment may result in a negative adjustment (decrease) or positive adjustment (increase) of the contract rents for one or more unit sizes.
- (iii) To assist in the redetermination of contract rents at each Fifth Year Anniversary, the Contract Administrator may require that the Owner submit to the Contract Administrator a rent comparability study prepared (at the Owner's expense) in accordance with HUD requirements.
- (c) **Mid-term adjustment (discretionary comparability adjustment within 5-year term)**

In addition to the comparability analysis and adjustment of contract rents at the Fifth Year Anniversary, HUD may, at HUD's discretion, require or permit the Contract Administrator to conduct a comparability analysis and adjustment of contract rents ("mid-term adjustment"), one more time within each 5-year period of the Renewal Contract term

(d) Adjusting contract rent

At the time of a fifth year or mid-term comparability adjustment, the Contract Administrator shall make any adjustments in the monthly contract rents, as reasonably determined by the Contract Administrator in accordance with HUD requirements, necessary to set the contract rent for each unit size at comparable rent. Such adjustment may result in a negative adjustment (decrease) or positive adjustment (increase) of the contract rents for one or more unit sizes.

(3) Procedure for rent adjustments during renewal term

- (a)** To adjust contract rents during the term of the Renewal Contract (including an OCAF or budget-based adjustment in accordance with section 6b(1), or a fifth year or midterm adjustment in accordance with section 6b(2)), the Contract Administrator shall give the Owner notice with a revised Exhibit A that specifies the adjusted contract rent amounts.
- (b)** The revised Exhibit A shall specify the adjusted contract rent amount for each bedroom size as determined by the Contract Administrator in accordance with this section. The adjustment notice by the Contract Administrator to the Owner shall specify when the adjustment of contract rent is effective.
- (c)** Notice of rent adjustment by the Contract Administrator to the Owner shall automatically constitute an amendment of the Renewal Contract.

(4) No other adjustments

Except for contract rent adjustments in accordance with this section, there shall not be any other adjustments of the contract rents during the term of the Renewal Contract. Special adjustments shall not be granted.

7 OWNER WARRANTIES

- a The Owner warrants that it has the legal right to execute the Renewal Contract and to lease dwelling units covered by the contract.
- b The Owner warrants that the rental units to be leased by the Owner under the Renewal Contract are in decent, safe and sanitary condition (as defined and determined in accordance with HUD regulations and procedures), and shall be maintained in such condition during the term of the Renewal Contract.

8 OWNER TERMINATION NOTICE

- a Before termination of the Renewal Contract, the Owner shall provide written notice to the Contract Administrator and each assisted family in accordance with HUD requirements.
- b If the Owner fails to provide such notice in accordance with the law and HUD requirements, the Owner may not increase the tenant rent payment for any assisted family until such time as the Owner has provided such notice for the required period.

9 HUD REQUIREMENTS

The Renewal Contract shall be construed and administered in accordance with all statutory requirements, and with all HUD regulations and other requirements, including changes in HUD regulations and other requirements during the term of the Renewal Contract. However, any changes in HUD requirements that are inconsistent with the provisions of the Renewal Contract, including the provisions of section 6 (contract rent), shall not be applicable.

10 STATUTORY CHANGES DURING TERM

If any statutory change during the term of the Renewal Contract is inconsistent with section 6 of the Renewal Contract, and if HUD determines, and so notifies the Contract Administrator and the Owner, that the Contract Administrator is unable to carry out the provisions of section 6 because of such statutory change, then the Contract Administrator or the Owner may terminate the Renewal Contract upon notice to the other party.

11 PHA DEFAULT

- a** This section 11 of the Renewal Contract applies if the Contract Administrator is a PHA acting as Contract Administrator pursuant to an annual contributions contract ("ACC") between the PHA and HUD. This includes a case where HUD has assigned the Renewal Contract to a PHA Contract Administrator, for the purpose of PHA administration of the Renewal Contract.
- b** If HUD determines that the PHA has committed a material and substantial breach of the PHA's obligation, as Contract Administrator, to make housing assistance payments to the Owner in accordance with the provisions of the Renewal Contract, and that the Owner is not in default of its obligations under the Renewal Contract, HUD shall take any action HUD determines necessary for the continuation of housing assistance payments to the Owner in accordance with the Renewal Contract.

12 EXCLUSION OF THIRD-PARTY RIGHTS

- a** The Contract Administrator does not assume any responsibility for injury to, or any liability to, any person injured as a result of the Owner's action or failure to act in connection with the Contract Administrator's implementation of the Renewal Contract, or as a result of any other action or failure to act by the Owner.
- b** The Owner is not the agent of the Contract Administrator or HUD, and the Renewal Contract does not create or affect any relationship between the Contract Administrator or HUD and any lender to the Owner or any suppliers, employees, contractors or subcontractors used by the Owner in connection with implementation of the Renewal Contract.
- c** If the Contract Administrator is a PHA acting as Contract Administrator pursuant to an annual contributions contract ("ACC") between the PHA and HUD, the Contract Administrator is not the agent of HUD, and the Renewal Contract does not create any relationship between HUD and any suppliers, employees, contractors or subcontractors used by the Contract Administrator to carry out functions or responsibilities in connection with contract administration under the ACC.

13 WRITTEN NOTICES

- a** Any notice by the Contract Administrator or the Owner to the other party pursuant to the Renewal Contract shall be given in writing.
- b** A party shall give notice at the other party's address specified in section 1 of the Renewal Contract, or at such other address as the other party has designated by a contract notice. A party gives a notice to the other party by taking steps reasonably required to deliver the notice in ordinary course of business. A party receives notice when the notice is duly delivered at the party's designated address.

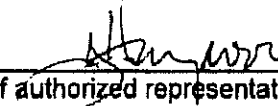
Attachment 11-2

SIGNATURES

Contract administrator (HUD or PHA)

Name of Contract Administrator

Southwest Housing Compliance Corporation

By: 
Signature of authorized representative

James Hargrove, President and CEO
Name and official title

Date 11.13.08

U.S. Department of Housing and Urban Development

By: 
Signature of authorized representative

Ray Carson, Director, Fort Worth Multifamily Program Center
Name and official title

Date 11/18/08

Owner

Date 11/4/08

Basic Renewal Contract
Multi-Year Term
REV-11-05-2007

EXHIBIT A**IDENTIFICATION OF UNITS ("CONTRACT UNITS")
BY SIZE AND APPLICABLE CONTRACT RENTS****Section 8 Contract Number: TX16M000183****FHA Project Number (if applicable): N/A****Effective Date of the Rent Increase (if applicable): 09/01/2008**

Number of Contract Units	Number of Bedrooms	Contract Rent	Utility Allowance	Gross Rent
20	1 BR	\$547	\$66	\$613
20	2 BR	\$668	\$78	\$746
30	3 BR	\$819	\$78	\$897
30	4 BR	\$951	\$120	\$1,071

NOTE: This Exhibit will be amended by Contract Administrator notice to the Owner to specify adjusted contract rent amounts as determined by the Contract Administrator in accordance with section 6b of the Renewal Contract.

Comments:

Basic Renewal Contract
Multi-Year Term
REV-11-05-2007

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NOV 10 2008

INSTRUCTIONS FOR PREPARATION OF RENEWAL CONTRACT

The following instructions are not part of the Renewal Contract.

Endnote numbers are keyed to references in the text of the Renewal Contract.

¹ This form of Renewal Contract is to be used for initial and subsequent renewals of an expiring Section 8 project-based HAP contract under the authority of Section 524(a) or 524(b)(1) of MAHRA for a term of two years or more. Attachment 11-1 is to be used for renewals under the authority of Section 524(a) or 524(b)(1) of MAHRA for a renewal term of one year.

This form may not be used for Mark-Up-To-Market Renewals. The HUD prescribed form of Mark-Up-To-Market Renewal Contract must be used for this purpose.

Section 2 of the Renewal Contract specifies the contract term.

² To prepare the Renewal Contract for execution by the parties, fill out all contract information in section 1 and section 2.

³ Enter a description of housing that will be covered by the Renewal Contract. The description must clearly identify the Project by providing the Project's name, street address, city, county, state, and zip code, block and lot number (if known), and any other information, necessary to clearly designate the covered Project.

⁴ Enter the name of the Contract Administrator that executes the Renewal Contract. If HUD is the Contract Administrator, enter "United States of America – Department of Housing and Urban Development (HUD)". If the Contract Administrator is a public housing agency ("PHA"), enter the full legal name of the PHA.

⁵ Enter the full legal name of the Owner. For example: "ABC Corporation, Inc., a Maryland corporation."

⁶ The Renewal Contract must be entered before expiration of the Expiring Contract. Enter the date of the first day after expiration of the term of the Expiring Contract.

⁷ Enter a whole number of two or more years.

⁸ Enter the amount of funding obligated.

⁹ Enter a whole number of months.



A Subsidiary of the Housing Authority of the City of Austin

May 27, 2011

Texas Department of Housing & Community Affairs
Attn: Liz Cline
221 E. 11th St
Austin, TX 78701

Re: Peoples El Shaddai Village
TX16M000183

To Whom It May Concern:

The Southwest Housing Compliance Corporation processed a renewal for the units covered by the Housing Assistance Payment (HAP) contract referenced above. The contract renewal date is effective 09/01/2008 and expires on 08/31/2028.

There are approximately 17.10 years remaining in the HAP contract from 08/01/2011 through 08/31/2028 and the current HUD form 92458, rent schedule, has a yearly contract rent potential of \$1,003,800. The estimated remaining value of subsidy payments from 08/01/2011 - 08/31/2028 is \$17,164,980.

If you have any questions, please contact me at 512-474-5332, extension 3150, or lonniew@hacanet.org.

Sincerely,

A handwritten signature in blue ink, appearing to read "Lonnie Winton", is written over the word "Sincerely,".

Lonnie Winton
Financial Analyst
Southwest Housing Compliance Corporation

TEXAS HOUSE OF REPRESENTATIVES



STATE REPRESENTATIVE

Barbara Mallory Caraway

DISTRICT 110

June 13, 2011

Robbye Meyer
Director of Multifamily Finance
Texas Dept. of Housing & Community Affairs
P.O. Box 13941
Austin, Texas 78711-3941

Re: Low Income Housing Tax Credit Application #11124 People's El Shaddai

Dear Ms Meyer:

The purpose of this letter is to challenge points awarded to LIHTC application #11124 People's El Shaddai under the 2011 Qualified Allocation Plan 49.9(a) Selection (5) The Commitment of Development Funding by Governmental Instrumentality.

The application for People's El Shaddai was reviewed by the Dallas City Council on February 23, 2011 and the City Council voted to DENY support for the project. The proposed rehabilitation of an existing LIHTC project is not in keeping with the City's goal to develop new construction of mixed-income housing. The proposed project would extend the life of an existing LIHTC complex for another 30 years and limit the opportunities for new development in the neighborhood.

This particular applicant provided a letter of commitment from an Austin based Housing Corporation, Capital Area Housing Finance Corporation to garner points in the category of Commitment of Development Funding.

I strongly request that TDHCA deduct the 18 points for the Commitment of Development Funding by Governmental Instrumentality given that the Governing Body where the project is located does not support the project.

Additionally, due to the city of Dallas's lack of support for this project, I too would like to register my opposition to application #11124 People's El Shaddai.

Sincerely,

A handwritten signature in black ink that reads "Barbara Mallory Caraway".

Representative Barbara Mallory Caraway
Texas House of Representatives
District 110

CC: Kent Conine, TDHCA Board Chairman
Michael Gerber, Executive Director
Mary K. Suhm, Dallas City Manager
Stephanie Pegues, Dallas City Hall

From: [Metz, Owen](#)
To: [Robbye Meyer](#);
cc: [Liz Cline](#); [Raquel Morales](#); JSpicer@statestreethousing.com;
[Moorhouse, Mark](#); [Ostrom, Patrick](#);
Subject: RE: 11124 El Shaddai
Date: Tuesday, June 14, 2011 9:22:47 AM
Attachments: [RE 11124 People"s El Shaddai-Challenge.msg](#)
[RE 11124 People"s El Shaddai-Challenge.msg](#)
[11124 Caraway Challenge_.pdf](#)

Good Morning Robbye,

Southwest Housing Compliance Corporation was created by the Housing Authority of the City of Austin, which qualifies it as a Governmental Instrumentality. In addition, per the attached email correspondence with Raquel and Liz it was represented that the 18 points would be awarded if a letter was received from Southwest Housing substantiating the remaining value of the HAP Contract. Further, I understand based on a phone conversation with Liz Cline that the Department has awarded these points to other Applicant(s) based on the same set of facts, which included a similar letter from Southwest Housing stating the remaining value of the HAP Contract and acknowledged that Southwest Housing was created by the City of Austin. We provided the letter from Southwest Housing and all other documentation that was requested by the Department (per the attached email), closed-out the previous challenge from the City of Dallas, and subsequently our scoring notice came out showing 209 points, including the 18 points for the remaining value of the HAP Contract. It was represented and communicated to us on several occasions that the letter from Southwest Housing would clear out the deficiency.

Finally, the following is our response to the attached challenge from Representative Caraway. First, per the above, we are not claiming any points associated with the Capital Area HFC. Second, any opposition was required to be received by April 1, 2011 (and withdrawn by June 1, 2011).

Best,

Owen C. Metz

Senior Development Associate
Dominium Development & Acquisition, LLC
2905 Northwest Blvd, Suite 150
Plymouth, MN 55441

763.354.5618 (direct)
920.210.1428 (cell)

763.249.8712 (fax)

From: Robbye Meyer [mailto:robbye.meyer@tdhca.state.tx.us]
Sent: Thursday, June 09, 2011 5:54 PM
To: Metz, Owen
Cc: Liz Cline; Raquel Morales
Subject: 11124 El Shaddai

Good Afternoon Owen,

In reviewing your response to the challenge to your El Shaddai application, you did not explain how the Southwest Housing Compliance Corporation would qualify as a Governmental Instrumentality from the Unit of General Local Government in the City of Dallas.

Robbye G. Meyer

Director of Multifamily Finance
Texas Department of Housing and Community Affairs
221 E. 11th Street | Austin, TX 78701
Office: 512.475.2213
Fax: 512.475.0764

About TDHCA

The Texas Department of Housing and Community Affairs is the state agency responsible for affordable housing, community services, energy assistance, colonia housing programs, and disaster recovery housing programs. It currently administers over \$3 billion through for-profit, nonprofit, and local government partnerships to deliver local housing and community-based opportunities and assistance to Texans in need. For more information please visit www.tdhca.state.tx.us.

From: [Liz Cline](#)
To: [Metz, Owen;](#)
cc: [Raquel Morales; Huggett, Jeff; Ostrom, Patrick; JSpicer@statestreethousing.com; Liz Cline;](#)
Subject: RE: 11124 People"s El Shaddai-Challenge
Date: Monday, May 23, 2011 2:34:49 PM

Please see the updates to the deficiency responses below in a bold blank font. Please let me know of any questions.

1. If the same source is being used for §49.9(a)(5) and §49.9(a)(26), the total amount of the source must be enough to cover both requests without counting any of the funds twice. You have requested the amount of \$12,702,930 for both items. Revise the appropriate exhibit(s).

[OCM] Please see attached and revised exhibits. In addition, please see attached and updated HAP Value calculation based on the 2010 HUD Rent Schedule. You'll see the annual amount of the subsidy used in the calculation ties to the attached rent schedule annual subsidy.

I will need to wait on the value of the remaining contract received from SWHCC before I am able to clear the deficiency.

2. Please submit a statement from SWHCC indicating the remaining value of the subsidy. Additionally, please clarify the calculation of the annual HAP rent as submitted in your calculation.

[OCM] Please see attached letter and rent schedule from SWHCC confirming the annual HAP subsidy. In addition, HUD and SWHCC have executed the HAP Contract that was previously submitted, which is a 20-year commitment by HUD & SWHCC to provide rental subsidy for People's El Shaddai apartments. While this correspondence does not explicitly specify the total value of the remaining HAP Contract, it is implicit in the 20-year term and the annual rental HAP Contract rent potential.

Pursuant to §49.9 (a)(5)(vii)-the statement regarding the remaining value of the HAP contract is required from the GI or Unit of Local Government. I have also verified with Raquel Morales.

3. The Section 8 units do not appear to be designated on the Rent Schedule in the "Other/Rental Subsidy" column. Please clarify and revise any appropriate exhibit(s).

[OCM] The cells are password protected in the rent schedule so we are unable to enter S8 in to each cell. Revised Rent Schedule received. RESOLVED.

4. Revise the Financing Narrative to include a description of the Development Based Rental Subsidy.

[OCM] The attached Development Narrative submitted with the application briefly describes the

Section 8 HAP Contract. As the HAP Contract is an operating subsidy and not a Source of funds it does not appear on the S&U Schedule and thus it doesn't appear in the Financing Narrative. RESOLVED.

Please confirm receipt of this email.

Thank you,

Liz Cline

Multifamily Finance Housing Specialist
Texas Department of Housing and Community Affairs
221 E. 11th Street | Austin, TX 78701
Office: 512.475.3227
Fax: 512.475.1895



About TDHCA

The Texas Department of Housing and Community Affairs is the state agency responsible for affordable housing, community services, energy assistance, colonia housing programs, and disaster recovery housing programs. It currently administers over \$3 billion through for-profit, nonprofit, and local government partnerships to deliver local housing and community-based opportunities and assistance to Texans in need. For more information please visit www.tdhca.state.tx.us.

From: Metz, Owen [mailto:ometz@dominiuminc.com]

Sent: Monday, May 23, 2011 12:24 PM

To: Liz Cline

Cc: Raquel Morales; Huggett, Jeff; Ostrom, Patrick; JSpicer@statestreethousing.com

Subject: RE: 11124 People's El Shaddai-Challenge

Liz,

We have received your emails and appreciate the quick response. Please see below follow-up and attachments that respond to your below questions.

Thank you - Owen

From: Liz Cline [mailto:liz.cline@tdhca.state.tx.us]
Sent: Monday, May 23, 2011 12:00 PM
To: Metz, Owen
Cc: Raquel Morales; Huggett, Jeff; Ostrom, Patrick; JSpicer@statestreethousing.com; Liz Cline
Subject: RE: 11124 People's El Shaddai-Challenge
Importance: High

Please provide the following information below to complete the Challenge response for #11124 People's El Shaddai.

1. If the same source is being used for §49.9(a)(5) and §49.9(a)(26), the total amount of the source must be enough to cover both requests without counting any of the funds twice. You have requested the amount of \$12,702,930 for both items. Revise the appropriate exhibit(s).

[OCM] Please see attached and revised exhibits. In addition, please see attached and updated HAP Value calculation based on the 2010 HUD Rent Schedule. You'll see the annual amount of the subsidy used in the calculation ties to the attached rent schedule annual subsidy.

2. Please submit a statement from SWHCC indicating the remaining value of the subsidy. Additionally, please clarify the calculation of the annual HAP rent as submitted in your calculation.

[OCM] Please see attached letter and rent schedule from SWHCC confirming the annual HAP subsidy. In addition, HUD and SWHCC have executed the HAP Contract that was previously submitted, which is a 20-year commitment by HUD & SWHCC to provide rental subsidy for People's El Shaddai apartments. While this correspondence does not explicitly specify the total value of the remaining HAP Contract, it is implicit in the 20-year term and the annual rental HAP Contract rent potential.

3. The Section 8 units do not appear to be designated on the Rent Schedule in the "Other/Rental Subsidy" column. Please clarify and revise any appropriate exhibit(s).

[OCM] The cells are password protected in the rent schedule so we are unable to enter S8 in to each cell.

4. Revise the Financing Narrative to include a description of the Development Based Rental Subsidy.

[OCM] The attached Development Narrative submitted with the application briefly describes the Section 8 HAP Contract. As the HAP Contract is an operating subsidy and not a Source of funds it does not appear on the S&U Schedule and thus it doesn't appear in the Financing Narrative.

Please confirm receipt of this email.

Thank you,

Liz Cline

Multifamily Finance Housing Specialist
Texas Department of Housing and Community Affairs
221 E. 11th Street | Austin, TX 78701
Office: 512.475.3227
Fax: 512.475.1895



About TDHCA

The Texas Department of Housing and Community Affairs is the state agency responsible for affordable housing, community services, energy assistance, colonia housing programs, and disaster recovery housing programs. It currently administers over \$3 billion through for-profit, nonprofit, and local government partnerships to deliver local housing and community-based opportunities and assistance to Texans in need. For more information please visit www.tdhca.state.tx.us.

From: Metz, Owen [mailto:ometz@dominiuminc.com]

Sent: Monday, May 23, 2011 9:40 AM

To: Liz Cline

Cc: Raquel Morales; Huggett, Jeff; Ostrom, Patrick; JSpicer@statestreethousing.com

Subject: RE: 11124 People's El Shaddai-Challenge

Good Morning Liz,

Please see attached response to the Challenge to application #11124, Peoples El Shaddai. If you have any questions or require additional follow-up please let me know.

Thanks – Owen

Owen C. Metz

Senior Development Associate
Dominium Development & Acquisition, LLC
2905 Northwest Blvd, Suite 150
Plymouth, MN 55441

763.354.5618 (direct)
920.210.1428 (cell)
763.249.8712 (fax)

From: Liz Cline [mailto:liz.cline@tdhca.state.tx.us]
Sent: Thursday, May 19, 2011 3:24 PM
To: Huggett, Jeff; Metz, Owen
Cc: Raquel Morales; Liz Cline
Subject: 11124 People's El Shaddai-Challenge

Please see the attached challenge to application #11124, People's El Shaddai. Pursuant to §49.10(e) of the 2011 QAP, you have seven days from the date of this email to respond to this challenge. Please acknowledge receipt of the challenge. Should you have any questions please contact me directly.

Thank you,

Liz Cline

Multifamily Finance Housing Specialist
Texas Department of Housing and Community Affairs
221 E. 11th Street | Austin, TX 78701
Office: 512.475.3227
Fax: 512.475.1895



About TDHCA

The Texas Department of Housing and Community Affairs is the state agency responsible for affordable housing, community services, energy assistance, colonia housing programs, and disaster recovery housing programs. It currently administers over \$3 billion through for-profit, nonprofit, and local government partnerships to deliver local housing and community-based opportunities and assistance to Texans in need. For more information

1400 Belleview, L.P.

June 15, 2011

Email to michael.gerber@tdhca.state.tx.us

Mr. Michael Gerber, Executive Director
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701-2410

RE: TDHCA # 11136 – Sphinx at Lawnview – Challenge to Development Location Points.

Dear Mr. Gerber:

This letter is a challenge to the award of four points to Sphinx at Lawnview for Development Location in a High Opportunity Area. We wish to direct your attention to the following considerations:

1. Sphinx at Lawnview has applied for points under §49.9(a)(16)(E) of the QAP, which permits four points for being located in a high opportunity area as defined in §49.5(d)(3)(D)(i) – (iii). Although the application form clearly states that evidence must be provided behind Volume 4, Tab 16 in order to qualify for the points, the application as published on the TDHCA website does not have any evidence included. The applicant checked the box to indicate that points were sought for being in a “high opportunity area” as described in §49.5(d)(3)(D), but there was no certification included as to which of the following subsections applied:
 - (i) A four story or greater Development with structural parking that is proposed to be located within one-quarter mile of existing major bus transfer centers, regional or local commuter rail transportation stations, and/or Transit Oriented Districts that are accessible to all residents including Persons with Disabilities; or
 - (ii) A Development that is proposed to be located in a census tract which has an AMGI that is higher than the AMGI of the county or place in which the census tract is located as of the first day of the Application Acceptance Period; or
 - (iii) A Development that is proposed in a census tract that has no greater than 10% poverty population according to the most recent census data (these census tracts are designated in the 2011 Housing Tax Credit Site Demographic Characteristics Report).

We believe that the Sphinx at Lawnview does not meet any of the requirements for Development Location points in a high opportunity area.

2. The Sphinx at Lawnview application does not qualify under (i) because the building elevations in Volume 3, Tab 2 of the Application (pages 96 and 97) clearly show that all buildings are only one story, as does the site plan (page 91). There also appears to be no structural parking.

1400 Belleview, L.P.

Although the application claims that there will be 32 detached garage spaces, such garages do not appear to be shown on the site plan, and no architectural drawings were provided showing the garages.

3. The Sphinx at Lawnview application fails to qualify under (ii) because the demographic information provided behind Volume 4, Tab 18 clearly shows that the AMGI for the project's census tract (\$31,966) is not greater than the AMGI for Dallas County (\$49,062).
4. The Sphinx at Lawnview application fails to qualify under (iii) because the demographic information provided behind Volume 4, Tab 18 clearly shows that project's census tract does not have no greater than 10% poverty population. See the column entitled "Eligible for Poverty <10% Points" which indicated "No."

The application for Sphinx at Lawnview did not provide any evidence of qualification under §49.5(d)(3)(D), although the box was checked in Volume 4, Tab 16 and the points were claimed in the Applicant Self-Score. Indeed, all of the evidence needed to refute the claim of points is included within the application. For this reason, we request that the claim of points be denied.

Thank you for your consideration of this challenge.

Sincerely,



Kristian Teleki
Senior Vice President

CC: Raquel Morales – 9% Housing Tax Credit Administrator

From: [Nedra Nortey](#)
To: ["Liz Cline";](#)
cc: jay@sdcus.com; ["Joseph Agumadu";](#)
Subject: FW: TDHCA#11136
Date: Tuesday, June 28, 2011 2:22:12 PM
Attachments: [LawnviewAppWdLtr.pdf](#)
[11136 - Sphinx at Longview-Challenge.pdf](#)

Liz,

We will not have a response to the challenge pertaining to Sphinx at Lawnview. We have submitted our request to withdraw the application from the 2011 tax credit cycle.

Thank you,

Nedra Nortey



3030 LBJ Freeway, Suite 880

Dallas, TX 75234

Phone: 214-342-1400

May 13, 2011

Robbye Meyer (via overnight & email robbye.meyer@tdhca.state.tx.us)
Texas Department of Housing & Community Affairs
221 East 11th Street
Austin, Texas 78701-2410

Re: Application Challenge – Villas of Giddings; TDHCA #11140

Dear Robbye:

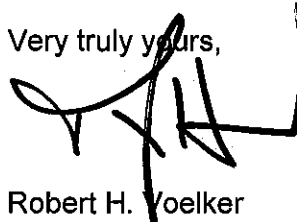
This law firm has been retained by a client to present the enclosed Application Challenge to the Texas Department of Housing & Community Affairs with respect to the 2011 low income housing tax credit allocations. This Challenge is pursuant to Section 49.10(e) of the 2011 Qualified Allocation Plan.

As you will see from the enclosed detailed materials, the applicant requested points for being in a census tract where no other existing same type developments were purported to exist; however, the Reference Manual clearly indicates that a development of the same type does exist in this census tract such that the points should not be awarded.

Please consider these materials in connection with finalizing the scoring of the applications in this Region, and place these materials in the applicant's file for review by the TDHCA Board as allocations are finalized and approved.

Please feel free to call me if you have any questions.

Very truly yours,



Robert H. Voelker

c: Raquel Morales (via email Raquel.morales@tdhca.state.tx.us)

Enclosures

Application Challenges

Villas of Giddings – Giddings, TX

TDHCA # 11140

Volume 4 Tab 18 – Developments in Census Tracts with No Other Existing Same Type Developments Supported by Tax Credits (4 Points)

According to page 74 of the HTC Procedures Manual, a Development is eligible for 4 points “if there are no other existing housing tax credit Developments in the census tract that serve the same population as the proposed Development”. The Villas at Giddings, a proposed family development to be located in Giddings, Lee County Texas in census tract 42887980400, has claimed 4 points in this category. However, a family project supported by tax credits, Windmill Apartments, was previously awarded tax credits in this particular census tract, and according to the *2011 Housing Tax Credit Site Demographic Characteristics Report* in the *Reference Manual* the census tract where this project is proposed in is not eligible for points in this category for family (General) projects. Therefore, Villas of Giddings should not be awarded the 4 points they have claimed in their application self score for Developments in Census Tracts with No Other Existing Same Type Developments Supported by Tax Credits. Please see Exhibit A for documentation supporting this challenge of the points claimed in Volume 4 Tab 18.

05-16-11 11:10:36 RCVD

EXHIBIT A

Volume 4 Tab 18 – Previous Projects in Census Tract

- Page 74 of the HTC Procedures Manual
- HTC Site Demographic Characteristics
- Map of Census Tract for Villas of Giddings

the location of the Development Site identified; the map must indicate the complete 11-digit census tract number.

- Provide evidence that the proposed Development is located in an Urban Core on a site where the proposed use is not prohibited by the Unit of General Local Government via ordinance or regulation.
- The proposed Development is located in a high opportunity area as identified in §49.5(d)(2)(D)(i)-(iii) of the QAP.

❖ **Volume 4, Tab 17. (V4 T17) Economic Development Initiatives (Maximum 4 points)**

Points may be awarded to Developments located in one of the following areas provided that not more than 3 Tax Credit Developments have been awarded in the area in the last 7 years, as of December 20, 2010:

- Designated State or Federal Empowerment/Enterprise Zone, Urban Enterprise Community, or Urban Enhanced Enterprise Community
 - Submit a letter and a map of the designated zone or community from a city/county official. The letter and map must:
 - Verify that the proposed Development is located within the designated zone or community; and
 - Not be older than June 20, 2010.
 - The appropriate designation should be noted on the *Volume 3, Tab 3 Site Information*.
- An area that has received an award within the past three years (as of December 20, 2010) from state or federally funded economic development initiatives approved by the Department. Examples of acceptable initiatives are the Texas Capital Fund, Texas or Federal Enterprise Zone Fund, Texas Leverage Fund, Industrial Revenue Bond Program, Rural Business Enterprise Grants, Certified Development Company Loans or Grants, and broad regional transportation initiatives targeted to expanding economic development.
- An Economically Distressed Area; a Colonia; or a Difficult Development Area (DDA) as designated by the Secretary of HUD at the time of Application submission. See the 2011 Housing Tax Credits Site Demographics Characteristics Report for the qualifying census tracts.

In order to qualify for these points, the Application must include evidence of the award, provided by the funding entity, including receipt of funds to the area by evidence of a map of the designated area for such funding and documentation of the recipient of the award of funds or a letter from the entity granting such funds stating that funds were awarded in the designated area.

❖ **Volume 4, Tab 18. (V4 T18) Developments in Census Tracts with No Other Existing Same Type Developments Supported by Tax Credits (Maximum 4 points)**

Provide a census tract map, indicating the full 11-digit census tract number, with the location of the Development Site identified.

- A Development is eligible if there are no other existing housing tax credit Developments in the census tract that serve the same population as the proposed Development. Refer to the *2011 Housing Tax Credit Site Demographic Characteristics Report* in the *Reference Manual* to determine the eligibility of a census tract, based on the population the proposed Development will serve.



2011 Housing Tax Credit Site Demographic Characteristics as of February 17, 2011

Tract Level - Sorted by County then Tract

Tract Data Source: U.S. Census 2000

The complete tract identifier used by the Census Bureau is provided below (i.e. 48001950600). The first five digits are the state and county code. The remaining six digits are the tract code. Often in general use, only the tract code is shown with a decimal prior to the final two digits. For example, the above referenced tract would be shown as 9506.00.

Applicants may petition TDHCA to update the unit concentration data if they believe that the number of HTC units in the tract is in error. Such petition must be provided to Jason Burr via email at jason.burr@tdhca.state.tx.us or at fax at (512) 475-0784 prior to the commencement of the pre-application submission period for HTC applications. The results of such petitions will be posted on the HTC application updates portion of the website at <http://www.tdhca.state.tx.us/multifamily/hk/index.htm> and any changes to the area designations will be e-mailed to the applicant contact e-mail addresses as listed in the application.

Notes:

- (1) QAP §49.9(a)(16)(A), Tract MFI > County MFI Points - If "Yes", the Application is eligible for points pursuant to this section.
- (2) QAP §49.9(a)(16)(C), Developments Outside of Poverty Areas - If "Yes", the Application is eligible for points pursuant to this section.
- (3) QAP §49.9(a)(18), Developments Located in Census Tracts with No Other Same Type HTC Developments - If Development proposes to serve General populations - column says "Yes", the Application is eligible for points pursuant to this section.
- (4) QAP §49.9(a)(18), Developments Located in Census Tracts with No Other Same Type HTC Developments - If Development proposes to serve Elderly populations - column says "Yes", the Application is eligible for points pursuant to this section.
- (5) QAP §49.9(a)(18), Developments Located in Census Tracts with No Other Same Type HTC Developments - If Development proposes to serve Intergenerational populations - column says "Yes", the Application is eligible for points pursuant to this section.
- (6) QAP Ineligibility Item 49.8(2)(C): If "Yes", New Construction Applications are Ineligible for Housing Tax Credits unless the Applicant submits to the Department an approval of the Development referencing this rule in the form of a resolution from the Governing Body of the appropriate municipality or county containing the Development by the required deadlines outlined in the QAP.
- (7) For QAP Ineligibility Item 49.5(d)(1), If "Yes", Application is Ineligible for the 30% Eligible Basis Increase. (February 17, 2011 Version)

Tract ID	County	2000 Tract Median Family Income	2000 County Median Family Income Eligible for §49.9(a)(16)(A) Tract MFI > County MFI Points (1)	2000 Tract Population	2000 Tract Poverty Population Eligible for Poverty < 10% Points? (2)	Eligible for §49.9(a)(18)? If proposed to serve General (3)	Eligible for §49.9(a)(18)? If proposed to serve Elderly (4)	Eligible for §49.9(a)(18)? If proposed to serve Intergenerational (5)	Ineligible Tract? (6)	Ineligible For 30% Basis Increase? (7)	HTC Units/Occupied Housing Unit
48287980400	Lee	38024	42073 No	5778	767 No	No	Yes	No	No	No	1.31%



2009 Information	
Street Address	298 OAKBEND LN
City Name	GIDDINGS
State Abbr	TX
Zip Code	78942
MSA/MD Code	NA
State Code	48
County Code	287
Tract Code	9804.00

Fig 12

[Get Census Demographic](#)

[Print Map](#)

Legend	
	Highway
	Tract
	Street

Note: Click the map -- Re-center Map



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Georgia
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jshack@shacklaw.net

May 25, 2011

Via Email

Robbye G. Meyer
Director of Multifamily Finance
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, TX 78701

RE: Response to Application Challenge; Villas of Giddings; TDHCA No. 11140
Our File No. 50449.1

Dear Ms. Meyer:

This law firm represents GS Old Denton Housing, LP (“Owner”) and I have been requested by Kelly Garrett to respond to the challenge made by Robert H. Voelker on May 13, 2011 regarding Villas of Giddings (“Project”).

Mr. Voelker challenges the eligibility of the Project to receive 4 points for being a development in a census tract with no other existing same type developments supported by tax credits. To support his challenge, Mr. Voelker cites the language from page 74 of the HTC Procedures Manual which provides, “A Development is eligible if there are no other existing housing tax credit Developments in the census tract that serves the same population as the proposed Development.” No one disputes that the Project is a proposed family development to be located in Giddings, Lee County, Texas, in census tract 42887980400 and that there is an existing family project supported by tax credits allocated in 2001 known as Windmill Apartments (herein so called) located in the same census tract.

It is the position of Owner that Mr. Voelker has mistakenly interpreted the following language “same population as the proposed Development.” His interpretation is overly broad and conveniently compromises the meaning of the words “same population” to a definition that would prohibit any family development regardless of the actual population served, with its own particular and distinguishable characteristics, from being eligible for the 4 points given for a development in this category.

The Project contemplated is a single-family project consisting of solely three and four bedroom houses. The population that will be served by the Project will be families comprised by several persons and thus constituting a larger family unit and necessitating their need for a three bedroom or four bedroom house. In contrast, the Windmill Apartments is an apartment complex

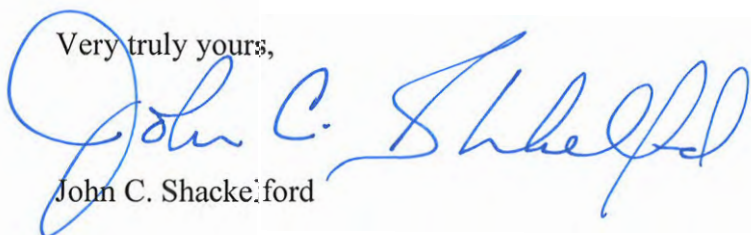
Ms. Robbye Meyer
May 25, 2011 – Page 2

comprised of only one and two bedroom units. The population served by Windmill Apartments is dramatically different from the population that will be served by the Project. The limited number of bedrooms clearly mandates a population served that consists of much smaller family units.

It is our position that the Project and the Windmill Apartments do not serve the “same population”, and to claim otherwise is grossly overgeneralizing the nature of each development.

As you know, a Deficiency Notice was sent to Owner on April 12, 2011 and this issue was cited as a deficiency. Owner responded to the Deficiency Notice on April 14, 2011 and the Department has taken no further action with respect to Owner’s application for the Project. I am hopeful upon further review of this matter that you and Raquel Morales will conclude that the Project and the Windmill Apartments do not serve the “same population” and therefore the Project is eligible for receiving 4 points for being in a census tract with no other existing same type developments supported by tax credits.

Thank you for your consideration in this matter.

Very truly yours,

John C. Shackelford

JCS/klm

cc: Raquel Morales (via email)
Kelly Garrett (via email)
Dru Childre (via email)

**MUNSCH HARDT
KOPF & HARR PC**
ATTORNEYS & COUNSELORS
Dallas | Houston | Austin

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Dallas, Texas 75201-6659
Main 214.855.7500
Fax 214.855.7584
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Direct Dial 214.855.7594
Direct Fax 214.978.4379
rvoelker@munsch.com

June 15, 2011

Robbye Meyer (via overnight & email robbye.meyer@tdhca.state.tx.us)
Texas Department of Housing & Community Affairs
221 East 11th Street
Austin, Texas 78701-2410

Re: Additional Application Challenge – Villas of Giddings; TDHCA #11140

Dear Robbye:


This law firm has been retained by a client to present the enclosed additional Application Challenge to the Texas Department of Housing & Community Affairs with respect to the 2011 low income housing tax credit allocations. This Challenge is pursuant to Section 49.10(e) of the 2011 Qualified Allocation Plan.

As you will see from the enclosed detailed materials, the applicant stated that it would receive HOME funds with a match. However, the source of the matching funds was not identified, no firm commitment for such matching funds was provided, and the apparent source of the match is probably ineligible under the HOME Procedures Manual.

Please consider these materials in connection with finalizing the scoring of the applications in this Region, and place these materials in the applicant's file for review by the TDHCA Board as allocations are finalized and approved.

Please feel free to call me if you have any questions.

Very truly yours,



Robert H. Voelker

c: Raquel Morales (via email Raquel.morales@tdhca.state.tx.us)

Enclosures

Giddings Challenge II

The LIHTC application submitted by GS Old Denton Housing, L.P. for Villas of Giddings (application #11140) lists HOME Funds as a source and has included a HOME Funds request as part of their LIHTC application. As part of the HOME program requirements (Per the HOME Program Rule at 10 TAC Chapter §53.80), a Match equal to 2% of the HOME award must be provided and Volume 7 TAB 8 MATCHING FUNDS form must be completed and included in the original application to be considered for an award of HOME funds. The required MATCHING FUNDS form provided by TDHCA directs the applicant to "indicate the amount of Match funds provided and the source". As you can see in the VOLUME 7 TAB 8 MATCHING Funds form from the Villas of Giddings original Application (attached as Exhibit A), the form shows that \$36,000 in donated services (namely donated site preparation) will be provided to the project, however, the applicant has not provided the source of the matching funds as required. Furthermore, the VOLUME 7 TAB 8 instructions direct the applicant to "provide supporting documentation" of the matching funds "in the form of firm commitments from the source of the matching funds", yet there was no firm commitment from the fund provider included in the Villas of Giddings application as required. Also, as the donated match is construction related (site preparation), it seems as there is an identity of interest between the match provider who would donate the services and the development owner, as Kelly Garrett is listed as principal of both the project's general contractor (GS Housing Construction, L.P.), as well as the development owner (GS Old Denton Housing, L.P.). Per the Match guidance (page 2 of 32 of the HOME Procedures Manual) if "a construction company (donating sitework) is owned by an individual who is also the owner of the general partner of the partnership that will own and benefit from the development" the donation "would not be considered eligible Match". Without the required match, the application for Villas of Giddings is an incomplete HOME fund application, and per page 5 of 32 of the Application Submission Procedures Manual "Incomplete Applications or improperly bound HOME Applications will not be accepted".

SECTION 4**Application Submission Procedures Manual**

The Texas Department of Housing and Community Affairs' (the Department) Application Submission Procedures Manual (ASPM) sets forth the basic information needed for filing a Multifamily Development application. This document is meant to serve only as a complementary guide on how to put the Application together. Applicants are encouraged to familiarize themselves with all of the applicable state and federal rules that govern the programs they are applying for.

The Application consists of two parts: electronic submission and unbound items. A complete Volume I, II, III and VII must be submitted (unless an application qualifies for the Abbreviated Application process), as described in this section, for each proposed HOME Development. Incomplete Applications or improperly bound HOME Applications will not be accepted. Other Volumes may be required if an application is also being submitted for other Department programs.

Electronic Submission of the Uniform Application (Volume I, Volume II and Volume III and VII) must be completed in the manner described in the Application Submission Procedures Manual (ASPM).

Exhibits shown in *italics* are forms, templates or reference material included on the Department's website and in the Application. Other forms, templates and reference materials required to complete the Application are:

1. "2011 Uniform Application" – Will be referred to as "*Uniform Application*" in the ASPM. Link found at <http://www.tdhca.state.tx.us/multifamily/applications.htm>.
2. "2011 Reference Manual Items" – Will be referred to as "*Reference Manual*" in this ASPM. Link found at <http://www.tdhca.state.tx.us/multifamily/applications.htm>.
3. "2011 Real Estate Analysis Rules and Guidelines (PDF)" – Will be referred to as "*REA Rules*" in the ASPM. Link found at <http://www.tdhca.state.tx.us/rea/>.

Match Guidance

Non-Federal, Below-Market Financing

Below-market interest rate financing can be used toward HOME MFD applicants' Match obligation. For HOME MFD developments, the market interest rate is defined as the yield on 10-year Treasury notes on the date of application submittal, plus 300 basis points. For example, the 10-year Treasury yield on 11/10/2010 was 2.65%; for an application submitted on this date, the market interest rate would be 5.65%.

In order to calculate Match contributions when below-market financing is utilized, the net present value (NPV) of the interest savings should be calculated, using the market interest rate as the discount rate.

Example:

Texas Development Co. received a financing commitment from a non-profit lender to assist in its HOME deal. Texas Development Co. agreed to borrow \$100,000 at 4% interest, with a 30 year term and 30 year amortization. They then submitted a complete HOME MFD application on 11/10/2010. The steps Texas Development Co. should take to calculate their Match contribution from this below-market financing are below:

Loan Amount	\$100,000
Monthly Payment at Market Interest Rate (5.65%)	\$577.24
Monthly Payment at Below-Market Rate (4%)	\$477.42
Interest Savings (per month)	\$99.82
NPV (360 months, 5.65% discount rate)	\$17,292.85

Texas Development Co. can claim \$17,292.85 in Match contribution from its below-market financing commitment.

Property Tax Abatements

Match stemming from property tax abatements should be calculated according to the net present value of the taxes foregone by the taxing entity. The discount rate used will be the yield on the Treasury notes with a maturity closest to the number of years the tax abatement is in effect.

Example:

Texas Development Co. also received a 10-year property tax abatement from the local appraisal district. The tax abatement will be for \$5,000 per year. The yield on 10-year Treasury notes on 11/10/2010 (Texas Development Co.'s date of application submittal) was 2.65%. Texas Development Co. should calculate Match from the property tax abatement as follows:

Annual Tax Abatement	\$5,000
Term	10 years
Discount Rate (10-year Treasury yield)	2.65%
Net Present Value	\$43,423.07

Texas Development Co.'s eligible match from its property tax abatement is \$43,423.07.

Donated Services

Donated services such as those provided by a general contractor, subcontractor or architect (among other service providers) can be considered eligible Match. However, a principal of the contractor, subcontractor, or architect providing the contribution cannot be related to the development owner or member of the development owner.

In order to document this Match in the application, the Applicant must submit, at a minimum, a signed letter from the company committing to provide the Match identifying the value of the donated services that are being committed. Once an award is made, this Match must be documented in a formal service agreement or contractor/subcontractor agreement.

Example:

A construction company is willing to donate \$50,000 in sitework to the HOME assisted project. This sitework will be done by the employees of the construction company. The construction company is owned by an individual who is also the owner of the general partner of the partnership that will own and benefit from the development.

Under this scenario, the \$50,000 donation would not be considered eligible Match.

VOLUME 7 TAB 8 MATCHING FUNDS

Per the HOME Program Rule at 10 TAC §53.80, Match equal to 2% of the HOME award must be provided (except applications awarded under Persons with Disabilities Set-Aside or applications financed with USDA 515 funds). To the extent that Match in the amount of 5% of the HOME award is provided, the interest rate may be adjusted to as low as 0%; otherwise, the interest rate will be as low as 2%.

Indicate the amount of Match funds provided and the source in the appropriate spaces in the table below. Provide supporting documentation in the form of firm commitments from the source of the matching funds. If a property tax abatement is pledged as Match, include a letter from the appropriate appraisal district documenting a specific cash value and duration for the abatement.

TYPE OF MATCH PLEDGED	Pledged Amount	Source of Funds
Non-Federal Grants	\$	
Waived, foregone or deferred fees and charges (ex: debris removal and container fees, tap fees, building permits, other mandatory fees charged by the local municipality) CANNOT INCLUDE DEVELOPER FEES	\$	
Below-Market Financing**	\$	
Property Tax Abatement**	\$	
Donated Non-Professional Labor	\$	
Donated Professional Labor	\$	
Non-Federally Funded Infrastructure	\$	
Rental Value of Donated Use of Site Preparation or Construction Equipment	\$	
Donated Construction Materials	\$	
Donated Site Preparation	\$ 36,000	
Donated Demolition Services	\$	
Donated Real Property	\$	
Total Value of Match Pledged:	\$ 36,000	
Percentage of Project Funds to be Matched (Total Value of Match /Project Funds Requested)	%2.0	

*Generally, a related party contribution to the development is not considered eligible Match. Please contact the Department for specific examples that are not provided in the following guidance.

**See following page for additional guidance and examples.

Villas of Giddings
GS Old Denton Housing, LP

Appeal Request

June 24, 2011

Via Email

Robbye G. Meyer
Director of Multifamily Finance
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, TX 78701

RE: Response to Application Challenge dated June 15, 2011; Villas of Giddings; TDHCA No. 11140

Dear Ms. Meyer:

This letter is a response to the challenge made by Robert H. Voelker on June 15, 2011 regarding Villas of Giddings ("Project").

Mr. Voelker challenges the Source of Funds being pledged in the Volume 7, Tab 8 Matching Funds section of the HOME Application and whether the Source is considered eligible. The Pledge Amount submitted as a match is indicated as \$36,000 coming from a Donated Site Preparation pledge. The Source of this match is from Bonner Carrington Construction which will be a non-related, 3rd-Party, sub-contractor to be used during the construction period of the development and there is no conflict of interest between parties which designates the Source and its Pledge Amount to be an eligible Match.

Mr. Voelker is also challenging the completeness of the HOME Application stating that a firm commitment from the source of funds needs to be provided. Not submitting a firm commitment from the source provider was an oversight by the Applicant and is something that can be submitted as a deficiency request during the HOME Application review process. The HOME Application review process is separate from the TDHCA 9% Application review process and only takes place in the event of Tax Credits being recommended or awarded. The TDHCA 9% Application review process should not and is not dependent upon the HOME Application review.

The Applicant appreciates the Challenge process that the QAP offers but feels that this specific Challenge being submitted is in-valid and would appreciate Staffs concurrence.

Thank you for your consideration in this matter

Yours truly,



Dru Childre
Authorized Representative

cc: Raquel Morales (via email)
Jeff Spicer (via email)
Kelly Garrett (via email)



Shackelford
Melton
McKinley

MF RCV'D Wednesday, June 15, 2011 4:36 PM

3333 Lee Parkway, Tenth Floor
Dallas, Texas 75219
Telephone 214.780.1400
Facsimile 214.780.1401
www.shacklaw.net

John C. Shackelford
Also Admitted in Florida and
Georgia
Direct 214.780.1414
jshack@shacklaw.net

June 15, 2011

Ms. Robbye Meyer
Director of Multifamily Programs
Texas Department of Housing
& Community Affairs
221 E. 11th Street
Austin, Texas 78701

Re: Application Challenge – The Grove at Elm Park; TDHCA #11163 (the
“Development”)

Dear Ms. Meyer:

This law firm has been retained to provide this Application Challenge, in accordance with Section 49.10(e) of the 2011 Qualified Action Plan (the “QAP”), for points awarded with respect to The Grove at Elm Park 2011 low income housing tax credit application (the “Application”).

Volume 4, Tab 13 of the Application, a copy of which is attached hereto as Exhibit A, claims 3 points under Section 49.9(a)(13)(D) of the QAP as a new construction development proposed to be located in an area that is part of a Community Revitalization Plan. (See Exhibit B). In support of this position, the Application includes a letter from Tom Martin, Mayor of City of Lubbock, which states that the City of Lubbock’s Consolidated Plan serves as a Community Revitalization Plan, and that the Development is within the area covered by the Community Revitalization Plan. Per our review of the 2009-2013 Consolidated Plan of the City of Lubbock (the “Lubbock Consolidated Plan”), as currently implemented by the City of Lubbock’s 2010-2011 Annual Action Plan (the “Lubbock Action Plan”), the Development is not located within an area covered by a Community Revitalization Plan and does not meet the definitional requirements to claim 3 points under Section 49.9(a)(13)(D) of the QAP for the following reasons:

I. The Lubbock Consolidated Plan Does Not Qualify as a Community Revitalization Plan

The Lubbock Consolidated Plan, on its own, does not implement its objectives nor does it specifically target areas for revitalization and, therefore, does not meet the definition of a Community Revitalization Plan.

The QAP defines a Community Revitalization Plan as “A published document under any name, approved and adopted by the local Governing Body or, if the Governing Body has lawfully assigned responsibility for oversight of communication or activities to a body created or sponsored by that Governing Body, the vote of the Governing Body so designated, by ordinance, resolution, or vote that targets specific geographic areas for revitalization and development of residential developments.”

The Lubbock Consolidated Plan, prepared in accordance with the U.S. Department of Housing and Urban Development (“HUD”) regulations, identifies the housing and community development needs and priorities of the City of Lubbock (the “City”) and sets out long-term goals and develops a strategic blueprint for the City to best meet such needs. As part of its strategy, the Lubbock Consolidated Plan sets forth parameters by which areas are to be targeted for revitalization by providing (a) that the City will direct assistance to low to moderate income Block Groups in the City, (b) proposed CDBG Target Areas (See Exhibit C), and (c) that to the extent specific geographic areas have greater needs than other areas in the City, such areas will receive a larger proportionate share of funding. Still, the Lubbock Consolidated Plan only provides proposed target areas and parameters to select the areas to be revitalized. It does not specify geographic areas to be revitalized and developed for residential developments and, accordingly, does not meet the definition of a Community Revitalization Plan under the QAP.

Furthermore, the mere fact that the Development is located in the City and the Lubbock Consolidated Plan’s objectives are the objectives of the entire City does not qualify the Development for the points under Section 49.9(a)(13)(D) of the QAP. Such rationale would undermine the purpose of the points awarded under Section 49.9(a)(13)(D) of the QAP. HUD requires every city to prepare a consolidated plan if it chooses to participate in the Community Development Block Grant, HOME Investment Partnerships or Emergency Shelter Grant and Housing Opportunities for Persons with AIDS programs. If a city’s broadly written HUD mandated consolidated plan constituted a Community Revitalization Plan under the QAP, then every development located in a city with a consolidated plan would automatically qualify for these points when the clear intent is to reward only those developments located in the areas specifically targeted to be revitalized.

II. Development Not Located in a Revitalization Area Under the Lubbock Consolidated Plan

Assuming, *in arguendo*, the Lubbock Consolidated Plan constitutes a Community Revitalization Plan under the QAP, the Application still does not qualify for the points under Section 49.9(a)(13)(D) of the QAP because the location of the Development

identified in the Application is not located in the proposed CDBG Target Areas identified in the Lubbock Consolidated Plan.

To claim the points under Section 49.9(a)(13)(D) of the QAP, the Development for new construction must be located in an area that is part of a plan that targets specific geographic areas for revitalization and development of residential developments. The location of the Development identified in the Application is at the southwest corner of the intersection of 34th Street and Milwaukee Avenue (See Exhibit D), which is not located within the specific geographic areas designated for revitalization and development of residential developments under the Lubbock Consolidated Plan. Moreover, the Development is not even located in the areas proposed as CDBG Target Areas under the Lubbock Consolidated Plan (See Exhibit C).

With the Development not located in an area under the Lubbock Consolidated Plan that targets specific geographic areas for revitalization and development of residential developments, then assuming, *in arguendo*, that the Lubbock Consolidated Plan constitutes a Community Revitalization Plan, the Development still does not qualify for the points under Section 49.9(a)(13)(D) of the QAP.

III. Development Not Located in Revitalization Area Under the Lubbock Action Plan

As required annually by HUD, a consolidated plan is implemented only by an action plan adopted by the local governing body which identifies the resources that will be used in the upcoming year to address the consolidated plan's priority objectives and includes the geographic areas assistance will be directed during the ensuing program year.

The Lubbock Consolidated Plan, together with the Lubbock Action Plan, constitute a Community Revitalization Plan under the QAP. The Lubbock Action Plan is the document that implements the broad policies set forth in the Lubbock Consolidated Plan. The Lubbock Action Plan specifies both where the funds go and the areas targeted for revitalization. The current target areas and eligible areas set forth in the Lubbock Action Plan are identified in Exhibit E attached hereto.

The Development is not only outside the broader area designated in the Lubbock Consolidated Plan as above stated in Section II., but it is clearly and unquestionably outside the current target areas and eligible areas set forth in the Lubbock Action Plan. The Grove at Elm Park is located at the southwest corner of the intersection of 34th Street and Milwaukee Avenue, in the western portion of the City (See Exhibit D). According to the Lubbock Action Plan, the CDBG Eligible Area identified in the Lubbock Action Plan includes only the northwest corner of the intersection of 34th Street and Milwaukee Avenue, and not the other 3 corners of the intersection. Furthermore, the location of the

Grove at Elm Park is not located in any of the CDBG Target Areas set forth in the Lubbock Action Plan.

To summarize this argument, the Lubbock Action Plan, together with the Lubbock Consolidated Plan, does constitute a Community Revitalization Plan, but the Development is not located within the boundaries of the area targeted in the Lubbock Action Plan.

IV. No Evidence of Ordinance, Resolution or Specific Vote Included in the Application

Pursuant to the instructions in the 2011 low income housing tax credit application, to claim the points under Section 49.9(a)(13)(D) of the QAP the applicant could submit, "A letter from the Appropriate Local Official stating there is a Community Revitalization Plan in effect and the Development is within the area covered by the plan." (See Exhibit A). In addition, Page 72 of the 2011 HTC Procedure Manual requires "evidence that the Community Revitalization Plan has been adopted by the local Governing Body by ordinance, resolution or specific vote." (See Exhibit F). No such ordinance, resolution or specific vote was included in the Application.

Although the letter from the Appropriate Local Official was included in the Application, evidence that the Community Revitalization Plan has been adopted by the local Governing Body by ordinance, resolution or specific vote has not be included in the Application (See Exhibit A). Failure to include evidence that the Community Revitalization Plan has been adopted by the local Governing Body by ordinance, resolution or specific vote in the application is not an administrative deficiency that can be cured. Pursuant to Section 49.7(a)(2) of the QAP, "For exhibits and other information required under §49.9 of this chapter (relating to Selection Criteria) not originally submitted in the Application (i.e. Community Revitalization Plan or letter from Appropriate Local Official missing entirely from the Application) staff will not award points for that item, even if points were requested in the Applicant's Self Scoring Form." (See Exhibit G).

Since no evidence that an ordinance, resolution or specific vote approving the Community Revitalization Plan was included in the Application, we further request that the 3 points awarded under the Application in relation to Section 49.9(a)(13)(D) of the QAP be deducted.

For the foregoing reasons, we respectfully request the 3 points awarded under the Application with regard to Section 49.9(a)(13)(D) of the QAP be deducted.

Ms. Robbye Meyer
June 15, 2011
Page 5

MF RCVD Wednesday, June 15, 2011 4:36 PM

Should you have any questions, please do not hesitate to contact me at (214) 780-1414 or jshack@shacklaw.net.

Sincerely,

A handwritten signature in blue ink that reads "John C. Shackelford". The signature is written in a cursive style with a large initial "J".

John C. Shackelford, Esq.

cc: Raquel Morales

Exhibit A

Volume Four

Tab 13

Community Revitalization, Historic
Preservation, or Rehabilitation

Volume 4, Tab 13

COMMUNITY REVITALIZATION or HISTORIC PRESERVATION (§49.9(a)(13))

The Application proposes:

- Community Revitalization**- the Development includes the use of an Existing Residential Development and proposes any Rehabilitation or any Reconstruction that is part of a Community Revitalization Plan. (§42(m)(1)(C)(iii))

Evidence to be provided to satisfy this requirement:

- Volume 2, Tab 1, Part B- 2011 Existing Residential Development Certification Form* is present in Volume 2, and is fully executed.

AND

- A letter from the Appropriate Local Official stating there is a Community Revitalization Plan in effect and the Development is within the area covered by the plan.

If the Applicant is unable to obtain a letter from an Appropriate Local Official, then the following must be provided:

- If the Community Revitalization Plan has specific boundaries, a copy of the Plan adopted by the jurisdiction or its designee and a map showing that the Development is within the area covered by the Community Revitalization Plan.

- Historic Preservation** - The Development includes the use of an existing building that is designated as historic by a federal or state Entity and proposes Rehabilitation (including Reconstruction) or Adaptive Reuse.

Evidence to be provided includes:

- The Development includes* the use of an existing building that is designated as historic by a federal or state entity and proposes Rehabilitation (including reconstruction) or Adaptive Reuse.
- Proof of the historic designation from the appropriate Governmental Body is included.
- Letter from the Texas Historical Commission indicating the effect of the proposed rehabilitation on historical structure is included.

***The Development itself must have the designation; points in this subparagraph are not available for Developments simply located within historic districts or areas that do not have a designation on the building. The Development must include the historic building.**

- Rehabilitation** - Application proposes to build solely Rehabilitation.
- Reconstruction** - Application proposes to build solely Reconstruction.
- Adaptive Reuse** - Application proposes to build solely Adaptive Reuse.

- New Construction** - the Development is New Construction and is proposed to be located in an area that is part of a Community Revitalization Plan.

Evidence to be provided includes one of the following:

Evidence to be provided to satisfy this requirement:

- A letter from the Appropriate Local Official stating there is a Community Revitalization Plan in effect and the Development is within the area covered by the plan.

If the Applicant is unable to obtain a letter from an Appropriate Local Official, then the following must be provided:

- If the Community Revitalization Plan has specific boundaries, a copy of the Plan adopted by the jurisdiction or its designee and a map showing that the Development is within the area covered by the Community Revitalization Plan.



REMEMBER TO PLACE YOUR EVIDENCE BEHIND THIS FORM



Tom Martin ★ Mayor

Certification of Consistency with
City of Lubbock
Community Revitalization Plan

February 7, 2011

Ms. Raquel Morales
9% Housing Tax Credit Administrator
Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, Texas 78711-3941

I, Tom Martin, Mayor of the City of Lubbock and authorized to act on behalf of the City, certify that the housing development activities proposed by **The Villas at Tuscany**, are consistent with and located within the boundaries covered by the city's concerted Community Revitalization Plan currently in effect, namely the Consolidated Plan.

The Villas at Tuscany is located south of 66th Street, between Iola Avenue and Milwaukee Avenue, in the City of Lubbock, Lubbock County, Texas. The proposed 2011 LIHTC Application for **The Villas at Tuscany**, contributes to the revitalization objectives of the Consolidated Plan.

Signed on this the 8th day of February 20 11.

A handwritten signature in cursive script that reads "Tom Martin". The signature is written in black ink and is positioned above a horizontal line.

Tom Martin, Mayor

Exhibit B

- schools, charter schools and depending on how characterized could include day care centers; a PTA or PTO would qualify. Should an Applicant elect this option and the Application receives letters in opposition, then 2 points will be subtracted from the score for each letter in opposition, provided that the letter is from an organization serving the community.
- (B) An Application may receive 6 points for a letter of support, from a property owners association created for a master planned community whose boundaries include the Development Site that does not meet the requirements of a Neighborhood Organization for points under paragraph (2) of this subsection.
 - (C) An Application may receive 6 points for a letter of support from a Special Management District, whose boundaries, as of the Full Application Delivery Date as identified in §49.3 of this chapter, include the Development Site and for which there is not a Neighborhood Organization on record with the county or state.
- (12) **Housing Needs Characteristics.** (§42(m)(1)(C)(ii)) Applications may qualify to receive up to 6 points (if the Development Site is located in a Place with a certain Affordable Housing Need Score). Each Application may receive a score if correctly requested in the Self Score form based on objective measures of housing need in the Place where the Development is located. This Affordable Housing Need Score for each Place will be published in the 2011 Site Demographic Characteristics Report. For purposes of this item a Place is defined as the geographic area contained within the boundaries of:
- (A) An incorporated place; or
 - (B) Census Designated Place (CDP) as established by the U.S. Census Bureau for the most recent Decennial Census. For Developments located outside the boundaries of an incorporated place or CDP, the Development shall take up the Place characteristics of the incorporated place or CDP whose boundary is nearest to the Development Site.
- (13) **Community Revitalization, (§42(m)(1)(C)(iii)) Historic Preservation or Rehabilitation.** Applications may qualify to receive 6 points under subparagraphs (A) - (C) of this paragraph or 3 points under subparagraph (D) of this paragraph.
- (A) The Development includes the use of an Existing Residential Development and proposes any Rehabilitation or any Reconstruction that is part of a Community Revitalization Plan. Evidence of the Community Revitalization Plan must be in the form of a letter from the Appropriate Local Official stating there is a Community Revitalization Plan in effect and the Development is within the area covered by the plan or only if the Community Revitalization Plan has specific boundaries, a copy of the plan, adopted by the jurisdiction or its designee and a map showing that the Development is within the area covered by the Community Revitalization Plan; or
 - (B) The Development includes the use of an existing building that is designated as historic by a federal or state Entity and proposes Rehabilitation (including Reconstruction) or Adaptive Reuse. The Development itself must have the designation; points in this subparagraph are not available for Developments simply located within historic districts or areas that do not have a designation on the building. The Development must include the historic building. Evidence will include proof of the historic designation from the appropriate Governmental Entity.
 - (C) Rehabilitation (includes Reconstruction). Applications proposing to build solely Rehabilitation (excluding New Construction of non-residential buildings), solely Reconstruction (excluding New Construction of non-residential buildings), or solely Adaptive Reuse;
 - (D) The Development is New Construction and is proposed to be located in an area that is part of a Community Revitalization Plan (3 points).
- (14) **Pre-application Participation Incentive Points.** (§2306.6704) Applicants that submitted a pre-application during the Pre-Application Acceptance Period and meet the requirements

Exhibit C

**Exhibit VI-3.
CDBG Target Areas, City of Lubbock, 2009-2013**



Source: City of Lubbock.

2. Geographic allocation. The City's primary method of allocating CDBG dollars is to assist low- to moderate-income and special needs populations.

To the extent that specific geographic areas have greater needs than other areas in the City and/or if service and housing organizations are located in certain areas, they will receive a larger proportionate share of the funding. For street and sidewalk improvements, the City will focus on the geographic areas where street, sidewalks, curb cuts and related ADA accommodations are lacking. Finally, to provide affordable single-family housing, the City's dollars will be allocated in areas of new development where affordable housing is lacking and/or infill areas that can accommodate affordable housing.

3. Obstacles to meeting underserved needs. The primary obstacle to meeting underserved needs is insufficient financial resources and operating funds. The City will pursue all potential funding resources and funding applications for other resources from other agencies will be supported. Funding resources will continue to be leveraged when possible by the City. When appropriate, funds provided to projects and programs will be in the form of loans and repayments will revolve to serve the greatest possible number of households over time.

Exhibit D

Volume Two

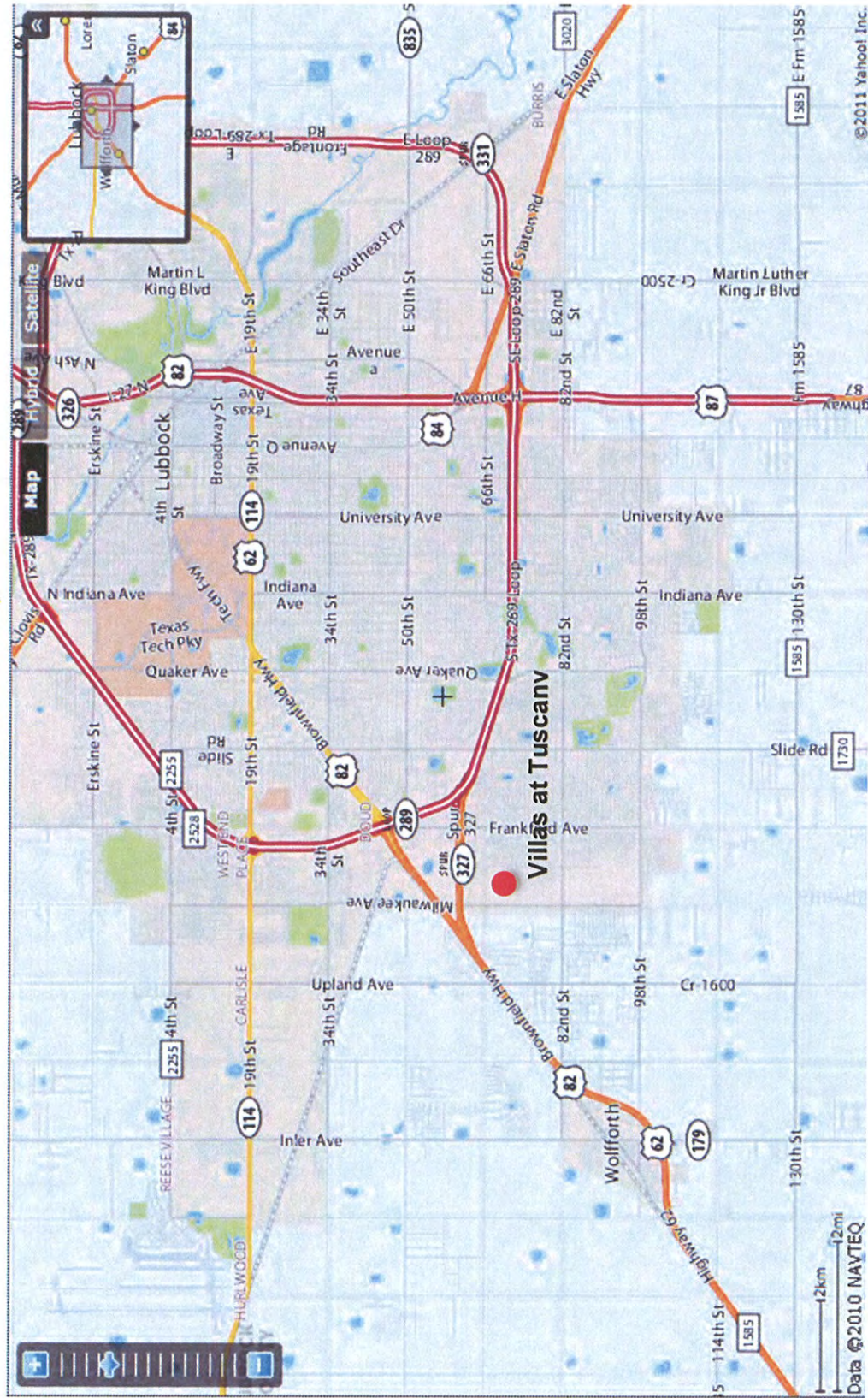
Tab 1

Part C: Development Location in relation to Entire City

Map indicating the following within
two miles of the site:

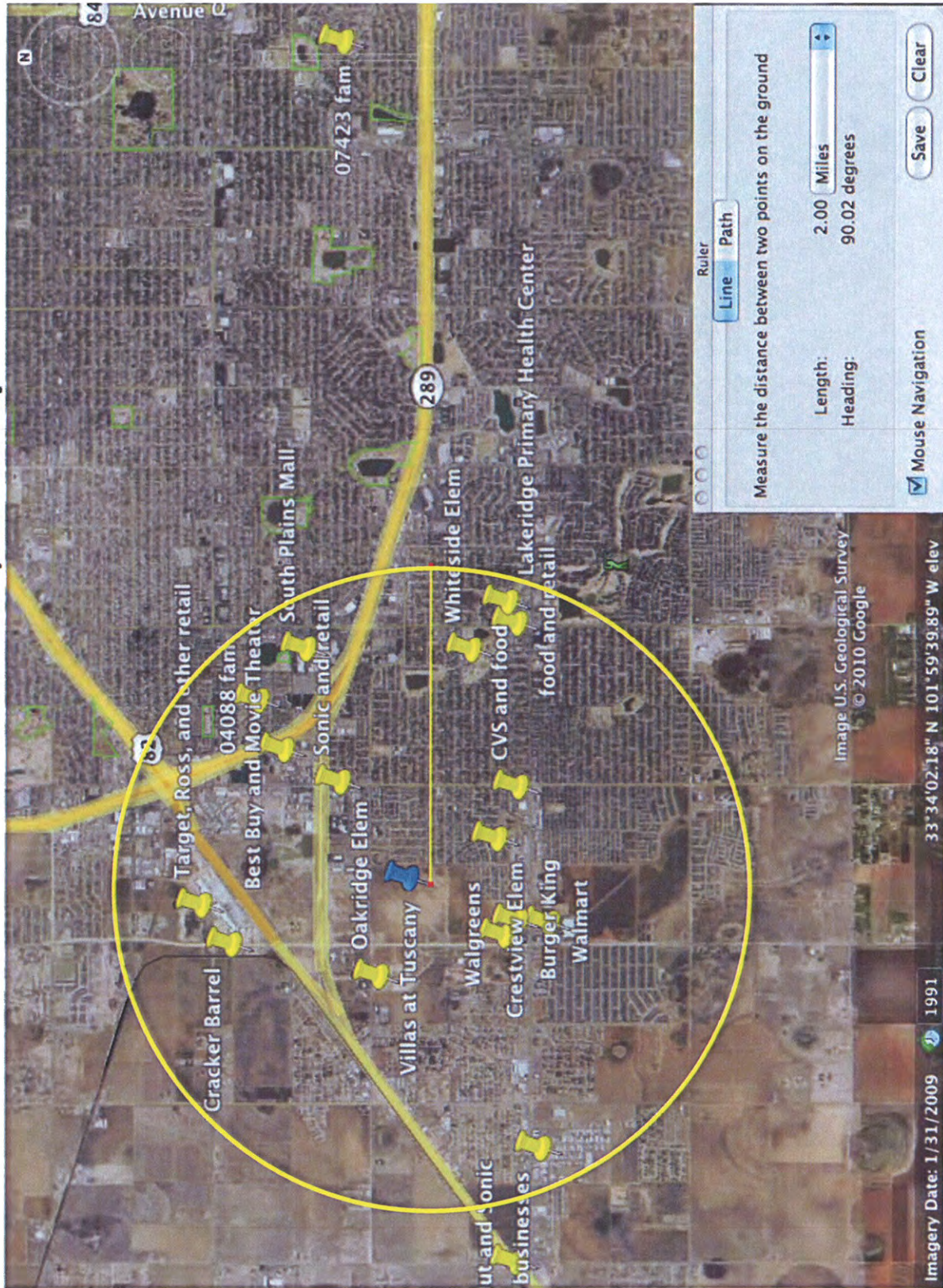
- Existing HTC or other affordable housing projects
- Retail Centers
- Medical Complexes
- Recreational Facilities
- Educational Facilities
- Large Scale Employment Centers
- Public Transportation Stop Closest to the Site
- Census Tracts

Vol 2 Tab 1 Part C: Development in Relation to City Villas at Tuscany



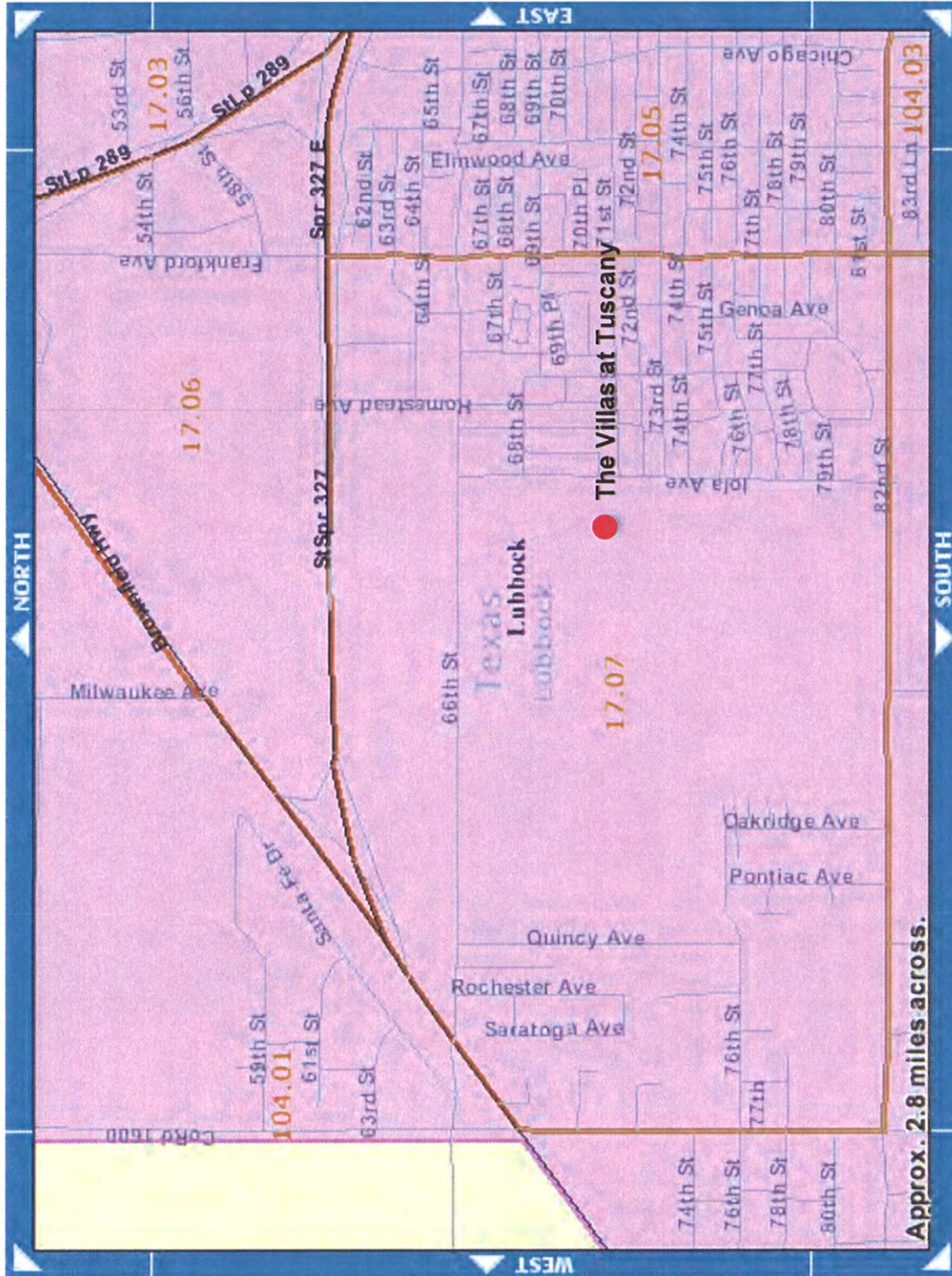
Source: Yahoo Maps

V2 T1 PC: Villas at Tuscany Facilities Map



Source: Google Earth

Census Tract Map
The Villas at Tuscany
48303001707



Source: 2000 US Census

Exhibit E

Exhibit F

2011 HTC Procedures Manual

❖ **Volume 4, Tab 13. (V4 T13) Community Revitalization, Historic Preservation or Rehabilitation (Maximum 6 points)**

- *Volume 2, Tab 1, Part B- 2011 Existing Residential Development Certification Form* must be present in Volume 2, and must be fully executed.
 - Community Revitalization
 - Submit a letter from the Appropriate Local Official stating that the Development Site is located within the area covered by the Community Revitalization Plan; or
 - Only if the Community Revitalization Plan has specific boundaries, a copy of the plan, adopted by the jurisdiction or its designee and a map showing that the Development is within the area covered by the Community Revitalization Plan.
 - Submit evidence that the Community Revitalization Plan has been adopted by the local Governing Body by ordinance, resolution or specific vote.
- Historic Preservation

Developments proposing Rehabilitation (including Reconstruction) or Adaptive Reuse, which include the use of an existing building that is designated as historic by a federal or state Entity.

 - **The historic building itself must be part of the Development; points in this subparagraph are not available for Developments simply located within historic districts or areas that do not have a designation on the building. The Development must include the historic building.**
 - Submit proof of the historic designation from the appropriate Governmental Entity. As a resource, information regarding state and federal historic designations can be printed from the following site:
<http://atlas.thc.state.tx.us/index.asp>.
- Developments proposing solely Rehabilitation (includes Reconstruction), solely Reconstruction or solely Adaptive Reuse.
- New Construction Development proposed to be located in an area that is part of a Community Revitalization Plan (this item worth 3 points).

❖ **Volume 4, Tab 14. (V4 T14) Pre-Application Incentive Points (Maximum 6 points)**

- To be eligible for Pre-Application Incentive Points the Applicant must be able to affirm the following:
 - The site under control is identical to or is a reduced portion of the site as proposed in the Pre-Application; and
 - The Application has met the Pre-Application Threshold Criteria as determined by the Department; and
 - A certification must be included as part of the exhibit, signed by the Principals who signed the site control at Pre-Application, confirming that they are the same Principals at Application; and
 - The Development must serve the same target population (general or elderly) as indicated in the Pre-Application; and



Exhibit G

- (i) an Applicant or Related Party; and
 - (ii) any Person who is:
 - (I) active in the construction, rehabilitation, ownership, or Control of the proposed Development, including:
 - (-a-) a General Contractor; and
 - (-b-) a Developer; and
 - (-c-) a General Partner, Principal or Affiliate of a General Partner or General Contractor; or
 - (II) employed as a consultant, lobbyist, or attorney by an Applicant or a Related Party.
- (B) During the period beginning on the first date of the Application Acceptance Period and ending on the date the Board makes a final decision with respect to the approval of any Application in that Application Round, an employee of the Department may communicate about any Application with the following Persons:
- (i) the Applicant or a Related Party; and
 - (ii) any Person who is:
 - (I) active in the construction, rehabilitation, ownership, or Control of the proposed Development, including:
 - (-a-) a General Partner or General Contractor; and
 - (-b-) a Developer; and
 - (-c-) a Principal or Affiliate of a General Partner or General Contractor; or
 - (II) employed as a consultant, lobbyist or attorney by the Applicant or a Related Party.
- (C) A communication under paragraph (2) of this subsection may be oral or in any written form, including electronic communication through the Internet, and must satisfy the following conditions:
- (i) the communication must be restricted to technical or administrative matters directly affecting the Application;
 - (ii) the communication must occur or be received on the premises of the Department during established business hours; and
 - (iii) a record of the communication must be maintained and included with the Application for purposes of Board review and must contain the following information:
 - (I) the date, time, and means of communication;
 - (II) the names and position titles of the Persons involved in the communication and, if applicable, the Person's relationship to the Applicant;
 - (III) the subject matter of the communication; and
 - (IV) a summary of any action taken as a result of the communication.
- (D) Notwithstanding subparagraph (A) or (B) of this paragraph, a Board member or Department employee may communicate without restriction with a Person listed in subparagraph (A) or (B) of this paragraph during any Board meeting or public hearing held with respect to the Application, but not during a recess or other non-record portion of the meeting or hearing.
- (E) Subparagraph (A) of this paragraph does not prohibit the Board from participating in social events at which a Person with whom communications are prohibited may, or will be present, provided that all matters related to Applications to be considered by the Board will not be discussed.
- (2) **Administrative Deficiency Process.** The purpose of the Administrative Deficiency process is to allow the Applicant an opportunity to provide clarification or correction to information originally submitted in the Application. For example, if exhibits and other information required under §49.8 of this chapter (relating to Threshold Criteria) are not originally submitted in the Application (i.e. financing commitment missing entirely from

the Application) staff will recommend termination of the Application. However, for information missing in part from the Application (i.e. financing commitment is submitted but it is not executed by the lender) staff will request the missing or corrected information via an Administrative Deficiency. For exhibits and other information required under §49.9 of this chapter (relating to Selection Criteria) not originally submitted in the Application (i.e. Community Revitalization Plan or letter from Appropriate Local Official missing entirely from the Application) staff will not award points for that item, even if points were requested in the Applicant's Self Scoring Form. For information missing in part from the Application (i.e. the letter from the Appropriate Local Official does not include all required information) staff will request the missing information via an Administrative Deficiency and award points provided the information submitted in response to the Administrative Deficiency is satisfactory to the Department.

- (A) **Administrative Deficiencies for Applications submitted under the State Housing Credit Ceiling and Rural Rescue Applications.** If an Application contains Administrative Deficiencies which, in the determination of the Department staff, require clarification or correction of information submitted at the time of the Application, the Department staff may request clarification or correction of such Administrative Deficiencies. Because the review for Eligibility, Selection, Threshold Criteria, Quantifiable Community Participation (QCP) and review for financial feasibility by the Department's Real Estate Analysis Division may occur separately, Administrative Deficiency requests may be made during any of these reviews. The Department staff will request clarification or correction in a deficiency notice in the form of an e-mail, or if an e-mail address is not provided in the Application, by facsimile, and a telephone call (only if there has not been confirmation of the receipt of the e-mail within twenty-four (24) hours) to the Applicant and one other party identified by the Applicant in the Application advising that such a request has been transmitted. If Administrative Deficiencies are not clarified or corrected to the satisfaction of the Department by 5:00 p.m. on the fifth business day following the date of the deficiency notice, then five (5) points shall be deducted from the Selection Criteria score for each additional day the deficiency remains unresolved. If Administrative Deficiencies are not clarified or corrected by 5:00 p.m. on the seventh business day following the date of the deficiency notice, then the Application shall be terminated. The time period for responding to a deficiency notice begins at the start of the business day following the deficiency notice date. Deficiency notices may be sent to an Applicant prior to or after the end of the Application Acceptance Period. An Applicant may not change or supplement any part of an Application in any manner after the filing deadline, and may not add any Set-Asides, increase the requested credit amount, revise the Unit mix (both income levels and bedroom mixes), or adjust their self-score except in response to a direct request from the Department as a result of an Administrative Deficiency or by approved amendment of an Application after a commitment or allocation of tax credits as further described in §49.13(b) of this chapter (relating to Board Reevaluation) (§2306.6708). This Administrative Deficiency process applies to requests for information made by the Real Estate Analysis Division during their review. To the extent that the review of Administrative Deficiency documentation during the review alters the score assigned to the Application, Applicants will be re-notified of their final score.
- (B) **Administrative Deficiencies for Tax Exempt Bond Applications.** If an Application contains deficiencies which, in the determination of the Department staff, require clarification or correction of information submitted at the time of the Application, the Department staff may request clarification or correction of such Administrative Deficiencies. Because the review for Eligibility, Threshold Criteria, and review for financial feasibility by the Department's Real Estate Analysis Division may occur separately, Administrative Deficiency requests may be made during any of these



LUBBOCK HOUSING FINANCE CORPORATION

3212 Avenue Q • Lubbock, Texas 79411 • Phone (806) 745-9559 • Fax (806) 765-5828

June 27, 2011

Ms. Robbye Meyer
Director of Multifamily Programs
Texas Department of Housing & Community Affairs
221 E. 11th Street
Austin, TX 78701

Re: Application Challenge Response - The Grove at Elm Park #11163

Dear Robbye,

This letter is in response to the Application Challenge submitted to Texas Department of Housing and Community Affairs (TDHCA) against The Grove at Elm Park with respect to TDHCA's award of points for Community Revitalization, Historic Preservation or Rehabilitation. The Applicant stands by its claim for these points and has met the requirements of the Qualified Allocation Plan (QAP).

The first objection that the Applicant has towards this challenge is the fact that the challenge was improperly filed. All exhibits to this challenge are not for The Grove at Elm Park. Instead, the exhibits refer to another project, The Villas at Tuscany. **Because the challenger has not properly filed a challenge with respect to The Grove at Elm Park, the challenge should not be considered.**

However, should TDHCA still consider this challenge, the Applicant will address the comments made in the challenge letter.

The challenger first asserts that the Lubbock Consolidated Plan does not qualify as a Community Revitalization Plan (CRP). Per the QAP, a Community Revitalization Plan is "A published document under any name, approved and adopted by the local Governing Body or, if the Governing Body has lawfully assigned responsibility for oversight of communication or activities to a body created or sponsored by that Governing Body, the vote of the Governing Body so designated, by ordinance, resolution, or vote that targets specific geographic areas for revitalization and development of residential developments."

The Lubbock Consolidated Plan meets all of parts of the QAP's definition of Community Revitalization Plan. First, the City of Lubbock (City) is the local Governing Body and second, the City of Lubbock has approved the plan by way of ordinance. Furthermore, the plan itself does target specific geographic areas for revitalization and the development of residential development. The plan titles these areas as "target areas", "blighted areas", "low and moderate-income Block Groups", "eligible areas" and "older parts of the city".

Cathy H. Allen
President

Jeffrey F. Lowry
Vice President

Steven D. Yandell
Secretary

Carolyn Crowson
Treasurer

Andy Cates
Director

Kenneth P. Flagg
Director

Debora P. Lopez
Director

Shari D. Flynn
Executive Director



The challenger further objects to the Consolidated Plan as being a CRP because this plan also serves purposes for the City with respect to funding by the US Department of Housing and Urban Development (HUD) and that many other cities also form their own Consolidated Plan. Nothing in the CRP definition in the QAP precludes a CRP from performing multiple functions for a city. The fact that this document may also be a requirement for HUD funding does not in any way undermine its function as a CRP for the City.

Later, the challenger does acknowledge that the Consolidated Plan coupled with the Action Plan does meet the QAP's definition of a CRP. These two documents, along with the Five Year Strategic Plan, are bundled together as one working document. When the mayor named the "Consolidated Plan" in his certification, he was really referring to the entirety of the documents. Please see the attached clarification statement. If TDHCA had asked for clarification on this point during the deficiency period, such clarification would have been provided.

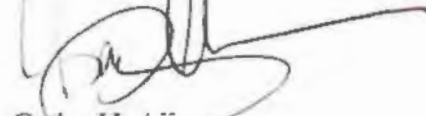
After acknowledging the legitimacy of the Consolidated Plan documents in totality as a CRP, the challenger asserts that the project's location is not a targeted area as being "located in an area that is part of a Community Revitalization Plan" is a requirement to attain the points. As noted earlier, the documents reference multiple targeted areas. This project does have frontage on 34th Street which fronts a CDBG Eligible area. Furthermore, the plan specifies that older parts of the city are in need of revitalization. The project's location is in an area that was widely developed during the 1960s. The mayor has indicated that the proposed application contributes to the revitalization objectives of the plan. In this case, the proposed development also falls within an older part of the City wherein the City wishes to revitalize an abandoned golf course. This site is currently completely underused and will meet the City's objectives.

The final argument that the challenger makes is with respect to the provision of evidence that the CRP was adopted by ordinance, resolution or specific vote. The QAP is silent on the documentation that is required to obtain these points. Documentation for these points is described in the Manual, the Volume 4 Tab 13 Form, the training slides and a Frequently Asked Question. The language in the Manual does mention providing evidence of the adoption by ordinance, resolution or specific vote but only after what appears to be a condition to providing a copy of the CRP in lieu of the letter by the Appropriate Local Official. The interpretation that the need to provide a copy of the ordinance, resolution or specific vote only as a condition to providing the CRP is further supported the Volume 4, Tab 13 Form which states that "A letter from the Appropriate Local Official stating there is a Community Revitalization Plan in effect and the Development is within the area covered by the plan" satisfies the requirement (attached). The training slide and frequently asked question (both attached) provide similar language regarding the required evidence.

While the Applicant still believes that it is unnecessary to provide evidence of CRP adoption given the certification provided in the application by the Appropriate Local Official, the Applicant is providing such evidence as attached. The challenger states that this omission is not curable through the deficiency process. However, if TDHCA truly did expect this documentation to be provided with the application, then the inconsistency between the various materials should afford the Applicant the opportunity to make a correction.

In summary, The Grove at Elm Park is a New Construction Development in a targeted area of the City of Lubbock's CRP. The Applicant provided the necessary certification at the time of application and has further substantiated its claim to these points by providing additional documentation herein. The Applicant requests that TDHCA maintain the points under Section 49.9(a)(13)(D).

Sincerely,

A handwritten signature in black ink, appearing to read 'Cathy H. Allen', with a long horizontal flourish extending to the right.

Cathy H. Allen
President



LUBBOCK HOUSING FINANCE CORPORATION

3212 Avenue Q • Lubbock, Texas 79411 • Phone (806) 745-9559 • Fax (806) 765-5828

June 27, 2011

Ms. Robbye Meyer
Director of Multifamily Programs
Texas Department of Housing & Community Affairs
221 E. 11th Street
Austin, TX 78701

Re: Application Challenge Response - The Grove at Elm Park #11163

Dear Robbye,

This letter is in response to the Application Challenge submitted to Texas Department of Housing and Community Affairs (TDHCA) against The Grove at Elm Park with respect to TDHCA's award of points for Community Revitalization, Historic Preservation or Rehabilitation. The Applicant stands by its claim for these points and has met the requirements of the Qualified Allocation Plan (QAP).

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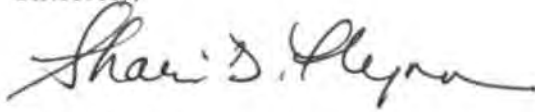
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Sincerely,

A handwritten signature in black ink, reading "Shari D. Flynn". The signature is written in a cursive style with a long, sweeping underline.

Shari D. Flynn
Executive Director



Tom Martin ★ Mayor

June 27, 2011

Ms. Robbye Meyer
Director of Multifamily Programs
Texas Department of Housing & Community Affairs
221 E. 11th Street
Austin, TX 78701

Re: Application Challenge Response - The Grove at Elm Park #11163

Dear Ms. Meyer,

I am writing this letter to clarify the certification that I provided for The Grove at Elm Park on December 30, 2010. In the certification, I indicated that the "Consolidated Plan" is the City of Lubbock's Community Revitalization Plan. I understand that this statement has been challenged because it did not also specifically reference the corresponding Action Plan. Please note that these documents all work in tandem and when I referred to the "Consolidated Plan", I intended it to mean all such documents which I view as one plan. This includes the Consolidated Plan, the Action Plan and the Strategic Plan. The documents all work together.

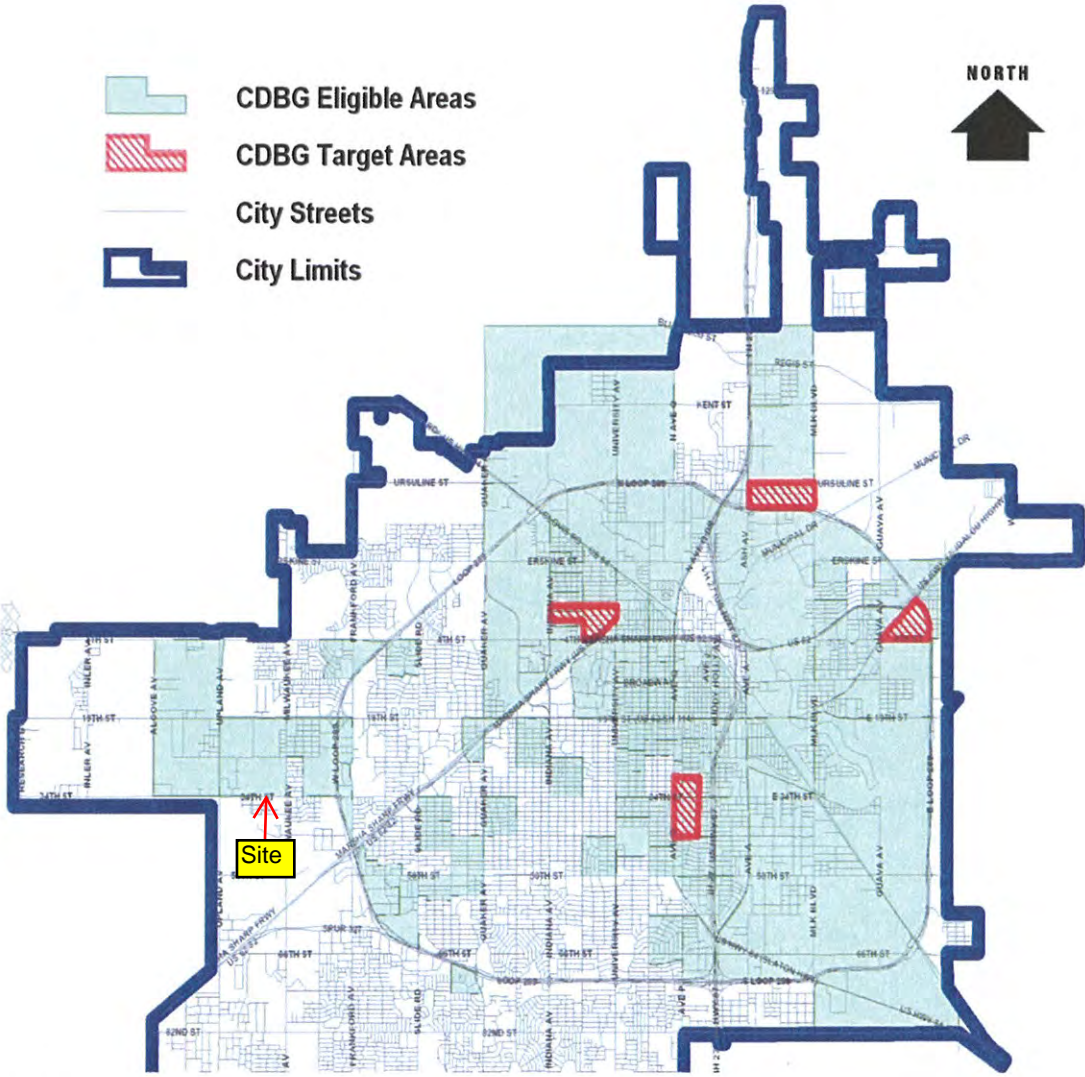
Sincerely

A handwritten signature in cursive script, appearing to read "Tom Martin".

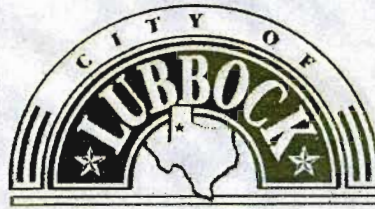
Tom Martin
Mayor

Clearance, Demolition	20 Units	4 Units
Senior and Handicapped Services	125 Persons	25 Persons
Youth Services	250 Persons	50 Persons
Transportation Services	1000 Disabled Persons	200 Disabled Persons
Child Care Services	375 Persons	75 Persons
Health and Dental Care Services	250 Persons	50 Persons
Interim Assistance	25 Persons	5 Persons
Code Enforcement	2500 Persons	500 Persons
Section 108 Loan Payments	N/A	N/A

In keeping with the Consolidated Plan goals the majority of activities will be conducted in areas of higher low-mod household concentration as specified in the Consolidated Plan. The target areas are within the CDBG eligible areas as indicated on the map below.



Funding Summary



Tom Martin ★ Mayor

**Certification of Consistency with
City of Lubbock
Community Revitalization Plan**

To Whom It May Concern:

I, Tom Martin, Mayor of the City of Lubbock and authorized to act on behalf of the City, certify that the housing development activities proposed by **The Grove at Elm Park, Ltd.**, are consistent with and located within the boundaries covered by the city's concerted Community Revitalization Plan currently in effect, namely the Consolidated Plan.

The Grove at Elm Park is located at the intersection of 34th St and Milwaukee Ave (.18 miles west) in the City of Lubbock, Lubbock County, Texas. The proposed 2011 LIHTC Application for **The Grove at Elm Park, Ltd.**, contributes to the revitalization objectives of the Consolidated Plan.

Signed on this the 30th day of December, 20 10.

A handwritten signature in cursive script, appearing to read "Tom Martin", is written over a horizontal line.

Tom Martin, Mayor

As shown in Exhibit ES-11, renters who earn less than \$35,000 per year have a difficult time finding an affordable home to purchase. Indeed, 63 percent of renters earned less than \$35,000 per year, while 38 percent of the for sale market (around 1,400 units) was affordable to them in 2008. Households who earn \$25,000 to \$35,000 would benefit from programs such as downpayment assistance, homebuyer education and credit counseling to help get them into homes.

In addition, 21 percent of Lubbock's households who own their own homes were cost burdened. This is equivalent to 10,079 households. Cost burden is very high among Lubbock's lowest-income homeowners—98 percent of owners earning less than \$20,000 per year who have a mortgage were cost burdened in 2007 (2,783 households) and 67 percent of homeowners earning between \$20,000 and \$35,000 were cost burdened (2,457 households). In addition, 1,898 owner households earning less than \$20,000 and who do not have a mortgage were cost burdened. Households earning more than \$50,000 are very unlikely to be cost burdened in Lubbock's market.

Housing and Community Development Needs

The following includes Lubbock's top housing and community development needs, as identified by citizens, public service agencies and government officials through stakeholder consultation and public meetings.

Housing needs identified through the public participation process included: home rehabilitation and weatherization for homes; funding and support for emergency home repairs; low-income rental housing (such as more Section 8 rental vouchers); emergency rent and utility assistance; infill housing; accessible housing for persons with disabilities and seniors; and downpayment assistance, education and credit counseling support to assist potential first time homebuyers.

Community development needs included: code enforcement; affordable and accessible health care; development of the infrastructure (street paving, sewer, etc.) to help with affordable housing development and neighborhood revitalization; **redevelopment/revitalization of older parts of the city;** youth programs; senior programs; public transportation; job training; small business assistance; and park/recreational areas.

Organizations serving populations with special needs each considered the population they serve to have critical affordable-housing needs. The following are the top needs identified for special needs populations: transitional housing; emergency homeless shelters; homeless outreach, prevention, essential services and operational support; public transportation assistance; and a centralized place for supportive services.

Summary and Lubbock's Future

In 2007, the City of Lubbock was home to 218,000 residents and 84,000 households. The Lubbock MSA provided an estimated 133,400 jobs. The City of Lubbock had approximately 96,000 housing units. Between 2000 and 2007, the number of housing units in Lubbock grew by 14 percent. This growth was similar to the county overall, and slightly lower than Texas.

- Counsel section 8 tenants as to location of units outside of areas of poverty or minority concentration and assist them to locate those units.
- Market the section 8 program to owners outside of areas of poverty/minority concentrations.

3. Troubled. LHA is not troubled; this section does not apply to the LHA.

Barriers to Affordable Housing (91.210 (e) and 91.215 (f))

1. Explain whether the cost of housing or the incentives to develop, maintain, or improve affordable housing are affected by public policies, particularly those of the local jurisdiction. Such policies include tax policy affecting land and other property, land use controls, zoning ordinances, building codes, fees and charges, growth limits, and policies that affect the return on residential investment.
2. Describe the strategy to remove or ameliorate negative effects of public policies that serve as barriers to affordable housing, except that, if a State requires a unit of general local government to submit a regulatory barrier assessment that is substantially equivalent to the information required under this part, as determined by HUD, the unit of general local government may submit that assessment to HUD and it shall be considered to have complied with this requirement.

3-5 Year Strategic Plan Barriers to Affordable Housing response:

1. Barriers to affordable housing. Key persons interviewed and public meetings conducted as a part of the Consolidated Plan identified few barriers to affordable housing in Lubbock.

The top barrier identified by interviewees was the needed infrastructure improvements and repair in the older areas of the City. Some streets are unpaved and some are in a bad state of repair and/or need complete resurfacing. In addition, as identified in the housing market analysis, lack of affordable housing is a barrier for households at low income levels.

2. Strategy to remove barriers. The City has developed objectives to mitigate barriers to affordable housing, provided below.

Objective No. 1. Provide/make available decent housing for residents.

Specific objectives:

- Use HOME funds to construct new homes for low-to-moderate-income households.

Outcome/5-year goal: 20 units

- Use HOME funds for down payment and closing cost assistance to moderate-income households

Outcome/5-year goal: 25 households

living environment and expand economic opportunities, principally for low- and moderate-income persons.

NOTE: Each specific objective developed to address a priority need, must be identified by number and contain proposed accomplishments, the time period (i.e., one, two, three, or more years), and annual program year numeric goals the jurisdiction hopes to achieve in quantitative terms, or in other measurable terms as identified and defined by the jurisdiction.

3-5 Year Strategic Plan Community Development response:

1 and 2. Non-housing community development needs. Please see the Needs tables for the City's priority level for housing and community development activities. The City prioritized its community development activities largely in response to the needs identified in the public meetings and stakeholder interviews. Community development needs included: code enforcement; affordable and accessible health care; development of the infrastructure (street paving, sewer, etc.) to help with affordable housing development and neighborhood revitalization; redevelopment/revitalization of older parts of the city; youth programs; senior programs; public transportation; job training; small business assistance; and park/recreational areas.

Given the top needs identified, the City has developed the following priorities for funding community development requests over the course of the Consolidated Plan:

Priority No. 1. (High): Neighborhood revitalization through code enforcement and infrastructure improvements.

Specific objectives:

- Use CDBG funds to develop parks and recreation facilities for low-income areas.

Outcome/5-year goal: 2 public facilities

- Use CDBG funds to improve water/sewer systems by upgrading waterlines, improve safety through flood draining improvements and construct, replace or repair streets and sidewalks.

Outcome/5-year goal: 5 public facilities

- Use CDBG funds to reduce deterioration of neighborhoods through code enforcement emphasizing property maintenance of substandard home.

Outcome/5-year goal: 2,500 persons

Priority No. 2. (High): Support the local public transportation.

Specific objectives:

- Use CDBG funds to support and increase affordable and accessible public transportation services for low-income seniors and disabled adults.

Outcome/5-year goal: 1,000 persons

Priority No. 3. (High): Affordable and available health care.

How would you “fix housing”?

- Assist single parents with improving their credit scores and provide education and assistance to purchase a home.
- Build Tax Credit housing in areas of town with need
- Continue what the City is doing with CDBG and other grant funds by developing more well built concrete block homes that are energy efficient in good neighborhoods.
- Continue with the rehabilitation needs of homes.
- Develop the infrastructure (streets, sewer, etc.) to help with affordable housing development.
- Education of home repairs
- Help senior citizens on a fixed income with home maintenance and utility assistance. Help bring these homes up to code.
- Provide/promote an educational component that includes financial literacy and home maintenance
- Provide incentives for homeownership and do home buyer planning
- Target Insulating Concrete Form (ICF) houses
- Target small minority operated construction companies to build affordable housing

Future demand for housing:

- Demand for emergency shelters
- Population shifts
- The more you neglect an area the worse it will become.
- The senior citizen population will increase and the demand for more garden style homes will increase. So far the private market has responded to meet that demand.
- There will be more rentals due to credit tightening

What makes Lubbock unique in terms of its housing situation?

- Economy does not fluctuate as much as around the country
- Lubbock is a conservative community that supports low property taxes. Its population is hard working with unemployment around 4 percent. The economy is expanding, even now, and is looking for people to come and work. This is not a declining city. **It is a younger city with needs of improving the older areas.**
- Recession proof and a good economy

- The East and North parts of the City are older and if the neighborhoods are not maintained the infrastructure and homes will deteriorate.
- The East side of the city has many positives: it is the most beautiful part of the city; there is a major thoroughfare; there is a lot of property that can be developed; infrastructure is close by (water treatment and airport); and industry is close by.

High priority community development needs:

- CDBG funds have been declining and spending on social services has been cut. Would like to see more CDBG funds.
- Community clinics have long waiting lists and affordable health care is needed, especially dental care
- Continue to support for Citibus. It is an important mode of transportation that helps the disabled community and also workers get to where they need to go.
- Families with no health insurance
- Fix sidewalks and pave streets in District 1
- Improve infrastructure, especially water quality, in the older parts of Lubbock
- Street paving is needed in some subdivisions in the targeted areas. Community Development has paved quite a number of streets and that seems to help the area.
- The need for senior citizen services will increase in the future, therefore good medical care is important.
- The North and East part of town need attention. These areas have schools that are poor and older, more crime, an aged infrastructure and the market is not there. The City could assist by providing incentives to promote redevelopment.

Areas in City that are lacking community services:

- 34th and Boston areas needs new development and transportation
- 65th and Avenue P area is lacking social services and youth activities
- East and North side of the City are historically underserved, District 1 and 2.
- East of Avenue Q needs to focus on activities other than athletics
- Would like to see some of the Gateway Fund go toward redevelopment in the older parts of the City

Volume 4, Tab 13

COMMUNITY REVITALIZATION or HISTORIC PRESERVATION (§49.9(a)(13))

The Application proposes:

- Community Revitalization**- the Development includes the use of an Existing Residential Development and proposes any Rehabilitation or any Reconstruction that is part of a Community Revitalization Plan. (§42(m)(1)(C)(iii))

Evidence to be provided to satisfy this requirement:

- Volume 2, Tab 1, Part B- 2011 Existing Residential Development Certification Form* is present in Volume 2, and is fully executed.

AND

- A letter from the Appropriate Local Official stating there is a Community Revitalization Plan in effect and the Development is within the area covered by the plan.

If the Applicant is unable to obtain a letter from an Appropriate Local Official, then the following must be provided:

- If the Community Revitalization Plan has specific boundaries, a copy of the Plan adopted by the jurisdiction or its designee and a map showing that the Development is within the area covered by the Community Revitalization Plan.

- Historic Preservation** - The Development includes the use of an existing building that is designated as historic by a federal or state Entity and proposes Rehabilitation (including Reconstruction) or Adaptive Reuse.

Evidence to be provided includes:

- The Development **includes*** the use of an existing building that is designated as historic by a federal or state entity and proposes Rehabilitation (including reconstruction) or Adaptive Reuse.
- Proof of the historic designation from the appropriate Governmental Body is included.
- Letter from the Texas Historical Commission indicating the effect of the proposed rehabilitation on historical structure is included.

***The Development itself must have the designation; points in this subparagraph are not available for Developments simply located within historic districts or areas that do not have a designation on the building. The Development must include the historic building.**

- Rehabilitation** - Application proposes to build solely Rehabilitation.
- Reconstruction** - Application proposes to build solely Reconstruction.
- Adaptive Reuse** - Application proposes to build solely Adaptive Reuse.

- New Construction** - the Development is New Construction and is proposed to be located in an area that is part of a Community Revitalization Plan.

Evidence to be provided includes one of the following:

Evidence to be provided to satisfy this requirement:

- A letter from the Appropriate Local Official stating there is a Community Revitalization Plan in effect and the Development is within the area covered by the plan.

If the Applicant is unable to obtain a letter from an Appropriate Local Official, then the following must be provided:

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REMEMBER TO PLACE YOUR EVIDENCE BEHIND THIS FORM

funds is requested and \$1M is used for #5 and the other \$1M is used for #26, this is allowed.

Q3: Is a resolution from the local unit of government only required if we are seeking TDHCA HOME funds for this scoring item? This resolution from the city or county is NOT required for either local CDBG or HOME (participating jurisdictions) funds or loans from a valid Housing Finance Corporation, correct?

A3: A resolution is required if an Applicant is seeking TDHCA HOME funds to use on behalf of the local unit of government, these resolutions are due with the application on March 1st. A resolution is not required for local CDBG or HOME funds. For Housing Finance Corporations, a resolution would be needed if the HFC is loaning or granting funds outside of its jurisdiction. Typically a development that receives an award of tax credits must prove up all financing, including that from an HFC, by Commitment. So, if an HFC provided funding in any form to the development the Applicant will be required to provide an executed Inter-local Agreement in cases where the HFC is providing funds to an area that is outside of its jurisdiction. It has been the Department's experience that in order for an Applicant to obtain an Inter-local Agreement between the HFC and the local unit of government, the local unit of government has to approve such agreement by vote or resolution.

§49.9(a)(6) Selection - Support from State Representative or State Senator

Q1: What if an Applicant gets two letters - one support and one opposition letter and then later the opposition letter is retracted does the Application still get the 14 points?

A1: The opposition letter cannot change to support unless it is before April 1 but if the opposition is withdrawn then that letter score would result in a neutral score and the other letter would still have 14 points awarded.

§49.9(a)(9) Selection - Tenant Services

Q1: Will the LURA still permit changes in the services over the years without an amendment?

A1: No. Because each of the tenant service options have different point values if the services change over the years, this will require both an amendment to the Application as well as an amendment to the LURA.

§49.9(a)(13) Selection - Community Revitalization, Historic Preservation, Rehabilitation

Q1: Is the community revitalization form going to specify that the new construction option is only 3 points while the other options are 6 points? The draft application on the website does not specify.

A1: Yes, the final application has made that distinction.

Q2: Can the Community Revitalization Plan for new construction be substantiated with a letter from the Governing Body stating that the Development Site is located within the targeted geographic areas outlined in the Community Revitalization Plan?

A2: A letter from the Appropriate Local Official stating there is a Community Revitalization Plan in effect and the Development is within the area covered by the plan is acceptable. If the letter comes from the Governing Body, the Department will accept this also.

§49.9(a)(15) Selection - Green Building Amenities

Q1: What happens if you select LEED certification and get points at application, but subsequently cannot substantiate at Cost Certification?

A1: The Department strongly discourages the selection of any amenity that they believe will not ultimately be implemented into the Development as proposed. If LEED certification

§49.9(a)(13) Community Revitalization, Historic Preservation, or Rehabilitation (Tab 12)

Community Revitalization Plan:

- ❑ An Application may qualify to receive 6 points if the Development proposes any Rehabilitation or Reconstruction that is part of a Community Revitalization Plan. (Volume 4, Tab 12)

❖ *Required documents for evidence:*

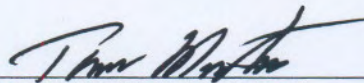
- A letter from the Governing Body stating that the Development Site is located within the targeted geographic areas outlined in the Community Revitalization Plan. OR
- A copy of the Community Revitalization Plan and any referenced documents IF the plan has specific boundaries; **AND**
- **If providing a copy because the plan has specific boundaries, then also provide proof of adoption by the jurisdiction (typically the Unit of General Local Government) or its designee. Evidence will be in the form of an ordinance, resolution or other written evidence of vote.**

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

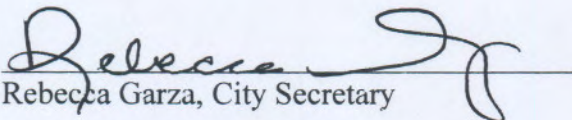
THAT the Mayor of the City of Lubbock BE and is hereby authorized and directed to execute for and on behalf of the City of Lubbock, a Resolution approving the City of Lubbock 2009-2013 Consolidated Plan as recommended by the Community Development and Services Board (CDSB) to be submitted to the U. S. Department of Housing and Urban Development (HUD), and all related documents. Said Plan is attached hereto and incorporated in this Resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council this 23rd day of June, 2009.



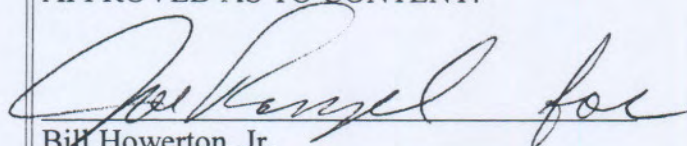
TOM MARTIN, MAYOR

ATTEST:



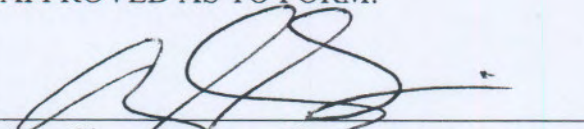
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Bill Howerton, Jr.
Community Development Director

APPROVED AS TO FORM:



Amy Sims, Assistant City Attorney



June 15, 2011

Email to: raquel.morales@tdhca.state.tx.us

Mrs. Raquel Morales, Housing Tax Credit Administrator
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701-2410

RE: TDHCA # 11169– Merritt Bryan Station Senior Village;
Challenge to Quantifiable Community Participation Points

Dear Raquel,

This letter is to register a challenge to the award of twenty-four (24) points for Quantifiable Community Participation to Merritt Bryan Station Senior Village (the “Project”). In that regard, we wish to direct your attention to the following information. Please note that the supporting documentation for each paragraph below is attached under the number of the paragraph.:

1. DBB Old Reliance, LLC is the Seller of the site for the Project (the “Seller”). The Commercial Contract – Unimproved Property provided in the Project’s tax credit application shows that Blake A. Rue is the Managing Member of the Seller. The Special Warranty Deed with Vendor’s Lien into the Seller indicates that the Seller bought the site for the Project on November 23, 2010.
2. The records of the Secretary of State of Texas indicate that the Seller was organized by Blake Rue on November 9, 2010. Blake Andrew Rue is the Registered Agent and Blake Andrew Rue is one of three Managing Members. The other two Managing Members are David Middleton and Britt Hall Benton.
3. The broker representing the Seller is Oryx Commercial Properties, LLC, and the contact address for that broker is britt@oryxproperties.net. (see Commercial Contract – Unimproved Property enclosed under attachment 1). A TREC licensee Info Search (copy enclosed) indicates that Britt Hall Benton is a broker. The Secretary of State’s records indicate that Britt H. Benton is the Managing Member of Oryx Commercial Properties, LLC.

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Challenge - TDHCA #11169 – Merritt Bryan Station Senior Village

4. The Project received a letter of support from Old Reliance Neighborhood Association (the “Association”), for which the Project was awarded 24 points. The letter of support (copy attached) shows that Blake Rue is an additional contact for the Association and is a Director of the Association.
5. The records of the Secretary of State of Texas indicate that the Association was organized on November 30, 2010. Blake Rue was the Organizer of the Association and currently serves as the Registered Agent of the Association and is one of three directors. The other two directors are shown to be Abigail Pfister-Rue (who shares an address with Blake Rue) and Britt Benton.
6. The Notice of Old Reliance Neighborhood Association Meeting Agenda for a meeting on February 25, 2011 (less than a week prior to the TDHCA application filing deadline) indicates that of the four individuals physically present, Blake Rue and Britt Benton were two of those persons. The document does not indicate that the persons present are Members. Four persons were also present by proxy. Blake A. Rue signed the document as the Secretary of the Association.
7. On October 16, 2010, the American-Statesman newspaper in Austin ran a story titled “Investors form neighborhood groups to help get public financing for housing”. In that article, Blake Rue and Britt Benton were identified as the organizers of four neighborhood associations during the past three years – in Leander, Hutto, Buda and Schertz. Blake Rue is stated to have said that he discovered a niche business in which he works as a combination advance man and fixer for tax credit developers – first finding sites whose neighbors appear willing to accept low-income senior housing developments, then buying the land through a company and assisting the neighbors in forming an association to give quantifiable community participation support to qualify the proposed project for maximum points.
8. Blake Rue was the Principal of the seller of each of the following TDHCA applications. Colby Dennison was the Principal of the developer of each of these applications. Copies of the earnest money contracts are provided.
 - a. 08253 – Creekside Villas Senior Village – Buda, TX
 - b. 09138 – Belmont Senior Village – Leander, TX
 - c. 10040 – Ashton Senior Village – Schertz, TX
 - d. 11169– Merritt Bryan Station Senior Village – Bryan, TX

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Challenge - TDHCA #11169 – Merritt Bryan Station Senior Village

9. Blake Rue, Britt Benton and Colby Dennison appear to have been collaborating on the tax credit applications in the manner set forth in the American-Statesman since at least 2008. The scheme under which they work is that Blake Rue and Britt Benton find the land, buy the land, create the neighborhood organization, organize the neighborhood organization, are shown as members of the neighborhood organization (**regardless of the fact that they do not reside in the neighborhood**) and vote to support the Colby Dennison tax credit development.
10. Based on the course of conduct, it is clear that Messrs. Rue and Benton are acting as “agents” for Colby Dennison and, as such, their actions violate the TDHCA rules for obtaining points for quantifiable community participation. Further, the certification provided in the tax credit application that the organization was not formed by the applicant or any employee or agent of any applicant “... is not correct.”

Because this association was formed by an agent of the Applicant the organization does not qualify as a “Neighborhood Organization” and the Applicant should not receive the 24 points.

Thank you for this opportunity to bring the circumstances to your attention.

Sincerely,

~~MGROUP HOLDINGS, INC.~~



Mark D. Musemeche

cc: Mrs. Robbye Meyer

Attachments

1



TEXAS ASSOCIATION OF REALTORS®
COMMERCIAL CONTRACT - UNIMPROVED PROPERTY

USE OF THIS FORM BY PERSONS WHO ARE NOT MEMBERS OF THE TEXAS ASSOCIATION OF REALTORS® IS NOT AUTHORIZED.
©Texas Association of REALTORS®, Inc. 2010

1. **PARTIES:** Seller agrees to sell and convey to Buyer the Property described in Paragraph 2. Buyer agrees to buy the Property from Seller for the sales price stated in Paragraph 3. The parties to this contract are:

Seller: DBB Old Reliance, LLC
Address: P.O.Box 302663, Austin, Tx 78703
Phone: (512) 294-4017 Fax: _____
E-mail: blake@rueinvestments.com

Buyer: Denison Construction, Inc.
Address: 3701 N. Lamar, Suite 206, Austin, TX 78705
Phone: (512) 732-1226 Fax: _____
E-mail: colby@denisondevelopment.com

2. **PROPERTY:**

A. "Property" means that real property situated in Brazos County, Texas at Old Reliance Road (address) and that is legally described on the attached Exhibit A or as follows:

10.05 acres out of 24.96 acres as described in Exhibit "A."

B. Seller will sell and convey the Property together with:
(1) all rights, privileges, and appurtenances pertaining to the Property, including Seller's right, title, and interest in any minerals, utilities, adjacent streets, alleys, strips, gores, and rights-of-way;
(2) Seller's interest in all leases, rents, and security deposits for all or part of the Property; and
(3) Seller's interest in all licenses and permits related to the Property.

*(Describe any exceptions, reservations, or restrictions in Paragraph 12 or an addendum.)
(If mineral rights are to be reserved an appropriate addendum should be attached.)*

3. **SALES PRICE:**

A. At or before closing, Buyer will pay the following sales price for the Property:

(1) Cash portion payable by Buyer at closing \$ 1,400,000.00
(2) Sum of all financing described in Paragraph 4 \$ _____
(3) Sales price (sum of 3A(1) and 3A(2)) \$ 1,400,000.00

(TAR-1802) 1-26-10 Initialed for Identification by Seller B.P. and Buyer CD Page 1 of 13

Commercial Contract - Unimproved Property Concerning Old Relaince Road

B. Adjustment to Sales Price: (Check (1) or (2) only.)

- (1) The sales price will not be adjusted based on a survey.
- (2) The sales price will be adjusted based on the latest survey obtained under Paragraph 6B.
 - (a) The sales price is calculated on the basis of \$ _____ per:
 - (i) square foot of total area net area.
 - (ii) acre of total area net area.
 - (b) "Total area" means all land area within the perimeter boundaries of the Property. "Net area" means total area less any area of the Property within:
 - (i) public roadways;
 - (ii) rights-of-way and easements other than those that directly provide utility services to the Property; and
 - (iii) _____.
 - (c) If the sales price is adjusted by more than _____ % of the stated sales price, either party may terminate this contract by providing written notice to the other party within _____ days after the terminating party receives the survey. If neither party terminates this contract or if the variance is less than the stated percentage, the adjustment to the sales price will be made to the cash portion of the sales price payable by Buyer.

4. **FINANCING:** Buyer will finance the portion of the sales price under Paragraph 3A(2) as follows:

- A. Third Party Financing: One or more third party loans in the total amount of \$ _____ This contract:
 - (1) is not contingent upon Buyer obtaining third party financing.
 - (2) is contingent upon Buyer obtaining third party financing in accordance with the attached Commercial Contract Financing Addendum.
- B. Assumption: In accordance with the attached Commercial Contract Financing Addendum, Buyer will assume the existing promissory note secured by the Property, which balance at closing will be \$ _____.
- C. Seller Financing: The delivery of a promissory note and deed of trust from Buyer to Seller under the terms of the attached Commercial Contract Financing Addendum in the amount of \$ _____.

5. **EARNEST MONEY:**

- A. Not later than 3 days after the effective date, Buyer must deposit \$ 15,000.00 as earnest money with Heritage Title Company Attn: Brenda Hindsman (escrow agent) at 401 Congress Ave, 15th Floor, Austin (address) Texas 78701 (closer). If Buyer fails to timely deposit the earnest money, Seller may terminate this contract or exercise any of Seller's other remedies under Paragraph 15 by providing written notice to Buyer before Buyer deposits the earnest money.
- B. Buyer will deposit an additional amount of \$ _____ with the escrow agent to be made part of the earnest money on or before:
 - (i) _____ days after Buyer's right to terminate under Paragraph 7B expires; or
 - (ii) _____.
 Buyer will be in default if Buyer fails to deposit the additional amount required by this Paragraph 5B within 3 days after Seller notifies Buyer that Buyer has not timely deposited the additional amount.
- C. Buyer may instruct the escrow agent to deposit the earnest money in an interest-bearing account at a federally insured financial institution and to credit any interest to Buyer.

Commercial Contract - Unimproved Property Concerning Old Reliance Road

6. TITLE POLICY AND SURVEY:

A. Title Policy:

- (1) Seller, at Seller's expense, will furnish Buyer an Owner's Policy of Title Insurance (the title policy) issued by Heritage Title Company (title company) in the amount of the sales price, dated at or after closing, insuring Buyer against loss under the title policy, subject only to:
 - (a) those title exceptions permitted by this contract or as may be approved by Buyer in writing; and
 - (b) the standard printed exceptions contained in the promulgated form of title policy unless this contract provides otherwise.

- (2) The standard printed exception as to discrepancies, conflicts, or shortages in area and boundary lines, or any encroachments or protrusions, or any overlapping improvements:
 - (a) will not be amended or deleted from the title policy.
 - (b) will be amended to read "shortages in areas" at the expense of Buyer Seller.

- (3) Within 15 days after the effective date, Seller will furnish Buyer a commitment for title insurance (the commitment) including legible copies of recorded documents evidencing title exceptions. Seller authorizes the title company to deliver the commitment and related documents to Buyer at Buyer's address.

B. Survey: Within 220 days after the effective date:

- (1) Buyer will obtain a survey of the Property at Buyer's expense and deliver a copy of the survey to Seller. The survey must be made in accordance with the: (i) ALTA/ACSM Land Title Survey standards, or (ii) Texas Society of Professional Surveyors' standards for a Category 1A survey under the appropriate condition.

- (2) Seller, at Seller's expense, will furnish Buyer a survey of the Property dated after the effective date. The survey must be made in accordance with the: (i) ALTA/ACSM Land Title Survey standards, or (ii) Texas Society of Professional Surveyors' standards for a Category 1A survey under the appropriate condition.

- (3) Seller will deliver to Buyer and the title company a true and correct copy of Seller's most recent survey of the Property along with an affidavit required by the title company for approval of the existing survey. If the existing survey is not acceptable to the title company, Seller, at Seller's expense, will obtain a new or updated survey acceptable to the title company and deliver the acceptable survey to Buyer and the title company within 20 days after Seller receives notice that the existing survey is not acceptable to the title company. The closing date will be extended daily up to 20 days if necessary for Seller to deliver an acceptable survey within the time required. Buyer will reimburse Seller _____ (insert amount) of the cost of the new or updated survey at closing, if closing occurs.

C. Buyer's Objections to the Commitment and Survey:

- (1) Within 220 days after Buyer receives the commitment, copies of the documents evidencing the title exceptions, and any required survey, Buyer may object in writing to matters disclosed in the items if: (a) the matters disclosed are a restriction upon the Property or constitute a defect or encumbrance to title other than those permitted by this contract or liens that Seller will satisfy at closing or Buyer will assume at closing; or (b) the items show that any part of the Property lies in a special flood hazard area (an "A" or "V" zone as defined by FEMA). If Paragraph 6B(1) applies, Buyer is deemed to receive the survey on the earlier of: (i) the date of Buyer's actual receipt of the survey; or (ii) of the deadline specified in Paragraph 6B.

Commercial Contract - Unimproved Property Concerning Old Reliance Road

- (2) Seller may, but is not obligated to, cure Buyer's timely objections within 15 days after Seller receives the objections. The closing date will be extended as necessary to provide such time to cure the objections. If Seller fails to cure the objections by the time required, Buyer may terminate this contract by providing written notice to Seller within 5 days after the time by which Seller must cure the objections. If Buyer terminates, the earnest money, less any independent consideration under Paragraph 7B(1), will be refunded to Buyer.
- (3) Buyer's failure to timely object or terminate under this Paragraph 6C is a waiver of Buyer's right to object except that Buyer will not waive the requirements in Schedule C of the commitment.

7. PROPERTY CONDITION:

A. Present Condition: Buyer accepts the Property in its present condition except that Seller, at Seller's expense, will complete the following before closing: _____

B. Feasibility Period: Buyer may terminate this contract for any reason within 220 days after the effective date (feasibility period) by providing Seller written notice of termination. (Check only one box.)

(1) If Buyer terminates under this Paragraph 7B, the earnest money will be refunded to Buyer less \$ 100.00 that Seller will retain as independent consideration for Buyer's unrestricted right to terminate. Buyer has tendered the independent consideration to Seller upon payment of the amount specified in Paragraph 5A to the escrow agent. The independent consideration is to be credited to the sales price only upon closing of the sale. If no dollar amount is stated in this Paragraph 7B(1) or if Buyer fails to deposit the earnest money, Buyer will not have the right to terminate under this Paragraph 7B.

(2) Not later than 3 days after the effective date, Buyer must pay Seller \$ _____ as independent consideration for Buyer's right to terminate by tendering such amount to Seller or Seller's agent. If Buyer terminates under this Paragraph 7B, the earnest money will be refunded to Buyer and Seller will retain the independent consideration. The independent consideration will be credited to the sales price only upon closing of the sale. If no dollar amount is stated in this Paragraph 7B(2) or if Buyer fails to pay the independent consideration, Buyer will not have the right to terminate under this Paragraph 7B.

C. Inspections, Studies, or Assessments:

(1) During the feasibility period, Buyer, at Buyer's expense, may complete or cause to be completed any and all inspections, studies, or assessments of the Property (including all improvements and fixtures) desired by Buyer.

- (2) Buyer must:
 - (a) employ only trained and qualified inspectors and assessors;
 - (b) notify Seller, in advance, of when the inspectors or assessors will be on the Property;
 - (c) abide by any reasonable entry rules or requirements of Seller;
 - (d) not interfere with existing operations or occupants of the Property; and
 - (e) restore the Property to its original condition if altered due to inspections, studies, or assessments that Buyer completes or causes to be completed.

(3) Except for those matters that arise from the negligence of Seller or Seller's agents, Buyer is responsible for any claim, liability, encumbrance, cause of action, and expense resulting from

(TAR-1802) 1-26-10 Initialed for Identification by Seller BR, _____ and Buyer CD, _____

Commercial Contract - Unimproved Property Concerning Old Relaince Road

Buyer's inspections, studies, or assessments, including any property damage or personal injury. Buyer will indemnify, hold harmless, and defend Seller and Seller's agents against any claim involving a matter for which Buyer is responsible under this paragraph. This paragraph survives termination of this contract.

D. Property Information:

- (1) Delivery of Property Information: Within 30 days after the effective date, Seller will deliver to Buyer:
 - (a) copies of all current leases pertaining to the Property, including any modifications, supplements, or amendments to the leases;
 - (b) copies of all notes and deeds of trust against the Property that Buyer will assume or that Seller will not pay in full on or before closing;
 - (c) copies of all previous environmental assessments, geotechnical reports, studies, or analyses made on or relating to the Property;
 - (d) copies property tax statements for the Property for the previous 2 calendar years;
 - (e) plats of the Property;
 - (f) copies of current utility capacity letters from the Property's water and sewer service provider; and
 - (g) _____

- (2) Return of Property Information: If this contract terminates for any reason, Buyer will, not later than 10 days after the termination date: (a) return to Seller all those items described in Paragraph 7D(1) that Seller delivered to Buyer and all copies that Buyer made of those items; and (b) deliver copies of all inspection and assessment reports related to the Property that Buyer completed or caused to be completed. This Paragraph 7D(2) survives termination of this contract.

E. Contracts Affecting Operations: Until closing, Seller: (1) will operate the Property in the same manner as on the effective date under reasonably prudent business standards; and (2) will not transfer or dispose of any part of the Property, any interest or right in the Property, or any of the personal property or other items described in Paragraph 2B or sold under this contract. After the feasibility period ends, Seller may not enter into, amend, or terminate any other contract that affects the operations of the Property without Buyer's written approval.

8. LEASES:

- A. Each written lease Seller is to assign to Buyer under this contract must be in full force and effect according to its terms. Seller may not enter into any new lease, fail to comply with any existing lease, or make any amendment or modification to any existing lease without Buyer's written consent. Seller must disclose, in writing, if any of the following exist at the time Seller provides the leases to the Buyer or subsequently occur before closing:
 - (1) any failure by Seller to comply with Seller's obligations under the leases;
 - (2) any circumstances under any lease that entitle the tenant to terminate the lease or seek any offsets or damages;
 - (3) any advance sums paid by a tenant under any lease;
 - (4) any concessions, bonuses, free rents, rebates, brokerage commissions, or other matters that affect any lease; and
 - (5) any amounts payable under the leases that have been assigned or encumbered, except as security for loan(s) assumed or taken subject to under this contract.

B. Estoppel Certificates: Within NA days after the effective date, Seller will deliver to Buyer estoppel certificates signed not earlier than _____ by each tenant that leases space in the Property. The estoppel certificates must include the certifications contained in the current version

(TAR-1802) 1-26-10 Initialed for Identification by Seller BR., _____ and Buyer Q, _____

Commercial Contract - Unimproved Property Concerning Old Relaince Road

of TAR Form 1938 – Commercial Tenant Estoppel Certificate and any additional information requested by a third party lender providing financing under Paragraph 4 if the third party lender requests such additional information at least 10 days prior to the earliest date that Seller may deliver the signed estoppel certificates.

9. BROKERS:

A. The brokers to this sale are:

Oryx Commercial Properties, LLC

Principal Broker 0437687 License No.

E. Ted Davis & Associates

Cooperating Broker 0323139 License No.

Agent

Agent

2403 Rockmoor Ave.

50 Briar Hollow Ln.

Address

Address

Austin, Texas 78703

Houston, Texas, 77027

(512) 636-6076

(713) 552-1920

Phone

Fax

Phone

Fax

britt@oryxproperties.net

E-Mail

E-Mail

Principal Broker: (Check only one box.)

Cooperating Broker represents Buyer.

represents Seller only.

represents Buyer only.

is an intermediary between Seller and Buyer.

B. Fees: (Check only (1) or (2) below.)

(1) Seller will pay Principal Broker the fee specified by separate written commission agreement between Principal Broker and Seller. Principal Broker will pay Cooperating Broker the fee specified in the Agreement Between Brokers found below the parties' signatures to this contract.

(2) At the closing of this sale, Seller will pay:

Principal Broker a total cash fee of:

Cooperating Broker a total cash fee of:

3.000 % of the sales price.

3.000 % of the sales price.

The cash fees will be paid in Travis County, Texas. Seller authorizes escrow agent to pay the brokers from the Seller's proceeds at closing.

NOTICE: Chapter 62, Texas Property Code, authorizes a broker to secure an earned commission with a lien against the Property.

C. The parties may not amend this Paragraph 9 without the written consent of the brokers affected by the amendment.

10. CLOSING:

A. The date of the closing of the sale (closing date) will be on or before the later of:

(1) _____ days after the expiration of the feasibility period.

September 30, 2011 (specific date).

(2) 7 days after objections made under Paragraph 6C have been cured or waived.

B. If either party fails to close by the closing date, the non-defaulting party may exercise the remedies in Paragraph 15.

Commercial Contract - Unimproved Property Concerning Old Relaince Road

C. At closing, Seller will execute and deliver, at Seller's expense, a general special warranty deed. The deed must include a vendor's lien if any part of the sales price is financed. The deed must convey good and indefeasible title to the Property and show no exceptions other than those permitted under Paragraph 6 or other provisions of this contract. Seller must convey the Property:
(1) with no liens, assessments, or other security interests against the Property which will not be satisfied out of the sales price, unless securing loans Buyer assumes;
(2) without any assumed loans in default; and
(3) with no persons in possession of any part of the Property as lessees, tenants at sufferance, or trespassers except tenants under the written leases assigned to Buyer under this contract.

D. At closing, Seller, at Seller's expense, will also deliver to Buyer:
(1) tax statements showing no delinquent taxes on the Property;
(2) an assignment of all leases to or on the Property;
(3) to the extent assignable, an assignment to Buyer of any licenses and permits related to the Property;
(4) evidence that the person executing this contract is legally capable and authorized to bind Seller;
(5) an affidavit acceptable to the escrow agent stating that Seller is not a foreign person or, if Seller is a foreign person, a written authorization for the escrow agent to: (i) withhold from Seller's proceeds an amount sufficient to comply applicable tax law; and (ii) deliver the amount to the Internal Revenue Service (IRS) together with appropriate tax forms; and
(6) any notices, statements, certificates, affidavits, releases, and other documents required by this contract, the commitment, or law necessary for the closing of the sale and issuance of the title policy, all of which must be completed by Seller as necessary.

E. At closing, Buyer will:
(1) pay the sales price in good funds acceptable to the escrow agent;
(2) deliver evidence that the person executing this contract is legally capable and authorized to bind Buyer;
(3) sign and send to each tenant in a lease for any part of the Property a written statement that:
(a) acknowledges Buyer has received and is responsible for the tenant's security deposit; and
(b) specifies the exact dollar amount of the security deposit;
(4) sign an assumption of all leases then in effect; and
(5) execute and deliver any notices, statements, certificates, or other documents required by this contract or law necessary to close the sale.

F. Unless the parties agree otherwise, the closing documents will be as found in the basic forms in the current edition of the State Bar of Texas Real Estate Forms Manual without any additional clauses.

11. POSSESSION: Seller will deliver possession of the Property to Buyer upon closing and funding of this sale in its present condition with any repairs Seller is obligated to complete, ordinary wear and tear excepted. Any possession by Buyer before closing or by Seller after closing that is not authorized by a separate written lease agreement is a landlord-tenant at sufferance relationship between the parties.

12. SPECIAL PROVISIONS: (If special provisions are contained in an Addendum, identify the Addendum here and reference the Addendum in Paragraph 22D.)

Commercial Contract - Unimproved Property Concerning Old Relaince Road

13. SALES EXPENSES:

- A. **Seller's Expenses:** Seller will pay for the following at or before closing:
 - (1) releases of existing liens, other than those liens assumed by Buyer, including prepayment penalties and recording fees;
 - (2) release of Seller's loan liability, if applicable;
 - (3) tax statements or certificates;
 - (4) preparation of the deed;
 - (5) one-half of any escrow fee;
 - (6) costs to record any documents to cure title objections that Seller must cure; and
 - (7) other expenses that Seller will pay under other provisions of this contract.

- B. **Buyer's Expenses:** Buyer will pay for the following at or before closing:
 - (1) all loan expenses and fees;
 - (2) preparation of any deed of trust;
 - (3) recording fees for the deed and any deed of trust;
 - (4) premiums for flood insurance as may be required by Buyer's lender;
 - (5) one-half of any escrow fee;
 - (6) other expenses that Buyer will pay under other provisions of this contract.

14. PRORATIONS:

- A. **Prorations:**
 - (1) Interest on any assumed loan, taxes, rents, and any expense reimbursements from tenants will be prorated through the closing date.
 - (2) If the amount of ad valorem taxes for the year in which the sale closes is not available on the closing date, taxes will be prorated on the basis of taxes assessed in the previous year. If the taxes for the year in which the sale closes vary from the amount prorated at closing, the parties will adjust the prorations when the tax statements for the year in which the sale closes become available. This Paragraph 14A(2) survives closing.
 - (3) If Buyer assumes a loan or is taking the Property subject to an existing lien, Seller will transfer all reserve deposits held by the lender for the payment of taxes, insurance premiums, and other charges to Buyer at closing and Buyer will reimburse such amounts to Seller by an appropriate adjustment at closing.

- B. **Rollback Taxes:** If Seller changes the use of the Property before closing or if a denial of a special valuation on the Property claimed by Seller results in the assessment of additional taxes, penalties, or interest (assessments) for periods before closing, the assessments will be the obligation of the Seller. If this sale or Buyer's use of the Property after closing results in additional assessments for periods before closing, the assessments will be the obligation of Buyer. This Paragraph 14B survives closing.

- C. **Rent and Security Deposits:** At closing, Seller will tender to Buyer all security deposits and the following advance payments received by Seller for periods after closing: prepaid expenses, advance rental payments, and other advance payments paid by tenants. Rents prorated to one party but received by the other party will be remitted by the recipient to the party to whom it was prorated within 5 days after the rent is received. This Paragraph 14C survives closing.

15. DEFAULT:

- A. If Buyer fails to comply with this contract, Buyer is in default and Seller may:
 - (1) terminate this contract and receive the earnest money, as liquidated damages and as Seller's sole remedy; or
 - (2) seek any other relief provided by law. Seller may may not enforce specific performance.

(TAR-1802) 1-28-10 Initialed for Identification by Seller BR, _____ and Buyer CD, _____

Commercial Contract - Unimproved Property Concerning _____

Old Reliance Road

- B. If, without fault, Seller is unable within the time allowed to deliver the estoppel certificates, survey or the commitment, Buyer may:
- (1) terminate this contract and receive the earnest money, less any independent consideration under Paragraph 7B(1), as liquidated damages and as Buyer's sole remedy; or
 - (2) extend the time for performance up to 15 days and the closing will be extended as necessary.
- C. Except as provided in Paragraph 15B, if Seller fails to comply with this contract, Seller is in default and Buyer may:
- (1) terminate this contract and receive the earnest money, less any independent consideration under Paragraph 7B(1), as liquidated damages and as Buyer's sole remedy; or
 - (2) enforce specific performance, or seek such other relief as may be provided by law, or both.
- 16. CONDEMNATION:** If before closing, condemnation proceedings are commenced against any part of the Property, Buyer may:
- A. terminate this contract by providing written notice to Seller within 15 days after Buyer is advised of the condemnation proceedings and the earnest money, less any independent consideration paid under Paragraph 7B(1), will be refunded to Buyer; or
 - B. appear and defend in the condemnation proceedings and any award will, at Buyer's election, belong to:
 - (1) Seller and the sales price will be reduced by the same amount; or
 - (2) Buyer and the sales price will not be reduced.
- 17. ATTORNEY'S FEES:** If Buyer, Seller, any broker, or any escrow agent is a prevailing party in any legal proceeding brought under or with relation to this contract or this transaction, such party is entitled to recover from the non-prevailing parties all costs of such proceeding and reasonable attorney's fees. This Paragraph 17 survives termination of this contract.
- 18. ESCROW:**
- A. At closing, the earnest money will be applied first to any cash down payment, then to Buyer's closing costs, and any excess will be refunded to Buyer. If no closing occurs, escrow agent may require payment of unpaid expenses incurred on behalf of the parties and a written release of liability of escrow agent from all parties.
 - B. If one party makes written demand for the earnest money, escrow agent will give notice of the demand by providing to the other party a copy of the demand. If escrow agent does not receive written objection to the demand from the other party within 15 days after the date escrow agent sent the demand to the other party, escrow agent may disburse the earnest money to the party making demand, reduced by the amount of unpaid expenses incurred on behalf of the party receiving the earnest money and escrow agent may pay the same to the creditors.
 - C. Escrow agent will deduct any independent consideration under Paragraph 7B(1) before disbursing any earnest money to Buyer and will pay the independent consideration to Seller.
 - D. If escrow agent complies with this Paragraph 18, each party hereby releases escrow agent from all claims related to the disbursal of the earnest money.
 - E. Notices under this Paragraph 18 must be sent by certified mail, return receipt requested. Notices to escrow agent are effective upon receipt by escrow agent.
 - F. Any party who wrongfully fails or refuses to sign a release acceptable to escrow agent within 7 days after receipt of the request will be liable to the other party for liquidated damages in an amount equal to the sum of: (i) three times the amount of the earnest money; (ii) the earnest money; (iii) reasonable attorney's fees; and (iv) all costs of suit.

Commercial Contract - Unimproved Property Concerning _____

Old Reliance Road

G. Seller Buyer intend(s) to complete this transaction as a part of an exchange of like-kind properties in accordance with Section 1031 of the Internal Revenue Code, as amended. All expenses in connection with the contemplated exchange will be paid by the exchanging party. The other party will not incur any expense or liability with respect to the exchange. The parties agree to cooperate fully and in good faith to arrange and consummate the exchange so as to comply to the maximum extent feasible with the provisions of Section 1031 of the Internal Revenue Code. The other provisions of this contract will not be affected in the event the contemplated exchange fails to occur.

19. MATERIAL FACTS: To the best of Seller's knowledge and belief: *(Check only one box.)*

- A. Seller is not aware of any material defects to the Property except as stated in the attached Property Condition Statement.
- B. Except as otherwise provided in this contract, Seller is not aware of:
 - (1) any subsurface: structures, pits, waste, springs, or improvements;
 - (2) any pending or threatened litigation, condemnation, or assessment affecting the Property;
 - (3) any environmental hazards or conditions that materially affect the Property;
 - (4) whether the Property is or has been used for the storage or disposal of hazardous materials or toxic waste, a dump site or landfill, or any underground tanks or containers;
 - (5) whether radon, asbestos containing materials, urea-formaldehyde foam insulation, lead-based paint, toxic mold (to the extent that it adversely affects the health of ordinary occupants), or other pollutants or contaminants of any nature now exist or ever existed on the Property;
 - (6) any wetlands, as defined by federal or state law or regulation, on the Property;
 - (7) any threatened or endangered species or their habitat on the Property;
 - (8) any present or past infestation of wood-destroying insects in the Property's improvements;
 - (9) any contemplated material changes to the Property or surrounding area that would materially and detrimentally affect the ordinary use of the Property;
 - (10) any condition on the Property that violates any law or ordinance.

(Describe any exceptions to (1)-(10) in Paragraph 12 or an addendum.)

20. NOTICES: All notices between the parties under this contract must be in writing and are effective when hand-delivered, mailed by certified mail return receipt requested, or sent by facsimile transmission to the parties addresses or facsimile numbers stated in Paragraph 1. The parties will send copies of any notices to the broker representing the party to whom the notices are sent.

- A. Seller also consents to receive any notices by e-mail at Seller's e-mail address stated in Paragraph 1.
- B. Buyer also consents to receive any notices by e-mail at Buyer's e-mail address stated in Paragraph 1.

21. DISPUTE RESOLUTION: The parties agree to negotiate in good faith in an effort to resolve any dispute related to this contract that may arise. If the dispute cannot be resolved by negotiation, the parties will submit the dispute to mediation before resorting to arbitration or litigation and will equally share the costs of a mutually acceptable mediator. This paragraph survives termination of this contract. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.

22. AGREEMENT OF THE PARTIES:

- A. This contract is binding on the parties, their heirs, executors, representatives, successors, and permitted assigns. This contract is to be construed in accordance with the laws of the State of Texas. If any term or condition of this contract shall be held to be invalid or unenforceable, the remainder of this contract shall not be affected thereby.
- B. This contract contains the entire agreement of the parties and may not be changed except in writing.
- C. If this contract is executed in a number of identical counterparts, each counterpart is an original and all counterparts, collectively, constitute one agreement.

(TAR-1802) 1-26-10

Initialed for Identification by Seller SR and Buyer CD

Page 10 of 13

Commercial Contract - Unimproved Property Concerning Old Relaince Road

D. Addenda which are part of this contract are: *(Check all that apply.)*

- (1) Property Description Exhibit identified in Paragraph 2;
- (2) Commercial Contract Financing Addendum (TAR-1931);
- (3) Commercial Property Condition Statement (TAR-1408);
- (4) Commercial Contract Addendum for Special Provisions (TAR-1940);
- (5) Notice to Purchaser of Real Property in a Water District (MUD);
- (6) Addendum for Coastal Area Property (TAR-1915);
- (7) Addendum for Property Located Seaward of the Gulf Intracoastal Waterway (TAR-1916);
- (8) Information About Brokerage Services; and
- (9) _____

(Note: Counsel for the Texas Association of REALTORS® (TAR) has determined that any of the foregoing addenda which are promulgated by the Texas Real Estate Commission (TREC) or published by TAR are appropriate for use with this form.)

E. Buyer may may not assign this contract. If Buyer assigns this contract, Buyer will be relieved of any future liability under this contract only if the assignee assumes, in writing, all obligations and liability of Buyer under this contract.

23. TIME: Time is of the essence in this contract. The parties require strict compliance with the times for performance. If the last day to perform under a provision of this contract falls on a Saturday, Sunday, or legal holiday, the time for performance is extended until the end of the next day which is not a Saturday, Sunday, or legal holiday.

24. EFFECTIVE DATE: The effective date of this contract for the purpose of performance of all obligations is the date the escrow agent receipts this contract after all parties execute this contract.

25. ADDITIONAL NOTICES:

- A. Buyer should have an abstract covering the Property examined by an attorney of Buyer's selection, or Buyer should be furnished with or obtain a title policy.
- B. If the Property is situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, Chapter 49, Texas Water Code, requires Seller to deliver and Buyer to sign the statutory notice relating to the tax rate, bonded indebtedness, or standby fees of the district before final execution of this contract.
- C. Notice Required by §13.257, Water Code: "The real property, described below, that you are about to purchase may be located in a certificated water or sewer service area, which is authorized by law to provide water or sewer service to the properties in the certificated area. If your property is located in a certificated area there may be special costs or charges that you will be required to pay before you can receive water or sewer service. There may be a period required to construct lines or other facilities necessary to provide water or sewer service to your property. You are advised to determine if the property is in a certificated area and contact the utility service provider to determine the cost that you will be required to pay and the period, if any, that is required to provide water or sewer service to your property. The undersigned purchaser hereby acknowledges receipt of the foregoing notice at or before the execution of a binding contract for the purchase of the real property described in the notice or at closing of purchase of the real property." The real property is described in Paragraph 2 of this contract.
- D. If the Property adjoins or shares a common boundary with the tidally influenced submerged lands of the state, §33.135 of the Texas Natural Resources Code requires a notice regarding coastal area property to be included as part of this contract.

Commercial Contract - Unimproved Property Concerning Old Reliance Road

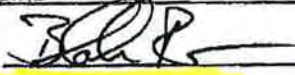
- E. If the Property is located seaward of the Gulf Intracoastal Waterway, §61.025, Texas Natural Resources Code, requires a notice regarding the seaward location of the Property to be included as part of this contract.
- F. If the Property is located outside the limits of a municipality, the Property may now or later be included in the extra-territorial jurisdiction (ETJ) of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and ETJ. To determine if the Property is located within a municipality's ETJ, Buyer should contact all municipalities located in the general proximity of the Property for further information.
- G. Brokers are not qualified to perform property inspections, surveys, engineering studies, environmental assessments, or inspections to determine compliance with zoning, governmental regulations, or laws. Buyer should seek experts to perform such services. Buyer should review local building codes, ordinances and other applicable laws to determine their effect on the Property. Selection of inspectors and repairmen is the responsibility of Buyer and not the brokers.


26. CONTRACT AS OFFER: The execution of this contract by the first party constitutes an offer to buy or sell the Property. Unless the other party accepts the offer by 5:00 p.m., in the time zone in which the Property is located, on January 6, 2011, the offer will lapse and become null and void.

READ THIS CONTRACT CAREFULLY. The brokers and agents make no representation or recommendation as to the legal sufficiency, legal effect, or tax consequences of this document or transaction. **CONSULT** your attorney **BEFORE** signing.

Seller: DDB Old Reliance, LLC Buyer: Denison Construction, Inc.

By: Blake A. Rue By: Colby Denison

By (signature): 
 Printed Name: Blake A. Rue
 Title: Managing Member

By (signature): 
 Printed Name: Colby Denison
 Title: President

By: _____ By: _____

By (signature): _____
 Printed Name: _____
 Title: _____

By (signature): _____
 Printed Name: _____
 Title: _____

THENCE: S 48° 07' 30" E (called S 45° E) continuing along said common line for a distance of 1732.61 feet to a found 1/2-inch iron rod, said iron rod also being in the northwest margin of a public road commonly known as Old Reliance Road;

THENCE: S 41° 53' 00" W (called S 45° W) along said line of Old Reliance Road for a distance of 774.50 feet to a 1/2-inch iron rod set for corner, from whence a found 1/2-inch iron rod marking the most easterly corner of a 24.496 acre State Highway No. 6 (Earl Rudder Freeway) right-of-way tract as described in the Eminent Domain proceedings of the State of Texas, et al vs. F. W. Wheeler, et al, recorded in Volume 275, Page 727, Brazos County Deed Records (B.C.D.R.) bears S 41° 53' 00" W at a distance of 404.05 feet for reference;

THENCE: N 40° 04' 27" W into the interior of the said 102.545 acre tract, said line also being the northeast line of the 100-foot wide Gulf States Utility Company Easement described in Volume 130, Page 434 (B.C.D.R.); for a distance of 802.17 feet to a 1/2-inch iron rod set for corner;

THENCE: N 49° 45' 27" W continuing along said easement line for a distance of 479.25 feet to a 1/2-inch iron rod set for corner;

THENCE: N 36° 01' 39" E for a distance of 260.57 feet to a 1/2-inch iron rod set for corner;

THENCE: N 49° 43' 10" W for a distance of 200.87 feet to a 1/2-inch iron rod set for corner;

THENCE: S 40° 16' 50" W for a distance of 260.00 feet to a 1/2-inch iron rod set for corner, said iron rod also being in the beforementioned northeast line of the Gulf States Utility Company Easement;

THENCE: N 49° 45' 27" W for a distance of 220.00 feet along said easement to a 1/2-inch iron rod set for corner, said iron rod also being in the southeast line of the beforementioned Lot 1, Block 1, Luv Homes Subdivision;

THENCE: N 40° 16' 50" E (Subdivision call N 43° 28' 57" E) along the southeast line of said Lot 1, Block 1 for a distance of 688.62 feet to the POINT OF BEGINNING and containing 26.241 acres of land, more or less;

SAVE AND EXCEPT FROM SAID 26.241 ACRES THE FOLLOWING:

Being all that certain 1.287 acre parcel of land, located in the Stephen F. Austin Survey, Abstract No. 63 in Brazos County and being part of a called 26.241 acre tract from Keith Chunn, Jr., Successor Trustee, pursuant to Declaration of Trust Capacity of Venture 102 to BCS Development Company recorded in Volume 6901, Page 66 of the Official Records of Brazos County, Texas (ORBCT) and being more particularly described as follows:

BEGINNING at a 1/2-iron rod found for the easterly corner of the herin described tract in the existing fenced ROW of Old Reliance Road, said corner being the most easterly corner of the said 26.241 acre tract;

THENCE S 41°53'16" W 774.50 feet along the existing fenced ROW of Old Reliance Road to a 1/2-inch rod found for the most southerly corner of the said 26.241 acre tract;

THENCE N 40°04'27" W 78.98 feet along the southwesterly line of the said 26.241 acre tract to a 1/2" iron rod set for corner;

THENCE N 42°41'05" E 763.54 feet to a 1/2-inch iron rod set in the northeasterly line of the said 26.241 acre tract for the northerly corner of the herin described tract;

THENCE S 48°06'28" E 67.57 feet to the POINT OF BEGINNING and containing 1.287 acres of land more or less;

(the "Property") subject, however, to any and all restrictions, easement, covenants and conditions, if any, relating to the Property filed in the real property records of the County of Brazos, State of Texas, and the matters and instruments identified in Exhibit A attached hereto;

TO HAVE AND TO HOLD the above Property, together with all and singular the rights and appurtenances thereto in anywise belonging, unto the Grantee's, the Grantee's heirs, executors, administrators, successors and/or assigns forever; and the Grantor does hereby bind the Grantor's heirs, executors, administrators, successors and/or assigns to WARRANT AND FOREVER DEFEND all and singular the said Property unto the Grantee, the Grantee's heirs, executors, administrators, successors and/or assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the reservations from and exceptions to conveyance and warranty, but only when the claim is by, through or under Grantor and not otherwise.

But it is expressly agreed that the Vendor's Lien, as well as Superior Title in and to the above Property, is retained against the above Property, premises and improvements until the above described note and all interest thereon are fully paid according to the face, tenor, effect and reading thereof, when this Deed shall become absolute. David Middleton, at the instance and request of the Grantee herein, having advanced and paid in cash to the Grantor herein that portion of the purchase price of the Property as is evidenced by the Note, the Vendor's Lien, together with the Superior Title to the above Property, is retained herein for the benefit of the said Lender and the same are hereby TRANSFERRED AND ASSIGNED to the Lender, its successors and assigns.

Taxes have been prorated as of the date of this Deed. Grantee assumes payment of all ad valorem taxes, standby fees and assessments for the year 2010 and all subsequent years.

EXECUTED this 23 day of November, 2010.

GRANTOR:

OLD RELIANCE ROAD, LLC, a Texas Limited Liability Company

By *Matthew A. Nielson*
Matthew A. Nielson, Its Manager

Grantee's Address:
3002 Kerbey Lane
Austin, TX 78703

ACKNOWLEDGMENT

STATE OF UTAH)
COUNTY OF SANPETE, ss:)

The foregoing instrument was acknowledged before me on the 23rd day of November, 2010, by Matthew A. Nielson, as the Manager of Old Reliance Road, LLC, a Texas limited liability company, on behalf of said company.

IN WITNESS WHEREOF, I have heretunto subscribed my name and affixed my official seal, on the day set forth above.

Angie Parish
Notary Public
My Commission expires Jan. 29, 2013



Exhibit A
Reservations from and Exceptions to Conveyance and Warranty

1. All oil, gas and other minerals, together with the rights of ingress and egress for developing, mining, producing and transporting the same, heretofore reserved or conveyed by predecessors in title.
2. Any portion of the Property located within the boundaries of any roadway or highway.
3. Easement:

From: E.E. Yeager
To: Gulf States Utilities
Date: June 13, 1947
Recorded: Volume 130, Page 434, Deed Records of Brazos County, Texas
4. Easement:

From: Rose Carrabo, et al.
To: Lone Star Gas Company
Date: October 16, 1939
Recorded: Volume 102, Page 62, Deed Records of Brazos County, Texas

Modified and Partially Released:

Recorded: Volume 605, Page 523, Official Records of Brazos County, Texas
5. Easement:

From: F.W. "Bert" Wheeler, Trustee
To: City of Bryan
Date: September 10, 1974
Recorded: Volume 333, Page 548, Deed Records of Brazos County, Texas
6. Easement:

From: F.W. "Bert" Wheeler, Trustee
To: Ferguson Crossing Pipeline Company
Date: December 14, 1981
Recorded: Volume 508, Page 190, Deed Records of Brazos County, Texas
7. Easement:

From: F.W. "Bert" Wheeler, Trustee
To: Andrus Pipeline Corporation
Date: February 17, 1983
Recorded: Volume 562, Page 377 and 381, Deed Records of Brazos County, Texas
8. Easement:

From: F.W. "Bert" Wheeler, Trustee
To: Ferguson Crossing Pipe Line Company
Date: December 14, 1981
Recorded: Volume 508, Page 202, Deed Records of Brazos County, Texas

9. Easement:

From: Keith Chunn, Jr.
To: City of Bryan
Date: August 24, 2005
Recorded: Volume 6901, Page 96, Official Records of Brazos County, Texas

10. Easement:

From: Keith Chunn, Jr.
To: City of Bryan
Date: August 24, 2005
Recorded: Volume 6901, Page 101, Official Records of Brazos County, Texas

11. Easement:

From: John Carrabo, et al.
To: Humble Pipe Line Company
Date: June 14, 1919
Recorded: Volume 48, Page 563, Deed Records of Brazos County, Texas

12. Roadway Reservation to Well Site in Deed:

By: Keith Chunn, Jr., Successor Trustee
To: BCS Development Company
Date: August 24, 2005
Recorded: Volume 6901, Page 66, Official Records of Brazos County, Texas

13. Mineral Reservation in Deed:

By: Keith Chunn, Jr., Successor Trustee
To: BCS Development Company
Date: August 24, 2005
Recorded: Volume 6901, Page 66, Official Records of Brazos County, Texas

14. Waiver of Surface Use:

From: BWOC, Inc.
To: Venture 102
Date: August 24, 2005
Recorded: Volume 6901, Page 57, Official Records of Brazos County, Texas

15. Memorandum of Oil and Gas Lease, and all terms, conditions and stipulations therein:

Lessor: Bert Wheeler, Inc., et al.
Lessee: Amalgamated Bonanza Petroleum, Ltd.
Date: June 1, 1977
Recorded: Volume 378, Page 325, Deed Records of Brazos County, Texas

Amended:

Recorded: Volume 41, Page 420, Oil & Gas Lease Records, Brazos County, Texas

Doc Bk Vol Ps
01079595 OR 9961 97

Filed for Record in:
BRAZOS COUNTY

On: Dec 21, 2010 at 02:29P

As a
Recording

Document Number: 01079595

Amount 36.00

Receipt Number - 404040

By:
Krystal Ocon

STATE OF TEXAS COUNTY OF BRAZOS
I hereby certify that this instrument was
filed on the date and time stamped hereon by me
and was duly recorded in the volume and page
of the Official Public records of:


BRAZOS COUNTY

as stamped hereon by me.

Dec 21, 2010

HONORABLE KAREN MCQUEEN, COUNTY CLERK
BRAZOS COUNTY

2

Secretary of State P.O. Box 13697 Austin, TX 78711-3697 FAX: 512/463-5709 Filing Fee: \$300	 Certificate of Formation Limited Liability Company	Filed in the Office of the Secretary of State of Texas Filing #: 801340839 11/09/2010 Document #: 339543670002 Image Generated Electronically for Web Filing
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Article 1 - Entity Name and Type

The filing entity being formed is a limited liability company. The name of the entity is:

DBB Old Reliance, LLC

Article 2 – Registered Agent and Registered Office

A. The initial registered agent is an organization (cannot be company named above) by the name of:

OR

B. The initial registered agent is an individual resident of the state whose name is set forth below:

Name:

Blake Andrew Rue

C. The business address of the registered agent and the registered office address is:

Street Address:

3002 Kerbey Lane Austin TX 78703

Consent of Registered Agent

A. A copy of the consent of registered agent is attached.

OR

B. The consent of the registered agent is maintained by the entity.

Article 3 - Governing Authority

A. The limited liability company is to be managed by managers.

OR

B. The limited liability company will not have managers. Management of the company is reserved to the members.

The names and addresses of the governing persons are set forth below:

Managing Member 1: **Blake Andrew Rue**

Title: **Managing Member**

Address: **PO Box 302663 Austin TX, USA 78703**

Managing Member 2: **David Middleton**

Title: **Managing Member**

Address: **2509 Terryhill Place Austin TX, USA 78703**

Managing Member 3: **Britt Hall Benton**

Title: **Managing Member**

Address: **PO Box 302663 Austin TX, USA 78703**

Article 4 - Purpose

The purpose for which the company is organized is for the transaction of any and all lawful business for which limited liability companies may be organized under the Texas Business Organizations Code.

Supplemental Provisions / Information

[The attached addendum, if any, is incorporated herein by reference.]

Organizer

The name and address of the organizer are set forth below.

Blake Rue **3002 Kerbey Lane, Austin, Texas 78703**

Effectiveness of Filing

A. This document becomes effective when the document is filed by the secretary of state.

OR

B. This document becomes effective at a later date, which is not more than ninety (90) days from the date of its signing. The delayed effective date is:

Execution

The undersigned affirms that the person designated as registered agent has consented to the appointment. The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized under the provisions of law governing the entity to execute the filing instrument.

Blake Rue

Signature of Organizer

FILING OFFICE COPY

3

MF RCV'D Wednesday, June 15, 2011 4:30 PM



[Home](#)
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[Education & Exams](#)
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[Complaints, Consumer Info](#)

Please Note: The information in this Licensee Info Search page is refreshed each night from our main computer system records. For example, if you have changed your mailing address online today, the new address will not show up on this page until tomorrow.

TREC Licensee Info Search w/ sponsor info & completed MCE and SAE

Tip: A License Number search is faster than a Name search.

License Type: Salesperson or Broker Inspector E.R.W.

License Number or Name: "LastName, FirstName" or "Business Name"

(see [search tips](#))

Optional: any part of name (for name searches only)

Licensee Details for: Salesperson or Broker - "Benton, Britt Hall"

Licensee Name	Lic. Nbr	Lic. Type	Lic. Status	Exp. Date	Fingerprint Status
Benton, Britt Hall	437687	Broker	Active	07/31/2012	Fingerprinting requirements have been met.

Licensee Email Address ([see disclosure policy](#)) Licensee Phone

[click for email address](#)

Permanent Mailing Address	Business Physical Address
2403 ROCKMOOR AUSTIN, TX 78703	3701 N LAMAR SUITE 206 AUSTIN, TX 78705

Education Information

This licensee may be subject to MCE Requirements - which mandates completion of 15 hours of MCE courses (including the 3 hr TREC Legal Update course and the 3 hr TREC Ethics course). Regarding "duplicate" courses, see [22 TAC Sec. 535.92\(g\)](#). Also, please see our [MCE FAQs page](#).

Completed Courses

Course Date	Course Nbr	Course Name	Provider Name	Total Hrs	Legal Hrs
07/19/2010	18657	TREC LEGAL UPDATE MCE (L) (ONLINE EXAM)	123CE INC	3	3
05/07/2010	19041	20TH ANNUAL OUTLOOK FOR TEXAS LAND MARKETS	REAL ESTATE CENTER	12	0
05/07/2010	18650	TREC ETHICS MCE (E)	REAL ESTATE CENTER	3	3
07/25/2008	17086	IT'S GOOD TO BE GREEN	TEXAS TECH UNIVERSITY CPD	9	0
07/25/2008	16503	TREC LEGAL UPDATE AND ETHICS MCE (EL) (INCLUDES TREC L & E)	TEXAS TECH UNIVERSITY CPD	3	3
07/25/2008	16503	TREC LEGAL UPDATE AND ETHICS MCE (EL) (INCLUDES TREC L & E)	TEXAS TECH UNIVERSITY CPD	3	3
07/21/2006	14202	TEXAS LEGAL UPDATE (EL) (INCLUDES TREC LEGAL & ETHICS)	TEXAS TECH UNIVERSITY CPD	3	3
07/21/2006	14202	TEXAS LEGAL UPDATE (EL) (INCLUDES TREC LEGAL & ETHICS)	TEXAS TECH UNIVERSITY CPD	3	3
04/04/2005	6100	ALL RELATED (EXCEPT R.E.)	SCHOOLS FROM WHICH RELATED CREDIT IS ACCEPTED	540	0
11/18/2004	13724	ANATOMY OF A PURCHASE AGREEMENT	FULBRIGHT & JAWORSKI LLP	1	0
10/04/2004	0511	REAL ESTATE MARKETING I	STATE UNIV OF NY COLLEGE TECHNOLOGY AT CANTON	30	0
08/21/2001	0412	REAL ESTATE FINANCE II	STATE UNIV OF NY COLLEGE TECHNOLOGY AT CANTON	30	0
10/19/2000	0511	REAL ESTATE MARKETING I	STATE UNIV OF NY COLLEGE TECHNOLOGY AT CANTON	30	0

MF RCV'D Wednesday, June 15, 2011 4:30 PM

07/24/1999	0911 REAL ESTATE INVESTMENTS I	ALL OUT OF STATE SCHOOLS	30	0
02/28/1998	0911 REAL ESTATE INVESTMENTS I	ALL OUT OF STATE SCHOOLS	30	0
07/31/1996	1021 RES INSPECTION RE AGENTS	SPENCER SCHOOL OF REAL ESTATE	30	0
05/31/1994	0711 REAL ESTATE BROKERAGE I	SPENCER SCHOOL OF REAL ESTATE	30	0
05/23/1994	6100 ALL RELATED (EXCEPT R.E.)	SCHOOLS FROM WHICH RELATED CREDIT IS ACCEPTED	90	0
03/31/1994	0411 REAL ESTATE FINANCE I	SPENCER SCHOOL OF REAL ESTATE	30	0
03/31/1994	0111 REAL ESTATE PRINCIPLES I	SPENCER SCHOOL OF REAL ESTATE	30	0

Sponsoree Information (1 sponsorees)

Sponsoree Name	Lic. Nbr	License Type	Lic. Status	Exp. Date	Spons. Date	Fingerprint Status
<u>Benton, Stacy Lynn</u>	531776	Salesperson	Active	11/30/2012	12/31/2009	Fingerprinting requirements have been met.

New Licensee Info Search

Site Map ▪ Privacy & Security Policy ▪ Open Records ▪ Linking to TREC site ▪ Accessibility

Texas Online (texas.gov) ▪ Statewide Search ▪ Texas Homeland Security ▪ Where the Money Goes ▪ Report Fraud



Secretary of State
P.O. Box 13697
Austin, TX 78711-3697
FAX: 512/463-5709

Filing Fee: \$300

**Certificate of Formation
Limited Liability Company**

Filed in the Office of the
Secretary of State of Texas
Filing #: 800774076 02/15/2007
Document #: 160664340002
Image Generated Electronically
for Web Filing

Article 1 - Entity Name and Type

The filing entity being formed is a limited liability company. The name of the entity is:

Oryx Commercial Properties, LLC

The name of the entity must contain the words "Limited Liability Company" or "Limited Company," or an accepted abbreviation of such terms. The name must not be the same as, deceptively similar to or similar to that of an existing corporate, limited liability company, or limited partnership name on file with the secretary of state. A preliminary check for "name availability" is recommended.

Article 2 - Registered Agent and Registered Office

A. The initial registered agent is an organization (cannot be company named above) by the name of:

OR

B. The initial registered agent is an individual resident of the state whose name is set forth below:

Name:

Britt H Benton

C. The business address of the registered agent and the registered office address is:

Street Address:

3701 N Lamar

Suite 206 Austin TX 78705

Article 3 - Governing Authority

A. The limited liability company is to be managed by managers.

OR

B. The limited liability company will not have managers. Management of the company is reserved to the members.

The names and addresses of the governing persons are set forth below:

Managing Member 1: **Britt H Benton**

Title: **Managing Member**

Address: **3701 N. Lamar Suite 206 Austin TX, USA 78705**

Article 4 - Purpose

The purpose for which the company is organized is for the transaction of any and all lawful business for which limited liability companies may be organized under the Texas Business Organizations Code.

Supplemental Provisions / Information

[The attached addendum, if any, is incorporated herein by reference.]

Organizer

The name and address of the organizer are set forth below.

Britt Hall Benton **3701 N Lamar, Suite 206 Austin, Texas 78705**

Effectiveness of Filing

A. This document becomes effective when the document is filed by the secretary of state.

OR

B. This document becomes effective at a later date, which is not more than ninety (90) days from the date of its signing. The delayed effective date is:

Execution

The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument.

Britt H Benton

Signature of Organizer

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4



FORM FOR QUALIFIED NEIGHBORHOOD ORGANIZATIONS TO SUBMIT TO TDHCA FOR QUANTIFIABLE COMMUNITY PARTICIPATION

Texas Department of Housing and Community Affairs

Certify to each requirement by checking each box as required and accurately filling in all blanks. All attachments must be included in QCP submission package.

03-01-11A11:03 RCV'D

1. This organization is submitting this form and attachments regarding the following proposed application:

Development Name: Merritt Bryan Station Senior Village TDHCA #: 11169
 Development Location: N. of Hwy 6 and W of Old Reliance
 Development City: Bryan Development County: Brazos

2. The persons signing this form have the authority to sign on behalf of this organization.

Organization Name: Old Reliance Neighborhood Association
 1st Contact Name and Title: GARY A. WELCH - CHAIR
 1st Contact Mailing Address: 4880 AUSTINS CREEK DR.
 1st Contact City: BRYAN 1st Contact Zip Code: 77808
 1st Contact Day Phone: (979) 777-2456 1st Contact Fax: (979) 778-0067
 1st Contact Evening Phone: (979) 777-2456 1st Contact E-Mail: garywelchconstruction@gmail.com

3. This organization is also providing the following additional contact and information for our organization:

2nd Contact Name: ROBERT F. HOLZWEISS
 2nd Contact Mailing Address: 4027 Austin's Estates Dr.
 2nd Contact City: Bryan 2nd Contact Zip Code: 77808-7301
 2nd Contact Day Phone: 979-691-4074 2nd Contact Fax: 979-691-4030
 2nd Contact Evening Phone: 979-691-8164 2nd Contact E-Mail: ROBERT.HOLZWEISS@GMAIL.COM

4. **Boundary Description and Map:** Provide a written description of the geographical boundaries of the neighborhood organization. (Example: North boundary is Main St, East boundary is a railroad track, South boundary is First St and West boundary is Jones Ave) Submit a boundary map. The boundary map should be legible, clearly marked with the geographical boundaries of the neighborhood organization, and indicate the location of the proposed development. The written description and boundary map should have the same geographical boundaries.

Written Boundary Description:

See attached

GWRL
Initials of Signer

5. This organization certifies that the boundaries of this organization include the proposed Development site in its entirety. This organization acknowledges that annexations after March 1, 2011 are not considered eligible boundaries and a site that is only partially within the boundaries will not satisfy the requirement that the boundaries contain the proposed Development site.

6. This organization certifies that it meets the definition of "Neighborhood Organization"; defined as an organization of persons living near one another within the organization's defined boundaries that contain the proposed Development Site and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood. This organization further certifies that it is a (must check on of the following boxes):

Homeowners Association

Property Owners Association

Resident Council and our members occupy the existing development

Other (Explain _____)

7. **Certification of Record:** Choose one box. Registration with the county or with the Secretary of State both requires proof of registration. All 3 selections require evidence of the organization's existence (ex. bylaws, newsletter, minutes, etc.) and the process to provide notice to persons living within the boundaries to join or participate in the affairs of the organization (ex: letter, posting notice, etc.).

This organization certifies that it was:

On record, as of March 1, 2011, with the county in which the development is proposed to be located. (Attach documentation from the county of registration and required documentation)

On record, as of March 1, 2011, with The Secretary of State as an incorporated entity in good standing. (Attach documentation from the Secretary of State of registration and required documentation)

Requesting to be on record, as of March 1, 2011, with The Texas Department of Housing and Community Affairs (the "Department"). (Attach required documentation)

8. **Statement of Support/Opposition:** (Choose only one box and clearly and concisely state at least one or more reason(s) for the organization's support/opposition; use additional sheets, as needed.)

This organization certifies that we:

Support the application for Competitive Housing Tax Credits referenced above for the following reasons:

OUR AREA NEEDS RESPONSIBLE DEVELOPMENT & WE FEEL THIS PROJECT IS WORTHY & PROVIDES THAT.

Oppose the application for Competitive Housing Tax Credits referenced above for the following reasons:
City of Bryan has a significant need for senior affordable housing.

GW RH
Initials of Signer

9. Certify the following:

- This organization acknowledges that this form and attachments must be submitted no later than March 1, 2011
- This organization certifies that it was not formed by any Applicant, Developer or any employee or agent of any Applicant in the 2011 Competitive Housing Tax Credit Application Round; the organization, and any members, did not accept money or a gift to cause the neighborhood organization to take its position of support or opposition; the Applicant, Developer or any employee or agent of any Applicant has not provided any assistance, other than education and information sharing, to the neighborhood organization for any application in the Application Round (i.e. hosting a public meeting, providing the "TDHCA Information Packet for Neighborhoods" to the neighborhood organization, or referring the neighborhood organization to TDHCA staff for guidance are acceptable forms of assistance); and that the Applicant, Developer or any employee or agent of any Applicant has not provided any "production" assistance for any application in the Application Round (i.e. use of fax machines owned by the Applicant, use of legal counsel related to the Applicant, delivery of form or assistance drafting a form).
- This organization acknowledges that this completed form and required attachments must be submitted to Texas Department of Housing and Community Affairs, Attention: Director of Multifamily Finance, Neighborhood Input, P.O. Box 13941 (MC 332-10), Austin TX 78711-3941. For overnight or courier delivery use the following physical address: 221 East 11th Street, Austin TX 78701-2410. Do not use P.O. Box address for overnight or courier delivery. Form and Attachments may also be faxed to (512) 475-1895 or toll free at (800) 733-5120.
- This organization certifies that all certifications contained herein are true and accurate. (First and Second Contacts must sign below):

Jay A Welch
 (First Contact Signature)

2-25-2011
 (Date)

GARY A. WELCH
 (Printed Name)

Director
 (Title)

Robert F. Hollweiser
 (Second Contact Signature)

2-25-11
 (Date)

ROBERT F. HOLLWEISER
 (Printed Name)


DIRECTOR
 (Title)

Additional Contact

Blake Rue
 Director

Blakerue@hotmail.com
512-294-4017

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<p>Form 202</p> <p>Secretary of State P.O. Box 13697 Austin, TX 78711-3697 FAX: 512/463-5709</p> <p>Filing Fee: \$25</p>	 <p>Certificate of Formation Nonprofit Corporation</p>	<p>Filed in the Office of the Secretary of State of Texas Filing #: 801349017 11/30/2010 Document #: 343018970002 Image Generated Electronically for Web Filing</p>
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Article 1 - Corporate Name

The filing entity formed is a nonprofit corporation. The name of the entity is :

Old Reliance Neighborhood Association

Article 2 – Registered Agent and Registered Office

A. The initial registered agent is an organization (cannot be corporation named above) by the name of:

OR

B. The initial registered agent is an individual resident of the state whose name is set forth below:

Name:

Blake Rue

C. The business address of the registered agent and the registered office address is:

Street Address:

3002 Kerbey Lane Austin TX 78703

Consent of Registered Agent

A. A copy of the consent of registered agent is attached.

OR

B. The consent of the registered agent is maintained by the entity.

Article 3 - Management

A. Management of the affairs of the corporation is to be vested solely in the members of the corporation.

OR

B. Management of the affairs of the corporation is to be vested in its board of directors. The number of directors, which must be a minimum of three, that constitutes the initial board of directors and the names and addresses of the persons who are to serve as directors until the first annual meeting or until their successors are elected and qualified are set forth below.

Director 1: **Blake Rue**

Title: **Director**

Address: **PO Box 302663 Austin TX, USA 78703**

Director 2: **Abigail Pfiester-Rue**

Title: **Director**

Address: **PO Box 302663 Austin TX, USA 78703**

Director 3: **Britt Benton**

Title: **Director**

Address: **PO Box 302663 Austin TX, USA 78703**

Article 4 - Organization Structure

A. The corporation will have members.

or

B. The corporation will not have members.

Article 5 - Purpose

The corporation is organized for the following purpose or purposes:

The purpose of the Association is to encourage the voluntary participation of members to maintain and improve the quality of residential life in Bryan, Texas within the boundaries of the Association

Supplemental Provisions / Information

[The attached addendum, if any, is incorporated herein by reference.]

Effectiveness of Filing

A. This document becomes effective when the document is filed by the secretary of state.

OR

B. This document becomes effective at a later date, which is not more than ninety (90) days from the date of its signing. The delayed effective date is:

Organizer

The name and address of the organizer are set forth below.

Blake A. Rue **3002 Kerbey Lane, Austin, Texas 78703**

Execution

The undersigned affirms that the person designated as registered agent has consented to the appointment. The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized under the provisions of law governing the entity to execute the filing instrument.

Blake A Rue

Signature of organizer.

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**NOTICE OF OLD RELIANCE NEIGHBORHOOD ASSOCIATION
MEETING AGENDA**

Meeting Date: Friday, February 25, 2011

Meeting Time: 6:00 P.M.

Location: Messina Hof Winery
4545 Old Reliance Rd.
Bryan, TX 77808

The undersigned, being elected Secretary of the Old Reliance Neighborhood Association, Inc., a Texas Non-Profit Corporation (the "Association") do hereby certify the following took place at the February 25, 2011 Meeting of the Members (the "Meeting") of the Association

WHEREAS, notice of the Meeting was timely given to each property owner in the Association by electronic mail or UPS overnight mail.

WHEREAS, the following individuals were present at the Meeting either in person or by proxy: Karen Melvin, Becky Simmons, Blake Rue, Britt Benton, Robert Holzweiss (by proxy), Diane Cornett (by proxy), Gary Welch (by Proxy), Greg Lamb (by proxy).

RESOLVED, that the following is a true and accurate account of the minutes of the Meeting

Re: Meeting of the Members

1. Call to Order
2. Introduction
3. Open discussion and Q&A on the proposed Merritt Bryan Station. Developer Colby Denison and residents from other Merritt properties to be available to answer questions.

Becky Simmons asked about number of bedrooms and units. It was discussed that no 3 bedroom units would be included in the project. The project is currently projected to have approximately 60% one bedroom units with the remainder being two bedroom units.

The number of entrances was discussed. Two entrances would be developed off Old Reliance Road to access the project. Additionally, the city would require a median cut for a left turn entrance into the project when traveling east from Old Reliance Road.

The number of stories of the project was discussed. The project would be set off the road and will be three stories and is anticipated to conform to existing City ordinances. A number of elevators will be provided in the project to assist seniors accessing different floor levels.

031813254NVT

Becky asked Britt Benton and Blake Rue if they had met with Mark Corraba a local developer in Bryan. Items covered in Britt and Blake's meeting with Mark were discussed.

Discussions of the numerous meetings with the City of Bryan regarding this project and the City's current position on the eight separate tax credit applications in Bryan for the 2011 application cycle.

Karen asked about under what circumstances the senior facility could be changed to a family facility. It was communicated that a land use restriction agreement would be filed on the property on which the project is located which would restrict the property to a senior multifamily use for 40 years.

Discussions regarding the project's potential applicatoin for a 50% property tax exemption. Although the Merritt Bryan Station developer initially considered applying for 50% property tax exemption, the developer of the project, Mr. Colby Denison, had indicated the structure of his ownership entity had changed and would result in no property tax exemptions being applied for. The Merritt Bryan Station will not apply for a property tax exemption.

Questions about parking for the project were discussed. The developer currently expects to fully comply with existing City of Bryan parking requirements which are 1 parking space per bedroom

Becky and Karen asked what use of their land, if any, might Britt and Blake pursue should the Merritt Bryan Station not be awarded tax credit funding. Discussions of other potential multifamily uses, both family and senior, would be a possibility due to existing multifamily zoning. The portion of the property fronting Old Reliance is zoned commercial and therefore would be a candidate for commercial development. Becky would love to see a Chic-Filet or Corabba's restaurant in the area.

4. Discussion and possible action on previously distributed proposed Bylaws of Old Reliance Neighborhood Association. Action item

Vote was taken to adopt previously distributed proposed bylaws. Bylaws were adopted by a vote of 7-0. Voting in favor were Karen Melvin, Becky Simmons, Blake Rue, Robert Holzweiss (by proxy), Diane Cornett (by proxy), Gary Welch (by Proxy), Greg Lamb (by proxy).

5. Discussion and possible action on election of Directors. Action item.

Gary Welch, Robert Holzweiss and Blake Rue were nominated to serve as Directors. A Vote was taken to elect directors of the Association. Gary Welch, Robert Holzweiss and Blake Rue were elected to serve as Directors by a vote of 7-0. Voting in favor were Karen Melvin, Becky Simmons, Blake Rue, Robert Holzweiss (by proxy), Diane Cornett (by proxy), Gary Welch (by Proxy), Greg Lamb (by proxy).

6. Discussion and possible action on whether to grant support and write a letter to the Texas Department of Housing and Community Affairs in support of the proposed Merritt Bryan Station Senior affordable housing project located within the boundaries of the Association. Action item.

A vote was taken to grant support and write a letter to the Texas Department of Housing and Community Affairs in support of the proposed Merritt Bryan Station Senior affordable housing project located within the boundaries of the Association and was approved 7-0. Voting in favor were Karen Melvin, Becky Simmons, Blake Rue, Robert Holzweiss (by proxy), Diane Cornett (by proxy), Gary Welch (by Proxy), Greg Lamb (by proxy).

7. Open discussion of the latest community issues regarding the quality of residential life affecting residents inside boundary of the Association such as zoning and future land use in the area and public services, drainage, water and sewage lines, traffic, neighborhood and pedestrian safety; taxation, property maintenance, restoration, and improvement.

Becky and Karen discussed the need for a fire hydrant to serve the 6 homes on Austin's Creek. Currently the closest fire hydrant is at the high school down Old Reliance too far away to serve their homes.

Extension of Austin Colony's road was discussed. Mark Corraja indicated in previous discussions that the timeline of the extension would be 3-5 years.

The potential uses of land on the corner of Old Reliance and Hwy 6 owned by Keith Chunn and M.D. Wheeler were discussed. Sewer lines that serve the Merritt Bryan Station would also serve these properties.

8. Close Meeting

CERTIFICATION OF SECRETARY

I certify that I am the duly elected and acting Secretary of **Old Reliance Neighborhood Association, Inc.** and that the foregoing minutes constitute a true and accurate account of the minutes of the Meeting of the Members on February 25, 2011

By:



Blake A. Rue, Secretary of the Association

7

Investors form neighborhood groups to help get public financing for housing

Community support of projects designed for people with lower incomes has evolved into pre-eminent part of Texas process.

By **Eric Dexheimer**

AMERICAN-STATESMAN STAFF

Published: 10:49 p.m. Saturday, Oct. 16, 2010

On paper, **Blake Rue and Britt Benton** appear to be among Central Texas' most community-minded people. According to state corporation records, the two have formed four neighborhood associations in the past three years, in Leander, Hutto, Buda and Schertz though the men themselves live in Austin.

Rue and Benton are also executives in companies that in recent years have invested in publicly financed housing projects for low-income residents — in Leander, Hutto, Buda and Schertz. Each of the neighborhood groups they formed later wrote letters of support on behalf of the affordable housing developments in which the men had invested.

Such letters can literally be worth millions of dollars. That's because in Texas, more than other states, neighborhood organizations play a make-or-break role in projects built with public money through tax credit financing.

Begun in 1987, the federal tax credit program pays for more affordable housing than any other program, about 10,000 units a year in Texas alone. Managed by the Texas Department of Housing and Community Affairs, the tax credit deals are highly sought after by developers, with more than twice as many applicants as awards.

Applications for the public money are graded on a point system. In it, a neighborhood association's letter of support is worth so many points that "it is not part of the scoring — it's virtually 'pass-fail,'" said Mike Rawlings, a businessman until recently known as Dallas' homeless czar.

Rue and Benton broke no laws by creating neighborhood organizations to provide support for projects in which they invested. Rather, affordable housing experts say, such behind-the-scenes maneuvering highlights a Byzantine — and broken — system of public financing for low-income housing that satisfies no one.

To affordable housing advocates, an application that lives and dies on a neighborhood's say-so has resulted in NIMBY — Not In My Backyard — sentiment gone wild. Thanks to state laws, "Texas is the most NIMBY state in the country," said Robert Voelker, a former Dallas affordable housing developer who now provides legal advice.

Studies show it has contributed to projects being clustered in less affluent areas with high concentrations of minorities, such as East Austin, while relatively wealthy and well-organized neighborhoods see few if any such projects.

It has also created a dramatic shift in the type of affordable housing being built in Texas using tax credits. Over the past decade, the percentage of projects intended for poor elderly residents, which tend to provoke milder community response, has nearly doubled, meaning fewer units built for low-income families.

State regulators, meanwhile, say they wage a constant battle monitoring developers angling to win the crucial neighborhood support points. In 2010, it took a housing department staffer working full time five months just to verify community support letters; a quarter were disqualified.

"It's an annual concern," said Thomas Gouris, the state housing department's deputy director of housing programs. "There's always an angle that is new, that no one could foresee."

In recent years, the agency has approved millions of dollars' worth of support for projects based on the backing of neighborhood organizations consisting of only two people.

'Make or break'

Issued by the U.S. Treasury, affordable housing tax credits are apportioned to states based on their populations. In Texas, the Department of Housing and Community Affairs distributes the federal credits by region, awarding about \$450 million worth of credits annually to developers to build new affordable housing or rehab existing developments.

Competition is intense for the credits, which offer a dollar-for-dollar reduction in their holders' income tax.

A developer who wins them typically sells the credits at a discount to a large corporation, which uses them to defray its tax bill. The developer uses the proceeds to pay for a project that promises to include a certain number of low-income units.

Developers covet the deals, which let them use government money instead of their own. They can also be lucrative: A typical arrangement has a built-in profit margin potentially worth several million dollars.

After scandals in the 1990s and early 2000s, in which housing department board members were found to have awarded the credits to favored developers, Texas legislators enacted a series of reforms designed to make the tax credit applications more objective and transparent.

The system awards applicants points if certain criteria — proximity to supermarkets and public transportation, financial feasibility and so on — are met. The higher the score, the better a developer's chances of winning the tax credits.

Early on, only a handful of points were awarded to developers who secured support from local officials and community organizations. But in 2003, a series of highly contentious battles over tax credit properties in the Houston suburb of Katy prompted the local House member, Bill Callegari, to sponsor a bill that radically changed the calculation.

"I felt it was important to get citizen input," Callegari recalled. "People in the vicinity deserve to have some input."

The new law required developers to put up signs alerting neighbors to proposed projects. And it ultimately gave their opinion dramatically more weight in the point system.

The law was tweaked again in the 2005 and 2007 legislative sessions, each time giving local organizations more say in tax credit developments. Today, a letter of support from a neighborhood association is more important than any other part of the application except the project's financial soundness.

A 2010 state survey found Texas gives neighborhood groups far more influence in housing projects than other states. "We tell our clients this is a make or break for them," said Sarah Anderson, an Austin-based consultant who advises developers seeking tax credits.

'Just say, "no" '

Few disagree that developers should work closely with locals. "Neighbors should have the right and ability to talk to you," said Stuart Shaw, whose Austin company has developed low-income tax credit projects for a decade. "It holds the developer accountable to do the right thing."

Yet experts also say a neighborhood's virtual veto power has altered the landscape in the way affordable housing is being built in Texas. "Because the community knows they wield this lever, they don't even sit around the table and negotiate," Rawlings said. "They just say 'no.' "

In some cases, "it gives residents the right to block projects based on their prejudices," said John Henneberger, co-director of the Texas Low Income Housing Information Service. "I believe in neighborhood associations, but I also believe they have to be told about the requirements of the Civil Rights Act."

Neighborhood groups often oppose deals because they equate low-income with high crime. In March, state Rep. Debbie Riddle, R-Houston, wrote to the housing department to protest a proposed 142-unit tax credit "multi-generational" development in her Harris County district.

"We are already dealing with an escalation of crime that will surely increase with this type of project," she wrote, adding "I will do everything in my power to represent my constituents in opposing this effort." The project was not funded.

"Once the community gets that fear of these people moving in," said Anderson, the Austin consultant, "there's absolutely nothing you can say to change their minds."

With the cost of preparing a tax credit application as high as \$80,000, many developers try to avoid such neighborhood fights altogether, said Jim Brown, director of the Texas Affiliation of Affordable Housing Providers: "Why would you want to invest your money with an application that will fail?"

One way has been to site new proposals in neighborhoods that are less organized. Often, that has meant lower-income minority communities that already have more than their share of affordable housing projects.

A 2006 legislative report found that 86 percent of Austin's housing projects financed by tax credits were in areas with higher-than-average concentrations of minority residents; three-quarters were in neighborhoods considered low-income. The pattern in other large Texas cities was the same. Studies show that concentration hurts affordable housing residents. A recent national analysis found low-income elementary students perform better when attending affluent schools. A 2010 study by the Texas Low Income Housing Information Service found that the majority of the state's tax credit properties were located near poorer-performing schools.

Another way to avoid tangling with locals is to build where there are no neighbors. "We recommend the developer try to site where they're nowhere close to any single-family homes," preferably near vacant land, said Anderson.

Advocates say that has resulted in more low-income projects being built farther from the town and city centers where services and amenities needed by the poor and elderly are located. "The developments are not getting built where they ought to be built — in high-opportunity areas," Henneberger said.

Developers seeking to sidestep neighborhood ire have also altered the type of projects being built. Builders have learned that low-income housing targeting elderly residents "seems to be less offensive to some folks," Gouris said.

As a developer, Voelker said he regularly persuaded neighborhoods that had rejected low-income family housing to accept his affordable senior projects. "It's sort of the path of least resistance to go senior," Anderson added. "People just don't have the visceral reaction to the elderly that they do to the poor. It's an unintended consequence of the legislation."

In 2000, 22 percent of Texas tax credit projects targeted poor seniors, according to the Texas Low Income Housing Information Service. In 2009, it was 41 percent. Building more affordable housing for seniors and less for families "is not a sustainable trend," said Kevin Jewell, a researcher for the organization.

Some lawmakers have tried to tweak the state's tax credit laws to remedy the problems. In an effort to curtail so-called tax-credit neighborhoods, legislators several years ago proposed a new law prohibiting developers from siting two low-income tax credit developments within a mile of each other. But it was narrowed to include only Dallas, Houston and San Antonio, and only projects built within two years of each other.

Last month, the Sunset Advisory Commission released its review of the Texas Department of Housing and Community Affairs. Among its top recommendations: Change the law to give neighborhood associations less power in affordable housing decisions.

Working the system

The rules that make locals' opinions worth millions of dollars also give developers and investors "an incentive to game the system," Voelker said.

Earlier this year, the housing agency rejected community support points for Evergreen at Richardson, a low-income seniors project north of Dallas. The reason: The property owners association that had given its blessing to the project had only two members — a husband and wife living in the same house.

The developer appealed, pointing out that the state defines members of a neighborhood organization simply as "persons living near one another."

"We define persons to be more than one person," the developer's lawyer explained, according to a transcript of the meeting. "The Legislature could have defined this requirement in terms of homes, households, dwellings, accommodations. But they didn't use those words. They used persons."

The housing board overturned its staff's decision, awarding the points. The project received \$20 million worth of tax credits.

State rules prohibit a developer or his employees from forming a neighborhood organization to support his own project. "But beyond that," the housing department's Gouris said, "it gets grayer and grayer."

That's where Rue said he discovered a niche business. A lawyer, Rue said he acts strictly according to state rules, working as a combination advance man and fixer for tax credit developers.

First, he looks for sites whose neighbors appear willing to accept low-income senior housing developments. One of his companies typically then buys the land and assists its new neighbors in forming an association whose support for an

affordable housing project will qualify it for the maximum application points. "We're out there creating opportunities for projects that are supported by neighborhoods," Rue said.

MFRCV Wednes day, June 15, 2011 4:30 PM

If the project wins approval, the company then lends money to the developer. Since 2007, state housing records show Rue and partner Benton listed as financiers for at least four proposed tax credit properties: Creekside Village in Buda; the Enclave in Hutto; Belmont Senior Village in Leander; and Ashton Senior Village in Schertz, north of San Antonio. In each case, they also founded the neighborhood groups that wrote the letters in support of the projects, which have won a total of more than \$50 million worth of tax credits.

And some neighbors said they were happy to have the organizational help. T.J. Higginbotham, chairman of the 967 Gateway Neighborhood Association that signed the letter supporting Creekside Village, said residents knew development along their Onion Creek properties in Buda was inevitable, so "we founded the organization so we could collectively get things to work."

"We saw a presentation on (the proposed Ashton Senior Village), and we were all interested, and we needed something like that here," said Rebecca Schetter, who is chairman of the Gleaming Springs Neighborhood Association. "The developers needed our support, so we lent our support and said we wanted it for our area."

The approach hasn't always worked.

State corporation records show Rue, Benton and Hutto landowner John Lloyd founded the Hutto Exchange TS Neighborhood Association on Feb. 21, 2008. A day later, the new association sent a letter to the Texas Department of Housing and Community Affairs granting its support for the Hutto Enclave. "The Association feels a development of this type would be a welcome addition to the neighborhood," it read.

When Hutto residents in an existing association discovered the arrangement, however, many were outraged. "It was sneaky, and it was underhanded," said Jon Coyle, who organized neighbors against the Enclave.

The new neighborhood group eventually withdrew its support in the face of community opposition, and the project was scuttled.

edexheimer@statesman.com; 445-1774

Find this article at:

http://www.statesman.com/news/statesman_focus/investors-form-neighborhood-groups-to-help-get-public-976298.html

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AMENDMENT TO COMMERCIAL CONTRACT BETWEEN THE UNDERSIGNED BUYER AND SELLER
CONCERNING THE PROPERTY AT

11,902 Acres on FM 967, Buda, Texas

Effective January 4, 2008, Seller and Buyer amend the contract as follows: (Check all applicable boxes.)


- A. **Sales Price:** The sales price in Paragraph 3 of the contract is changed to:
 - Cash portion payable by Buyer at closing\$ _____
 - Sum of all financing described in the contract\$ _____
 - Sales price (sum of cash portion and sum of all financing)\$ _____

- B. **Property Description:** The Property's legal description in Paragraph 2A of the contract is changed to:
 The property size is modified as depicted on the attached Exhibit "B"
 Property size is reduced by 0.94 acres as depicted in Exhibit "B". Amended
 Property size is 10.962 acres. *cd/B.R.*



- C. **Repairs:** Buyer accepts the Property in its present condition except that Seller, at Seller's expense, will complete the following before closing:

Amendment to Commercial Contract concerning 11.902 Acres on FM 967, Buda, Texas

- D. Extension of Feasibility Period: For nominal consideration, the receipt of which Seller acknowledges, and the consideration described under (1) or (2) below, if any, Buyer's right to terminate under Paragraph 7B of the contract is extended until 11:59 p.m. on _____.
- (1) The independent consideration for Buyer's right to terminate that will be deducted from the earnest money if Buyer terminates the contract under Paragraph 7B(1) is increased to a total amount of \$_____. (Insert an amount greater than the amount in Paragraph 7B(1) of the contract.)
- (2) Buyer has paid Seller additional consideration of \$_____ for the extension. This additional consideration will will not be credited to the sales price upon the closing of the sale.
- E. Closing: The closing date in Paragraph 10A of the contract is changed to _____.
- F. Expenses: At closing Seller will pay the first \$_____ of Buyer's expenses under Paragraph 13 of the contract.
- G. Waiver of Right to Terminate: Upon final acceptance of this Amendment, Buyer waives the right to terminate under Paragraph 7B of the contract.
- H. Other Modifications:

Buyer: 
Denison Construction, Inc.
 By: _____
 Printed Name: _____
 Title: _____

Buyer: _____
 By: _____
 Printed Name: _____
 Title: _____

Seller: 
Rueben Investments, LLC
 By: 
 Printed Name: Blake Rue
 Title: Managing Member

Seller: _____
 By: _____
 Printed Name: _____
 Title: _____



TEXAS ASSOCIATION OF REALTORS®
COMMERCIAL CONTRACT - UNIMPROVED PROPERTY

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1. PARTIES: Seller agrees to sell and convey to Buyer the Property described in Paragraph 2. Buyer agrees to buy the Property from Seller for the sales price stated in Paragraph 3. The parties to this contract are:

Seller: Rueben Investments, LLC
Address: 6709 Capitol of Texas, Suite 300, Austin, Tx 78730
Phone: (512) 637-3160 Fax: (512) 343-8793
E-mail: _____
Buyer: Denison Development, Inc., or Assigns
Address: 3701 N Lamar, Suite 206, Austin, Tx 78705
Phone: (512) 732-1226 Fax: (512) 732-1276
E-mail: _____

2. PROPERTY:

A. "Property" means that real property situated in Hayes County, Texas at 11.902 Acres on FM 967, Buda, Texas (address) and that is legally described on the attached Exhibit "A" or as follows:

B. Seller will sell and convey the Property together with:
(1) all rights, privileges, and appurtenances pertaining to the Property, including Seller's right, title, and interest in any minerals, utilities, adjacent streets, alleys, strips, gores, and rights-of-way;
(2) Seller's interest in all leases, rents, and security deposits for all or part of the Property; and
(3) Seller's interest in all licenses and permits related to the Property.

(Describe any exceptions, reservations, or restrictions in Paragraph 12 or an addendum.)

3. SALES PRICE:

A. At or before closing, Buyer will pay the following sales price for the Property:
(1) Cash portion payable by Buyer at closing \$ 1,100,000.00
(2) Sum of all financing described in Paragraph 4 \$ _____
(3) Sales price (sum of 3A(1) and 3A(2)) \$ 1,100,000.00

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B. Adjustment to Sales Price: (Check (1) or (2) only.)

- (1) The sales price will not be adjusted based on a survey.
- (2) The sales price will be adjusted based on the latest survey obtained under Paragraph 6B.
 - (a) The sales price is calculated on the basis of \$ _____ per.
 - (i) square foot of total area net area.
 - (ii) acre of total area net area.
 - (b) "Total area" means all land area within the perimeter boundaries of the Property. "Net area" means total area less any area of the Property within:
 - (i) public roadways;
 - (ii) rights-of-way and easements other than those that directly provide utility services to the Property; and
 - (iii) _____.
 - (c) If the sales price is adjusted by more than _____ % of the stated sales price, either party may terminate this contract by providing written notice to the other party within _____ days after the terminating party receives the survey. If neither party terminates this contract or if the variance is less than the stated percentage, the adjustment to the sales price will be made to the cash portion of the sales price payable by Buyer.

4. **FINANCING:** Buyer will finance the portion of the sales price under Paragraph 3A(2) as follows:

- A. Third Party Financing: One or more third party loans in the total amount of \$ _____ This contract:
 - (1) is not contingent upon Buyer obtaining third party financing.
 - (2) is contingent upon Buyer obtaining third party financing in accordance with the attached Commercial Contract Financing Addendum.
- B. Assumption: In accordance with the attached Commercial Contract Financing Addendum, Buyer will assume the existing promissory note secured by the Property, which balance at closing will be \$ _____.
- C. Seller Financing: The delivery of a promissory note and deed of trust from Buyer to Seller under the terms of the attached Commercial Contract Financing Addendum in the amount of \$ _____.

5. **EARNEST MONEY:**

- A. Not later than 3 days after the effective date, Buyer must deposit \$ 10,000.00 as earnest money with LandAmerica Commercial Services (escrow agent) at 1717 W 6th, Suite 100, Austin, Tx 78703 (address). If Buyer fails to timely deposit the earnest money, Seller may terminate this contract by providing written notice to Buyer before Buyer deposits the earnest money and may exercise Seller's remedies under Paragraph 15.
- B. Buyer will deposit an additional amount of \$ 10,000.00 with the escrow agent to be made part of the earnest money on or before:
 - (i) _____ days after Buyer's right to terminate under Paragraph 7B expires; or
 - (ii) March 4, 2008
 Buyer will be in default if Buyer fails to deposit the additional amount required by this Paragraph 5B within 3 days after Seller notifies Buyer that Buyer has not timely deposited the additional amount.
- C. Buyer may instruct the escrow agent to deposit the earnest money in an interest-bearing account at a federally insured financial institution and to credit any interest to Buyer.

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6. TITLE POLICY AND SURVEY:

A. Title Policy:

- (1) Seller, at Seller's expense, will furnish Buyer an Owner's Policy of Title Insurance (the title policy) issued by LandAmerica Commercial Services (title company) in the amount of the sales price, dated at or after closing, insuring Buyer against loss under the title policy, subject only to:
 - (a) those title exceptions permitted by this contract or as may be approved by Buyer in writing; and
 - (b) the standard printed exceptions contained in the promulgated form of title policy unless this contract provides otherwise.
- (2) The standard printed exception as to discrepancies, conflicts, or shortages in area and boundary lines, or any encroachments or protrusions, or any overlapping improvements:
 - (a) will not be amended or deleted from the title policy.
 - (b) will be amended to read "shortages in areas" at the expense of Buyer Seller.
- (3) Buyer may object to any restrictive covenants on the Property within the time required under Paragraph 6C.
- (4) Within _____ days after the effective date, Seller will furnish Buyer a commitment for title insurance (the commitment) including legible copies of recorded documents evidencing title exceptions. Seller authorizes the title company to deliver the commitment and related documents to Buyer at Buyer's address.

B. Survey: Within 10 days after the effective date:

- (1) Buyer will obtain a survey of the Property at Buyer's expense and deliver a copy of the survey to Seller. The survey must be made in accordance with the Texas Society of Professional Surveyors' standards for a Category 1A survey under the appropriate condition.
- (2) Seller, at Seller's expense, will furnish Buyer a survey of the Property dated after the effective date. The survey must be made in accordance with the Texas Society of Professional Surveyors' standards for a Category 1A survey under the appropriate condition.
- (3) Seller will deliver to Buyer and the title company a true and correct copy of Seller's existing survey of the Property dated November 23, 2004 along with an affidavit required by the title company for approval of the survey. If the survey is not acceptable to the title company, Seller, at Seller's expense, will obtain a survey acceptable to the title company and deliver the acceptable survey to the Buyer and the title company within 15 days after Seller receives notice that the existing survey is not acceptable to the title company. The closing date will be extended daily up to 15 days if necessary for Seller to deliver an acceptable survey within the time required.

C. Buyer's Objections to the Commitment and Survey:

- (1) Within 30 days after Buyer receives the commitment, copies of the documents evidencing the title exceptions, and any required survey, Buyer may object in writing to matters disclosed in the items if: (a) the matters disclosed constitute a defect or encumbrance to title other than those permitted by this contract or liens that Seller will satisfy at closing or Buyer will assume at closing; or (b) the items show that any part of the Property lies in a special flood hazard area (an "A" or "V" zone as defined by FEMA). If Paragraph 6B(1) applies, Buyer is deemed to receive the survey on the earlier of: (i) the date of Buyer's actual receipt of the survey; or (ii) of the deadline specified in Paragraph 6B.

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- (2) Seller may, but is not obligated to, cure Buyer's timely objections within 15 days after Seller receives the objections. The closing date will be extended as necessary to provide such time to cure the objections. If Seller fails to cure the objections by the time required, Buyer may terminate this contract by providing written notice to Seller within 5 days after the time by which Seller must cure the objections. If Buyer terminates, the earnest money, less any independent consideration under Paragraph 7B(1), will be refunded to Buyer.
- (3) Buyer's failure to timely object or terminate under this Paragraph 6C is a waiver of Buyer's right to object except that Buyer will not waive the requirements in Schedule C of the commitment.

7. PROPERTY CONDITION:

A. Present Condition: Buyer accepts the Property in its present condition except that Seller, at Seller's expense, will complete the following before closing: _____

B. Feasibility Period: Buyer may terminate this contract for any reason within 300 days after the effective date (feasibility period) by providing Seller written notice of termination. (Check only one box.)

(1) If Buyer terminates under this Paragraph 7B, the earnest money will be refunded to Buyer less \$ 10,000.00 that Seller will retain as independent consideration for Buyer's unrestricted right to terminate. Buyer has tendered the independent consideration to Seller upon payment of the amount specified in Paragraph 5A to the escrow agent. The independent consideration is to be credited to the sales price only upon closing of the sale. If no dollar amount is stated in this Paragraph 7B(1) or if Buyer fails to timely deposit the earnest money, Buyer will not have the right to terminate under this Paragraph 7B.

(2) Not later than 3 days after the effective date, Buyer must pay Seller \$ _____ as independent consideration for Buyer's right to terminate by tendering such amount to Seller or Seller's agent. If Buyer terminates under this Paragraph 7B, the earnest money will be refunded to Buyer and Seller will retain the independent consideration. The independent consideration will be credited to the sales price only upon closing of the sale. If no dollar amount is stated in this Paragraph 7B(2) or if Buyer fails to timely pay the independent consideration, Buyer will not have the right to terminate under this Paragraph 7B.

C. Inspections, Studies, or Assessments:

(1) During the feasibility period, Buyer, at Buyer's expense, may complete or cause to be completed any and all inspections, studies, or assessments of the Property (including all improvements and fixtures) desired by Buyer.

- (2) Buyer must:
 - (a) employ only trained and qualified inspectors and assessors;
 - (b) notify Seller, in advance, of when the inspectors or assessors will be on the Property;
 - (c) abide by any reasonable entry rules or requirements of Seller;
 - (d) not interfere with existing operations or occupants of the Property; and
 - (e) restore the Property to its original condition if altered due to inspections, studies, or assessments that Buyer completes or causes to be completed.

(3) Except for those matters that arise from the negligence of Seller or Seller's agents, Buyer is responsible for any claim, liability, encumbrance, cause of action, and expense resulting from

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Buyer's inspections, studies, or assessments, including any property damage or personal injury. Buyer will indemnify, hold harmless, and defend Seller and Seller's agents against any claim involving a matter for which Buyer is responsible under this paragraph. This paragraph survives termination of this contract.

D. Property Information:

- (1) Delivery of Property Information: Within 10 days after the effective date, Seller will deliver to Buyer:
 - (a) copies of all current leases pertaining to the Property, including any modifications, supplements, or amendments to the leases;
 - (b) copies of all notes and deeds of trust against the Property that Buyer will assume or that Seller will not pay in full on or before closing;
 - (c) copies of all previous environmental assessments, geotechnical reports, studies, or analyses made on or relating to the Property;
 - (d) copies property tax statements for the Property for the previous 2 calendar years;
 - (e) plats of the Property;
 - (f) copies of current utility capacity letters from the Property's water and sewer service provider; and
 - (g) _____

- (2) Return of Property Information: If this contract terminates for any reason, Buyer will, not later than 10 days after the termination date: (a) return to Seller all those items described in Paragraph 7D(1) that Seller delivered to Buyer and all copies that Buyer made of those items; and (b) deliver copies of all inspection and assessment reports related to the Property that Buyer completed or caused to be completed. This Paragraph 7D(2) survives termination of this contract.

E. Contracts Affecting Operations: Until closing, Seller: (1) will operate the Property in the same manner as on the effective date under reasonably prudent business standards; and (2) will not transfer or dispose of any part of the Property, any interest or right in the Property, or any of the personal property or other items described in Paragraph 2B or sold under this contract. After the feasibility period ends, Seller may not enter into, amend, or terminate any other contract that affects the operations of the Property without Buyer's written approval.

8. LEASES:

A. Each written lease Seller is to assign to Buyer under this contract must be in full force and effect according to its terms. Seller may not enter into any new lease, fail to comply with any existing lease, or make any amendment or modification to any existing lease without Buyer's written consent. Seller must disclose, in writing, if any of the following exist at the time Seller provides the leases to the Buyer or subsequently occur before closing:

- (1) any failure by Seller to comply with Seller's obligations under the leases;
- (2) any circumstances under any lease that entitle the tenant to terminate the lease or seek any offsets or damages;
- (3) any advance sums paid by a tenant under any lease;
- (4) any concessions, bonuses, free rents, rebates, brokerage commissions, or other matters that affect any lease; and
- (5) any amounts payable under the leases that have been assigned or encumbered, except as security for loan(s) assumed or taken subject to under this contract.

B. Estoppel Certificates: Within N/A days after the effective date, Seller will deliver to Buyer estoppel certificates signed not earlier than _____ by each tenant that leases space in the Property. The estoppel certificates must state:

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- (1) that no default exists under the lease by the landlord or tenant as of the date the estoppel certificate is signed;
- (2) the amount of the scheduled rents to be paid through the end of the lease and any rental payments that have been paid in advance;
- (3) the amount of any security deposit;
- (4) the amount of any offsets tenant is entitled against rent;
- (5) the expiration date of the lease;
- (6) a description of any renewal options; and
- (7) _____

9. BROKERS:

A. The brokers to this sale are:

E. Ted Davis + Associates

~~Denison Development, Inc.~~

Cooperating Broker

License No. _____

Oryx Commercial Properties, LLC

Principal Broker

0437687 License No.

Address _____

2403 Rockmoor

Address

Austin, Texas

Phone _____

Fax _____

(512) 636-6076

Phone

Fax _____

E-mail: _____

E-mail: britt@oryxproperties.net

Cooperating Broker represents buyer.

Principal Broker: (Check only one box.)

represents Seller only.

represents Buyer only.

is an intermediary between Seller and Buyer.

B. Fees. (Check only one box.)

- (1) Seller will pay Principal Broker the fee specified by separate written commission agreement between Principal Broker and Seller. Principal Broker will pay Cooperating Broker the fee specified in the Agreement Between Brokers found below the parties' signatures to this contract.

(2) At the closing of this sale, Seller will pay:

Cooperating Broker a total cash fee of:

3.000 % of the sales price.

_____ % of the sales price.

Principal Broker a total cash fee of:

3.000 % of the sales price.

_____ % of the sales price.

The cash fees will be paid in Travis County, Texas. Seller authorizes escrow agent to pay the brokers from the Seller's proceeds at closing.

NOTICE: Chapter 62, Texas Property Code, authorizes a broker to secure an earned commission with a lien against the Property.

C. The parties may not amend this Paragraph 9 without the written consent of the brokers affected by the amendment.

10. CLOSING:

A. The closing of the sale will be on or before September 30, 2008

_____ or within 7 days after objections made under Paragraph 6C have been cured or waived, whichever date is later (the closing date).

B. If either party fails to close by the closing date, the non-defaulting party may exercise the remedies in Paragraph 15.

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- C. At closing, Seller will execute and deliver, at Seller's expense, a general special warranty deed. The deed must include a vendor's lien if any part of the sales price is financed. The deed must convey good and indefeasible title to the Property and show no exceptions other than those permitted under Paragraph 6 or other provisions of this contract. Seller must convey the Property:
- (1) with no liens, assessments, or other security interests against the Property which will not be satisfied out of the sales price, unless securing loans Buyer assumes;
 - (2) without any assumed loans in default; and
 - (3) with no persons in possession of any part of the Property as lessees, tenants at sufferance, or trespassers except tenants under the written leases assigned to Buyer under this contract.
- D. At closing, Seller, at Seller's expense, will also deliver to Buyer:
- (1) tax statements showing no delinquent taxes on the Property;
 - (2) an assignment of all leases to or on the Property;
 - (3) to the extent assignable, an assignment to Buyer of any licenses and permits related to the Property;
 - (4) evidence that the person executing this contract is legally capable and authorized to bind Seller;
 - (5) an affidavit acceptable to the escrow agent stating that Seller is not a foreign person or, if Seller is a foreign person, a written authorization for the escrow agent to: (i) withhold from Seller's proceeds an amount sufficient to comply applicable tax law; and (ii) deliver the amount to the Internal Revenue Service (IRS) together with appropriate tax forms; and
 - (6) any notices, statements, certificates, affidavits, releases, and other documents required by this contract, the commitment, or law necessary for the closing of the sale and issuance of the title policy, all of which must be completed by Seller as necessary.
- E. At closing, Buyer will:
- (1) pay the sales price in good funds acceptable to the escrow agent;
 - (2) deliver evidence that the person executing this contract is legally capable and authorized to bind Buyer;
 - (3) sign and send to each tenant in a lease for any part of the Property a written statement that:
 - (a) acknowledges Buyer has received and is responsible for the tenant's security deposit; and
 - (b) specifies the exact dollar amount of the security deposit;
 - (4) sign an assumption of all leases then in effect; and
 - (5) execute and deliver any notices, statements, certificates, or other documents required by this contract or law necessary to close the sale.
- F. Unless the parties agree otherwise, the closing documents will be as found in the basic forms in the current edition of the State Bar of Texas Real Estate Forms Manual without any additional clauses.

11. POSSESSION: Seller will deliver possession of the Property to Buyer upon closing and funding of this sale in its present condition with any repairs Seller is obligated to complete, ordinary wear and tear excepted. Any possession by Buyer before closing or by Seller after closing that is not authorized by a separate written lease agreement is a landlord-tenant at sufferance relationship between the parties.

12. SPECIAL PROVISIONS: *(Identify exhibit if special provisions are contained in an attachment.)*
Earnest Money in Section 5 A. herein will be released to Seller immediately upon receipt of this Contract at the Title Company.

Buyer may have three options to extend the Closing for periods of 30 days each, by depositing \$5,0000.00 for each extension with the Title Company.

All monies deposited for Closing Extensions shall be non refundable but applicable to the Purchase Price.

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13. SALES EXPENSES:

- A. Seller's Expenses: Seller will pay for the following at or before closing:
- (1) releases of existing liens, other than those liens assumed by Buyer, including prepayment penalties and recording fees;
 - (2) release of Seller's loan liability, if applicable;
 - (3) tax statements or certificates;
 - (4) preparation of the deed;
 - (5) one-half of any escrow fee;
 - (6) costs to record any documents to cure title objections that Seller must cure; and
 - (7) other expenses that Seller will pay under other provisions of this contract.
- B. Buyer's Expenses: Buyer will pay for the following at or before closing:
- (1) all loan expenses and fees;
 - (2) preparation of any deed of trust;
 - (3) recording fees for the deed and any deed of trust;
 - (4) premiums for flood insurance as may be required by Buyer's lender;
 - (5) one-half of any escrow fee;
 - (6) other expenses that Buyer will pay under other provisions of this contract.

14. PRORATIONS:

- A. Prorations:
- (1) Interest on any assumed loan, taxes, rents, and any expense reimbursements from tenants will be prorated through the closing date.
 - (2) If the amount of ad valorem taxes for the year in which the sale closes is not available on the closing date, taxes will be prorated on the basis of taxes assessed in the previous year. If the taxes for the year in which the sale closes vary from the amount prorated at closing, the parties will adjust the prorations when the tax statements for the year in which the sale closes become available. This Paragraph 14A(2) survives closing.
 - (3) If Buyer assumes a loan or is taking the Property subject to an existing lien, Seller will transfer all reserve deposits held by the lender for the payment of taxes, insurance premiums, and other charges to Buyer at closing and Buyer will reimburse such amounts to Seller by an appropriate adjustment at closing.
- B. Rollback Taxes: If Seller changes the use of the Property before closing or if a denial of a special valuation on the Property claimed by Seller results in the assessment of additional taxes, penalties, or interest (assessments) for periods before closing, the assessments will be the obligation of the Seller. If this sale or Buyer's use of the Property after closing results in additional assessments for periods before closing, the assessments will be the obligation of Buyer. This Paragraph 14B survives closing.
- C. Rent and Security Deposits: At closing, Seller will tender to Buyer all security deposits and the following advance payments received by Seller for periods after closing: prepaid expenses, advance rental payments, and other advance payments paid by tenants. Rents prorated to one party but received by the other party will be remitted by the recipient to the party to whom it was prorated within 5 days after the rent is received. This Paragraph 14C survives closing.

15. DEFAULT:

- A. If Buyer fails to comply with this contract, Buyer is in default and Seller may:
- (1) terminate this contract and receive the earnest money as liquidated damages, thereby releasing the parties from this contract; or
 - (2) enforce specific performance, or seek other relief as may be provided by law, or both.

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- B. If, without fault, Seller is unable within the time allowed to deliver the estoppel certificates, survey, or commitment, Buyer may:
 - (1) terminate this contract and receive the earnest money, less any independent consideration under Paragraph 7B(1), as the sole remedy; or
 - (2) extend the time for performance up to 15 days and the closing will be extended as necessary.
- C. Except as provided in Paragraph 15B, if Seller fails to comply with this contract, Seller is in default and Buyer may:
 - (1) terminate this contract and receive the earnest money, less any independent consideration under Paragraph 7B(1), as liquidated damages, thereby releasing the parties from this contract; or
 - (2) enforce specific performance, or seek such other relief as may be provided by law, or both.
- 16. **CONDEMNATION:** If before closing, condemnation proceedings are commenced against any part of the Property, Buyer may:
 - A. terminate this contract by providing written notice to Seller within 15 days after Buyer is advised of the condemnation proceedings and the earnest money, less any independent consideration paid under Paragraph 7B(1), will be refunded to Buyer; or
 - B. appear and defend in the condemnation proceedings and any award will, at Buyer's election, belong to:
 - (1) Seller and the sales price will be reduced by the same amount; or
 - (2) Buyer and the sales price will not be reduced.
- 17. **ATTORNEY'S FEES:** If Buyer, Seller, any broker, or any escrow agent is a prevailing party in any legal proceeding brought under or with relation to this contract or this transaction, such party is entitled to recover from the non-prevailing parties all costs of such proceeding and reasonable attorney's fees. This Paragraph 17 survives termination of this contract.

18. ESCROW:

- A. At closing, the earnest money will be applied first to any cash down payment, then to Buyer's closing costs, and any excess will be refunded to Buyer.
- B. If both parties make written demand for the earnest money, escrow agent may require payment of unpaid expenses incurred on behalf of the parties and a written release of liability of escrow agent from all parties.
- C. If one party makes written demand for the earnest money, escrow agent will give notice of the demand by providing to the other party a copy of the demand. If escrow agent does not receive written objection to the demand from the other party within 15 days after the date escrow agent sent the demand to the other party, escrow agent may disburse the earnest money to the party making demand, reduced by the amount of unpaid expenses incurred on behalf of the party receiving the earnest money and escrow agent may pay the same to the creditors.
- D. Escrow agent will deduct any independent consideration under Paragraph 7B(1) before disbursing any earnest money to Buyer and will pay the independent consideration to Seller.
- E. If escrow agent complies with this Paragraph 18, each party hereby releases escrow agent from all claims related to the disbursement of the earnest money.
- F. Notices under this Paragraph 18 must be sent by certified mail, return receipt requested. Notices to escrow agent are effective upon receipt by escrow agent.

19. MATERIAL FACTS: To the best of Seller's knowledge and belief: *(Check only one box.)*

- A. Seller is not aware of any material defects to the Property except as stated in the attached Property Condition Statement.

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- B. Except as otherwise provided in this contract, Seller is not aware of:
 - (1) any subsurface: structures, pits, waste, springs, or improvements;
 - (2) any pending or threatened litigation, condemnation, or assessment affecting the Property;
 - (3) any environmental hazards or conditions that materially affect the Property;
 - (4) whether the Property is or has been used for the storage or disposal of hazardous materials or toxic waste, a dump site or landfill, or any underground tanks or containers;
 - (5) whether radon, asbestos containing materials, urea-formaldehyde foam insulation, lead-based paint, toxic mold (to the extent that it adversely affects the health of ordinary occupants), or other pollutants or contaminants of any nature now exist or ever existed on the Property;
 - (6) any wetlands, as defined by federal or state law or regulation, on the Property;
 - (7) any threatened or endangered species or their habitat on the Property;
 - (8) any present or past infestation of wood-destroying insects in the Property's improvements;
 - (9) any contemplated material changes to the Property or surrounding area that would materially and detrimentally affect the ordinary use of the Property;
 - (10) any condition on the Property that violates any law or ordinance.

(Describe any exceptions to (1)-(10) in Paragraph 12 or an addendum.)

20. NOTICES: All notices between the parties under this contract must be in writing and are effective when hand-delivered, mailed by certified mail return receipt requested, or sent by facsimile transmission to the parties addresses or facsimile numbers stated in Paragraph 1. The parties will send copies of any notices to the broker representing the party to whom the notices are sent.

- A. Seller also consents to receive any notices by e-mail at Seller's e-mail address stated in Paragraph 1.
- B. Buyer also consents to receive any notices by e-mail at Buyer's e-mail address stated in Paragraph 1.

21. DISPUTE RESOLUTION: The parties agree to negotiate in good faith in an effort to resolve any dispute related to this contract that may arise. If the dispute cannot be resolved by negotiation, the parties will submit the dispute to mediation before resorting to arbitration or litigation and will equally share the costs of a mutually acceptable mediator. This paragraph survives termination of this contract. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.

22. AGREEMENT OF THE PARTIES:

- A. This contract is binding on the parties, their heirs, executors, representatives, successors, and permitted assigns.
- B. This contract is to be construed in accordance with the laws of the State of Texas.
- C. This contract contains the entire agreement of the parties and may not be changed except in writing.
- D. If this contract is executed in a number of identical counterparts, each counterpart is an original and all counterparts, collectively, constitute one agreement.
- E. Addenda which are part of this contract are: *(Check all that apply.)*
 - (1) Property Description Exhibit identified in Paragraph 2;
 - (2) Commercial Contract Financing Addendum;
 - (3) Commercial Property Condition Statement;
 - (4) Notice to Purchaser of Real Property in a Water District (MUD);
 - (5) Addendum for Coastal Area Property;
 - (6) Addendum for Property Located Seaward of the Gulf Intracoastal Waterway; and
 - (7) _____

(Note: Counsel for the Texas Association of REALTORS® (TAR) has determined that any of the foregoing addenda which are promulgated by the Texas Real Estate Commission (TREC) or published by TAR are appropriate for use with this form.)

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F. Buyer may may not assign this contract. If Buyer assigns this contract, Buyer will be relieved of any future liability under this contract only if the assignee assumes, in writing, all obligations and liability of Buyer under this contract.

23. TIME: Time is of the essence in this contract. The parties require strict compliance with the times for performance. If the last day to perform under a provision of this contract falls on a Saturday, Sunday, or legal holiday, the time for performance is extended until the end of the next day which is not a Saturday, Sunday, or legal holiday.

24. EFFECTIVE DATE: The effective date of this contract for the purpose of performance of all obligations is the date the escrow agent receipts this contract after all parties execute this contract.

25. ADDITIONAL NOTICES:

A. Buyer should have an abstract covering the Property examined by an attorney of Buyer's selection, or Buyer should be furnished with or obtain a title policy.

B. If the Property is situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, Chapter 49, Texas Water Code, requires Seller to deliver and Buyer to sign the statutory notice relating to the tax rate, bonded indebtedness, or standby fees of the district before final execution of this contract.

C. Notice Required by §13.257, Water Code: "The real property, described below, that you are about to purchase may be located in a certificated water or sewer service area, which is authorized by law to provide water or sewer service to the properties in the certificated area. If your property is located in a certificated area there may be special costs or charges that you will be required to pay before you can receive water or sewer service. There may be a period required to construct lines or other facilities necessary to provide water or sewer service to your property. You are advised to determine if the property is in a certificated area and contact the utility service provider to determine the cost that you will be required to pay and the period, if any, that is required to provide water or sewer service to your property. The undersigned purchaser hereby acknowledges receipt of the foregoing notice at or before the execution of a binding contract for the purchase of the real property described in the notice or at closing of purchase of the real property." The real property is described in Paragraph 2 of this contract.

D. If the Property adjoins or shares a common boundary with the tidally influenced submerged lands of the state, §33.135 of the Texas Natural Resources Code requires a notice regarding coastal area property to be included as part of this contract.

E. If the Property is located seaward of the Gulf Intracoastal Waterway, §61.025, Texas Natural Resources Code, requires a notice regarding the seaward location of the Property to be included as part of this contract.

F. If the Property is located outside the limits of a municipality, the Property may now or later be included in the extra-territorial jurisdiction (ETJ) of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and ETJ. To determine if the Property is located within a municipality's ETJ, Buyer should contact all municipalities located in the general proximity of the Property for further information.

G. Brokers are not qualified to perform property inspections, surveys, engineering studies, environmental assessments, or inspections to determine compliance with zoning, governmental regulations, or laws. Buyer should seek experts to perform such services. Selection of inspectors and repairmen is the responsibility of Buyer and not the brokers.

26. CONTRACT AS OFFER: The execution of this contract by the first party constitutes an offer to buy or sell the Property. Unless the other party accepts the offer by 5:00 p.m., in the time zone in which the Property is located, on July 27, 2007, the offer will lapse and become null and void.

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Initialed for Identification by Buyer CP and Seller BE

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Commercial Contract - Unimproved Property Concerning 11.902 Acres on FM 967, Buda, Texas

READ THIS CONTRACT CAREFULLY. The brokers and agents make no representation or recommendation as to the legal sufficiency, legal effect, or tax consequences of this document or transaction. CONSULT your attorney BEFORE signing.

Buyer: Denison Construction, Inc. Seller: Rueben Investments, LLC
 By: [Signature] By: [Signature]
 Printed Name: Colby Denison Printed Name: Blake Rue
 Title: President Title: Member
 Buyer: _____ Seller: _____
 By: _____ By: _____
 Printed Name: _____ Printed Name: _____
 Title: _____ Title: _____

AGREEMENT BETWEEN BROKERS

Principal Broker agrees to pay _____ (Cooperating Broker) a fee of \$ _____ or _____% of the sales price when the Principal Broker's fee is received. Escrow agent is authorized and directed to pay Cooperating Broker from Principal Broker's fee at closing. This Agreement Between Brokers supersedes any prior offers and agreements for compensation between brokers.

Cooperating Broker _____ Principal Broker _____
 By: _____ By: _____

ATTORNEYS

Buyer's attorney is: _____ Seller's attorney is: _____
 Name _____ Name: _____
 Address: _____ Address: _____
 Phone & Fax: _____ Phone & Fax: _____
 E-mail: _____ E-mail: _____

Buyer's attorney requests copies of documents, notices, and other information:
 the title company sends to Buyer.
 Seller sends to Buyer.

Seller's attorney requests copies of documents, notices, and other information:
 the title company sends to Seller.
 Buyer sends to Seller.

ESCROW RECEIPT

Escrow agent acknowledges receipt of:
 A. the contract on this day 7/26/2007 (effective date);
 B. earnest money in the amount of \$ 10,000 in the form of ck 3158
 on 7/26/2007

Escrow Agent: LandAmerica Commercial Services Address: 1717 W 6th, Suite 100
Austin, Tx 78703
 By: [Signature] for Terri Nassour Phone & Fax: 512-481-9500 (F) 481-9570
 E-mail: tnassour@landam.com

SUBJECT TO THE TERMS AND CONDITIONS ON THE ATTACHED RECEIPT FOR EARNEST MONEY.



LandAmerica Commonwealth Title of Austin, Inc.
1717 West 6th Street, Suite 100
Austin, TX 78703
Phone 512-481-9560 Fax 512-481-9570

RECEIPT FOR EARNEST MONEY

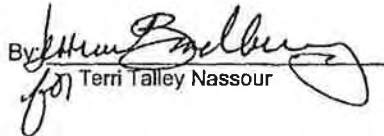
July 26, 2007

Order No.: 2519003074
Buyer/Borrower(s): Denison Construction, Inc.
Seller(s): Rueben Investments, LLC
Property Address: FM 967, Buda, TX
Escrow Agent: LandAmerica Commonwealth Title of Austin, Inc.
Earnest Money \$ 10,000.00

Escrow Agent hereby acknowledges receipt of Earnest Money from Purchaser in the form of:
 Company/Personal Check Cashier's Check Wire Transfer Other _____

1. Earnest Money is to be held by Escrow Agent in accordance with the terms of the attached agreement or contract; however, Escrow Agent is not (a) a party to the attached agreement or contract and does not have liability for the performance or nonperformance of any party to this agreement or contract, (b) liable for collection of any check(s) receipted herein, (d) liable for interest on the Earnest Money and (d) liable for the loss of any Earnest Money caused by the failure of any financial institution in which the Earnest Money has been deposited.
2. Escrow Agent may, at its option, require the receipt, release and authorization in writing of all parties to the attached agreement or contract before paying the Earnest Money to any party.
3. In the event the transaction contemplated by the attached agreement or contract is cancelled or otherwise not completed, Escrow Agent's disbursement of Earnest Money may be reduced by the amount of unpaid expenses incurred on behalf of the party(ies) receiving the earnest money and escrow agent may pay the same to the creditors, including, without limitation, fees for tax certificates, document recording, delivery charges, copying fees, attorney's fees, document preparation fees, surveyor's fees and fees for abstracting services not related to the issuance of title insurance.
4. Escrow Agent shall not be liable for placing Earnest Money in an interest-bearing or investment account, unless all parties to the attached agreement or contract have previously executed the separate and specific Investment Authorization form required by Escrow Agent, regardless of any terms or conditions contained in the attached agreement or contract to the contrary. NOTE: Escrow Agent reserves the right to refuse to invest any sum which it anticipates will generate interest in an amount of \$50.00 or less for the projected period of the escrow.

LandAmerica Commonwealth Title of Austin, Inc.

By: 
for Terri Talley Nassour

09138



TEXAS ASSOCIATION OF REALTORS®
COMMERCIAL CONTRACT - UNIMPROVED PROPERTY

USE OF THIS FORM BY PERSONS WHO ARE NOT MEMBERS OF THE TEXAS ASSOCIATION OF REALTORS® IS NOT AUTHORIZED.
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1. PARTIES: Seller agrees to sell and convey to Buyer the Property described in Paragraph 2. Buyer agrees to buy the Property from Seller for the sales price stated in Paragraph 3. The parties to this contract are:

Seller: Leander 2243 Investment, LLC
Address: P.O. Box 302663, Austin, Tx 78703
Phone: (512) 294-4017 Fax: _____
E-mail: blake@rusainvestments.com

Buyer: DDC Belmont, Ltd.
Address: 3701 N Lamar, Suite 206, Austin, Tx 78703
Phone: (512) 732-1226 Fax: _____
E-mail: colby@denisondevelopment.com

2. PROPERTY:

A. "Property" means that real property situated in Williamson County, Texas at _____ (address) and that is legally described on the attached Exhibit _____ or as follows: 12.3 acres out of lots 1,2,3 of the Leander 2243 Subdivision as shown on the attached Exhibit "A".

B. Seller will sell and convey the Property together with:

- (1) all rights, privileges, and appurtenances pertaining to the Property, including Seller's right, title, and interest in any minerals, utilities, adjacent streets, alleys, strips, gores, and rights-of-way;
- (2) Seller's interest in all leases, rents, and security deposits for all or part of the Property; and
- (3) Seller's interest in all licenses and permits related to the Property.

(Describe any exceptions, reservations, or restrictions in Paragraph 12 or an addendum.)

3. SALES PRICE:

A. At or before closing, Buyer will pay the following sales price for the Property:

(1) Cash portion payable by Buyer at closing	\$	<u>1,854,000.00</u>
(2) Sum of all financing described in Paragraph 4	\$	_____
(3) Sales price (sum of 3A(1) and 3A(2))	\$	<u>1,854,000.00</u>

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Commercial Contract - Unimproved Property Concerning _____

B. Adjustment to Sales Price: (Check (1) or (2) only.)

- (1) The sales price will not be adjusted based on a survey
- (2) The sales price will be adjusted based on the latest survey obtained under Paragraph 6B.

(a) The sales price is calculated on the basis of \$ _____ per:

- (i) square foot of total area net area.
- (ii) acre of total area net area.

(b) "Total area" means all land area within the perimeter boundaries of the Property. "Net area" means total area less any area of the Property within:

- (i) public roadways;
- (ii) rights-of-way and easements other than those that directly provide utility services to the Property; and
- (iii) _____

(c) If the sales price is adjusted by more than _____ % of the stated sales price, either party may terminate this contract by providing written notice to the other party within _____ days after the terminating party receives the survey. If neither party terminates this contract or if the variance is less than the stated percentage, the adjustment to the sales price will be made to the cash portion of the sales price payable by Buyer.

4. **FINANCING:** Buyer will finance the portion of the sales price under Paragraph 3A(2) as follows:

- A. Third Party Financing: One or more third party loans in the total amount of \$ _____ This contract:
 - (1) is not contingent upon Buyer obtaining third party financing.
 - (2) is contingent upon Buyer obtaining third party financing in accordance with the attached Commercial Contract Financing Addendum.
- B. Assumption: In accordance with the attached Commercial Contract Financing Addendum, Buyer will assume the existing promissory note secured by the Property, which balance at closing will be \$ _____.
- C. Seller Financing: The delivery of a promissory note and deed of trust from Buyer to Seller under the terms of the attached Commercial Contract Financing Addendum in the amount of \$ _____.

5. **EARNEST MONEY:**

- A. Not later than 3 days after the effective date, Buyer must deposit \$ 10,000.00 as earnest money with Heritage Title Company (escrow agent) at 401 Congress, Suite 1500, Austin, Tx 78701 (address). If Buyer fails to timely deposit the earnest money, Seller may terminate this contract by providing written notice to Buyer before Buyer deposits the earnest money and may exercise Seller's remedies under Paragraph 15.
- B. Buyer will deposit an additional amount of \$ 10,000.00 with the escrow agent to be made part of the earnest money on or before:
 - (i) _____ days after Buyer's right to terminate under Paragraph 7B expires; or
 - (ii) March 31, 2009
 Buyer will be in default if Buyer fails to deposit the additional amount required by this Paragraph 5B within 3 days after Seller notifies Buyer that Buyer has not timely deposited the additional amount.
- C. Buyer may instruct the escrow agent to deposit the earnest money in an interest-bearing account at a federally insured financial institution and to credit any interest to Buyer.

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6. TITLE POLICY AND SURVEY:

A. Title Policy:

- (1) Seller, at Seller's expense, will furnish Buyer an Owner's Policy of Title Insurance (the title policy) issued by Heritage Title Company (title company) in the amount of the sales price, dated at or after closing, insuring Buyer against loss under the title policy, subject only to:
 - (a) those title exceptions permitted by this contract or as may be approved by Buyer in writing; and
 - (b) the standard printed exceptions contained in the promulgated form of title policy unless this contract provides otherwise.
- (2) The standard printed exception as to discrepancies, conflicts, or shortages in area and boundary lines, or any encroachments or protrusions, or any overlapping improvements:
 - (a) will not be amended or deleted from the title policy.
 - (b) will be amended to read "shortages in areas" at the expense of Buyer Seller.
- (3) Buyer may object to any restrictive covenants on the Property within the time required under Paragraph 6C.
- (4) Within 15 days after the effective date, Seller will furnish Buyer a commitment for title insurance (the commitment) including legible copies of recorded documents evidencing title exceptions. Seller authorizes the title company to deliver the commitment and related documents to Buyer at Buyer's address.

B. Survey: Within 200 days after the effective date:

- (1) Buyer will obtain a survey of the Property at Buyer's expense and deliver a copy of the survey to Seller. The survey must be made in accordance with the Texas Society of Professional Surveyors' standards for a Category 1A survey under the appropriate condition.
- (2) Seller, at Seller's expense, will furnish Buyer a survey of the Property dated after the effective date. The survey must be made in accordance with the Texas Society of Professional Surveyors' standards for a Category 1A survey under the appropriate condition.
- (3) Seller will deliver to Buyer and the title company a true and correct copy of Seller's existing survey of the Property dated _____ along with an affidavit required by the title company for approval of the survey. If the survey is not acceptable to the title company, Seller, at Seller's expense, will obtain a survey acceptable to the title company and deliver the acceptable survey to the Buyer and the title company within 15 days after Seller receives notice that the existing survey is not acceptable to the title company. The closing date will be extended daily up to 15 days if necessary for Seller to deliver an acceptable survey within the time required.

C. Buyer's Objections to the Commitment and Survey:

- (1) Within 21 days after Buyer receives the commitment, copies of the documents evidencing the title exceptions, and any required survey, Buyer may object in writing to matters disclosed in the items if: (a) the matters disclosed constitute a defect or encumbrance to title other than those permitted by this contract or liens that Seller will satisfy at closing or Buyer will assume at closing; or (b) the items show that any part of the Property lies in a special flood hazard area (an "A" or "V" zone as defined by FEMA). If Paragraph 6B(1) applies, Buyer is deemed to receive the survey on the earlier of: (i) the date of Buyer's actual receipt of the survey; or (ii) of the deadline specified in Paragraph 6B.

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- (2) Seller may, but is not obligated to, cure Buyer's timely objections within 15 days after Seller receives the objections. The closing date will be extended as necessary to provide such time to cure the objections. If Seller fails to cure the objections by the time required, Buyer may terminate this contract by providing written notice to Seller within 5 days after the time by which Seller must cure the objections. If Buyer terminates, the earnest money, less any independent consideration under Paragraph 7B(1), will be refunded to Buyer.
- (3) Buyer's failure to timely object or terminate under this Paragraph 6C is a waiver of Buyer's right to object except that Buyer will not waive the requirements in Schedule C of the commitment.

7. PROPERTY CONDITION:

A. Present Condition: Buyer accepts the Property in its present condition except that Seller, at Seller's expense, will complete the following before closing: _____

B. Feasibility Period: Buyer may terminate this contract for any reason within Aug. 1, '09 days after the effective date (feasibility period) by providing Seller written notice of termination. (Check only one box.)

(1) If Buyer terminates under this Paragraph 7B, the earnest money will be refunded to Buyer less \$ 10,000.00 that Seller will retain as independent consideration for Buyer's unrestricted right to terminate. Buyer has tendered the independent consideration to Seller upon payment of the amount specified in Paragraph 5A to the escrow agent. The independent consideration is to be credited to the sales price only upon closing of the sale. If no dollar amount is stated in this Paragraph 7B(1) or if Buyer fails to timely deposit the earnest money, Buyer will not have the right to terminate under this Paragraph 7B.

(2) Not later than 3 days after the effective date, Buyer must pay Seller \$ _____ as independent consideration for Buyer's right to terminate by tendering such amount to Seller or Seller's agent. If Buyer terminates under this Paragraph 7B, the earnest money will be refunded to Buyer and Seller will retain the independent consideration. The independent consideration will be credited to the sales price only upon closing of the sale. If no dollar amount is stated in this Paragraph 7B(2) or if Buyer fails to timely pay the independent consideration, Buyer will not have the right to terminate under this Paragraph 7B.

C. Inspections, Studies, or Assessments:

(1) During the feasibility period, Buyer, at Buyer's expense, may complete or cause to be completed any and all inspections, studies, or assessments of the Property (including all improvements and fixtures) desired by Buyer.

(2) Buyer must:

- (a) employ only trained and qualified inspectors and assessors;
- (b) notify Seller, in advance, of when the inspectors or assessors will be on the Property;
- (c) abide by any reasonable entry rules or requirements of Seller;
- (d) not interfere with existing operations or occupants of the Property; and
- (e) restore the Property to its original condition if altered due to inspections, studies, or assessments that Buyer completes or causes to be completed.

(3) Except for those matters that arise from the negligence of Seller or Seller's agents, Buyer is responsible for any claim, liability, encumbrance, cause of action, and expense resulting from

Commercial Contract - Unimproved Property Concerning _____

Buyer's inspections, studies, or assessments, including any property damage or personal injury. Buyer will indemnify, hold harmless, and defend Seller and Seller's agents against any claim involving a matter for which Buyer is responsible under this paragraph. This paragraph survives termination of this contract.

D. Property Information:

(1) Delivery of Property Information: Within 15 days after the effective date, Seller will deliver to Buyer:

- (a) copies of all current leases pertaining to the Property, including any modifications, supplements, or amendments to the leases;
- (b) copies of all notes and deeds of trust against the Property that Buyer will assume or that Seller will not pay in full on or before closing;
- (c) copies of all previous environmental assessments, geotechnical reports, studies, or analyses made on or relating to the Property;
- (d) copies property tax statements for the Property for the previous 2 calendar years;
- (e) plats of the Property;
- (f) copies of current utility capacity letters from the Property's water and sewer service provider; and
- (g) _____

(2) Return of Property Information: If this contract terminates for any reason, Buyer will, not later than 10 days after the termination date: (a) return to Seller all those items described in Paragraph 7D(1) that Seller delivered to Buyer and all copies that Buyer made of those items; and (b) deliver copies of all inspection and assessment reports related to the Property that Buyer completed or caused to be completed. This Paragraph 7D(2) survives termination of this contract.

E. Contracts Affecting Operations: Until closing, Seller: (1) will operate the Property in the same manner as on the effective date under reasonably prudent business standards; and (2) will not transfer or dispose of any part of the Property, any interest or right in the Property, or any of the personal property or other items described in Paragraph 2B or sold under this contract. After the feasibility period ends, Seller may not enter into, amend, or terminate any other contract that affects the operations of the Property without Buyer's written approval.

8. **LEASES:**

A. Each written lease Seller is to assign to Buyer under this contract must be in full force and effect according to its terms. Seller may not enter into any new lease, fail to comply with any existing lease, or make any amendment or modification to any existing lease without Buyer's written consent. Seller must disclose, in writing, if any of the following exist at the time Seller provides the leases to the Buyer or subsequently occur before closing:

- (1) any failure by Seller to comply with Seller's obligations under the leases;
- (2) any circumstances under any lease that entitle the tenant to terminate the lease or seek any offsets or damages;
- (3) any advance sums paid by a tenant under any lease;
- (4) any concessions, bonuses, free rents, rebates, brokerage commissions, or other matters that affect any lease; and
- (5) any amounts payable under the leases that have been assigned or encumbered, except as security for loan(s) assumed or taken subject to under this contract.

B. Estoppel Certificates: Within N/A days after the effective date, Seller will deliver to Buyer estoppel certificates signed not earlier than _____ by each tenant that leases space in the Property. The estoppel certificates must state:

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- (1) that no default exists under the lease by the landlord or tenant as of the date the estoppel certificate is signed;
- (2) the amount of the scheduled rents to be paid through the end of the lease and any rental payments that have been paid in advance;
- (3) the amount of any security deposit;
- (4) the amount of any offsets tenant is entitled against rent;
- (5) the expiration date of the lease;
- (6) a description of any renewal options; and
- (7) _____

9. BROKERS:

A. The brokers to this sale are:

E Ted Davis & Associates
 Cooperating Broker 0323139 License No.
50 Briar Hollow, Suite 490E
 Address
Houston, Texas 77027
(713) 552-1920
 Phone

Oryx Commercial Properties, LLC
 Principal Broker 0437687 License No.
3701 N Lamar, Suite 206B
 Address
Austin, Texas 78755
(512) 407-8907
 Phone Fax

E-mail: _____

E-mail: britt@oryxproperties.net

Cooperating Broker represents buyer.

Principal Broker: (Check only one box.)

- represents Seller only.
- represents Buyer only.
- is an intermediary between Seller and Buyer.

B. Fees. (Check only one box.)

- (1) Seller will pay Principal Broker the fee specified by separate written commission agreement between Principal Broker and Seller. Principal Broker will pay Cooperating Broker the fee specified in the Agreement Between Brokers found below the parties' signatures to this contract.
- (2) At the closing of this sale, Seller will pay:

Cooperating Broker a total cash fee of:
 3.000 % of the sales price.

Principal Broker a total cash fee of:
 3.000 % of the sales price.

The cash fees will be paid in _____ County, Texas. Seller authorizes escrow agent to pay the brokers from the Seller's proceeds at closing.

NOTICE: Chapter 62, Texas Property Code, authorizes a broker to secure an earned commission with a lien against the Property.

C. The parties may not amend this Paragraph 9 without the written consent of the brokers affected by the amendment.

10. CLOSING:

A. The closing of the sale will be on or before September 1, 2009 or within 7 days after objections made under Paragraph 6C have been cured or waived, whichever date is later (the closing date).

B. If either party fails to close by the closing date, the non-defaulting party may exercise the remedies in Paragraph 15.

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Commercial Contract - Unimproved Property Concerning _____

- C. At closing, Seller will execute and deliver, at Seller's expense, a general special warranty deed. The deed must include a vendor's lien if any part of the sales price is financed. The deed must convey good and indefeasible title to the Property and show no exceptions other than those permitted under Paragraph 6 or other provisions of this contract. Seller must convey the Property:
- (1) with no liens, assessments, or other security interests against the Property which will not be satisfied out of the sales price, unless securing loans Buyer assumes;
 - (2) without any assumed loans in default; and
 - (3) with no persons in possession of any part of the Property as lessees, tenants at sufferance, or trespassers except tenants under the written leases assigned to Buyer under this contract.
- D. At closing, Seller, at Seller's expense, will also deliver to Buyer:
- (1) tax statements showing no delinquent taxes on the Property;
 - (2) an assignment of all leases to or on the Property;
 - (3) to the extent assignable, an assignment to Buyer of any licenses and permits related to the Property;
 - (4) evidence that the person executing this contract is legally capable and authorized to bind Seller;
 - (5) an affidavit acceptable to the escrow agent stating that Seller is not a foreign person or, if Seller is a foreign person, a written authorization for the escrow agent to: (i) withhold from Seller's proceeds an amount sufficient to comply applicable tax law; and (ii) deliver the amount to the Internal Revenue Service (IRS) together with appropriate tax forms; and
 - (6) any notices, statements, certificates, affidavits, releases, and other documents required by this contract, the commitment, or law necessary for the closing of the sale and issuance of the title policy, all of which must be completed by Seller as necessary.
- E. At closing, Buyer will:
- (1) pay the sales price in good funds acceptable to the escrow agent;
 - (2) deliver evidence that the person executing this contract is legally capable and authorized to bind Buyer;
 - (3) sign and send to each tenant in a lease for any part of the Property a written statement that:
 - (a) acknowledges Buyer has received and is responsible for the tenant's security deposit; and
 - (b) specifies the exact dollar amount of the security deposit;
 - (4) sign an assumption of all leases then in effect; and
 - (5) execute and deliver any notices, statements, certificates, or other documents required by this contract or law necessary to close the sale.
- F. Unless the parties agree otherwise, the closing documents will be as found in the basic forms in the current edition of the State Bar of Texas Real Estate Forms Manual without any additional clauses.
11. **POSSESSION:** Seller will deliver possession of the Property to Buyer upon closing and funding of this sale in its present condition with any repairs Seller is obligated to complete, ordinary wear and tear excepted. Any possession by Buyer before closing or by Seller after closing that is not authorized by a separate written lease agreement is a landlord-tenant at sufferance relationship between the parties.
12. **SPECIAL PROVISIONS:** *(Identify exhibit if special provisions are contained in an attachment.)*

Commercial Contract - Unimproved Property Concerning _____

13. SALES EXPENSES:

- A. Seller's Expenses: Seller will pay for the following at or before closing:
- (1) releases of existing liens, other than those liens assumed by Buyer, including prepayment penalties and recording fees;
 - (2) release of Seller's loan liability, if applicable;
 - (3) tax statements or certificates;
 - (4) preparation of the deed;
 - (5) one-half of any escrow fee;
 - (6) costs to record any documents to cure title objections that Seller must cure; and
 - (7) other expenses that Seller will pay under other provisions of this contract.
- B. Buyer's Expenses: Buyer will pay for the following at or before closing:
- (1) all loan expenses and fees;
 - (2) preparation of any deed of trust;
 - (3) recording fees for the deed and any deed of trust;
 - (4) premiums for flood insurance as may be required by Buyer's lender;
 - (5) one-half of any escrow fee;
 - (6) other expenses that Buyer will pay under other provisions of this contract.

14. PRORATIONS:

- A. Prorations:
- (1) Interest on any assumed loan, taxes, rents, and any expense reimbursements from tenants will be prorated through the closing date.
 - (2) If the amount of ad valorem taxes for the year in which the sale closes is not available on the closing date, taxes will be prorated on the basis of taxes assessed in the previous year. If the taxes for the year in which the sale closes vary from the amount prorated at closing, the parties will adjust the prorations when the tax statements for the year in which the sale closes become available. This Paragraph 14A(2) survives closing.
 - (3) If Buyer assumes a loan or is taking the Property subject to an existing lien, Seller will transfer all reserve deposits held by the lender for the payment of taxes, insurance premiums, and other charges to Buyer at closing and Buyer will reimburse such amounts to Seller by an appropriate adjustment at closing.
- B. Rollback Taxes: If Seller changes the use of the Property before closing or if a denial of a special valuation on the Property claimed by Seller results in the assessment of additional taxes, penalties, or interest (assessments) for periods before closing, the assessments will be the obligation of the Seller. If this sale or Buyer's use of the Property after closing results in additional assessments for periods before closing, the assessments will be the obligation of Buyer. This Paragraph 14B survives closing.
- C. Rent and Security Deposits: At closing, Seller will tender to Buyer all security deposits and the following advance payments received by Seller for periods after closing: prepaid expenses, advance rental payments, and other advance payments paid by tenants. Rents prorated to one party but received by the other party will be remitted by the recipient to the party to whom it was prorated within 5 days after the rent is received. This Paragraph 14C survives closing.

15. DEFAULT:

- A. If Buyer fails to comply with this contract, Buyer is in default and Seller may:
- (1) terminate this contract and receive the earnest money as liquidated damages, thereby releasing the parties from this contract; or
 - (2) enforce specific performance, or seek other relief as may be provided by law, or both.

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Initialed for Identification by Buyer CD, _____ and Seller B.P., _____

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- B. If, without fault, Seller is unable within the time allowed to deliver the estoppel certificates, survey, or commitment, Buyer may:
 - (1) terminate this contract and receive the earnest money, less any independent consideration under Paragraph 7B(1), as the sole remedy; or
 - (2) extend the time for performance up to 15 days and the closing will be extended as necessary.
- C. Except as provided in Paragraph 15B, if Seller fails to comply with this contract, Seller is in default and Buyer may:
 - (1) terminate this contract and receive the earnest money, less any independent consideration under Paragraph 7B(1), as liquidated damages, thereby releasing the parties from this contract; or
 - (2) enforce specific performance, or seek such other relief as may be provided by law, or both.

16. CONDEMNATION: If before closing, condemnation proceedings are commenced against any part of the Property, Buyer may:

- A. terminate this contract by providing written notice to Seller within 15 days after Buyer is advised of the condemnation proceedings and the earnest money, less any independent consideration paid under Paragraph 7B(1), will be refunded to Buyer; or
- B. appear and defend in the condemnation proceedings and any award will, at Buyer's election, belong to:
 - (1) Seller and the sales price will be reduced by the same amount; or
 - (2) Buyer and the sales price will not be reduced.

17. ATTORNEY'S FEES: If Buyer, Seller, any broker, or any escrow agent is a prevailing party in any legal proceeding brought under or with relation to this contract or this transaction, such party is entitled to recover from the non-prevailing parties all costs of such proceeding and reasonable attorney's fees. This Paragraph 17 survives termination of this contract.

18. ESCROW:

- A. At closing, the earnest money will be applied first to any cash down payment, then to Buyer's closing costs, and any excess will be refunded to Buyer.
- B. If both parties make written demand for the earnest money, escrow agent may require payment of unpaid expenses incurred on behalf of the parties and a written release of liability of escrow agent from all parties.
- C. If one party makes written demand for the earnest money, escrow agent will give notice of the demand by providing to the other party a copy of the demand. If escrow agent does not receive written objection to the demand from the other party within 15 days after the date escrow agent sent the demand to the other party, escrow agent may disburse the earnest money to the party making demand, reduced by the amount of unpaid expenses incurred on behalf of the party receiving the earnest money and escrow agent may pay the same to the creditors.
- D. Escrow agent will deduct any independent consideration under Paragraph 7B(1) before disbursing any earnest money to Buyer and will pay the independent consideration to Seller.
- E. If escrow agent complies with this Paragraph 18, each party hereby releases escrow agent from all claims related to the disbursement of the earnest money.
- F. Notices under this Paragraph 18 must be sent by certified mail, return receipt requested. Notices to escrow agent are effective upon receipt by escrow agent.

19. MATERIAL FACTS: To the best of Seller's knowledge and belief: *(Check only one box.)*

- A. Seller is not aware of any material defects to the Property except as stated in the attached Property Condition Statement.

(FAR-1802) 10-18-05

Initialed for Identification by Buyer OP and Seller E.P.

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Commercial Contract - Unimproved Property Concerning _____

B. Except as otherwise provided in this contract, Seller is not aware of:

- (1) any subsurface: structures, pits, waste, springs, or improvements;
- (2) any pending or threatened litigation, condemnation, or assessment affecting the Property;
- (3) any environmental hazards or conditions that materially affect the Property;
- (4) whether the Property is or has been used for the storage or disposal of hazardous materials or toxic waste, a dump site or landfill, or any underground tanks or containers;
- (5) whether radon, asbestos containing materials, urea-formaldehyde foam insulation, lead-based paint, toxic mold (to the extent that it adversely affects the health of ordinary occupants), or other pollutants or contaminants of any nature now exist or ever existed on the Property;
- (6) any wetlands, as defined by federal or state law or regulation, on the Property;
- (7) any threatened or endangered species or their habitat on the Property;
- (8) any present or past infestation of wood-destroying insects in the Property's improvements;
- (9) any contemplated material changes to the Property or surrounding area that would materially and detrimentally affect the ordinary use of the Property;
- (10) any condition on the Property that violates any law or ordinance

(Describe any exceptions to (1)-(10) in Paragraph 12 or an addendum.)

20. NOTICES: All notices between the parties under this contract must be in writing and are effective when hand-delivered, mailed by certified mail return receipt requested, or sent by facsimile transmission to the parties addresses or facsimile numbers stated in Paragraph 1. The parties will send copies of any notices to the broker representing the party to whom the notices are sent.

- A. Seller also consents to receive any notices by e-mail at Seller's e-mail address stated in Paragraph 1.
- B. Buyer also consents to receive any notices by e-mail at Buyer's e-mail address stated in Paragraph 1.

21. DISPUTE RESOLUTION: The parties agree to negotiate in good faith in an effort to resolve any dispute related to this contract that may arise. If the dispute cannot be resolved by negotiation, the parties will submit the dispute to mediation before resorting to arbitration or litigation and will equally share the costs of a mutually acceptable mediator. This paragraph survives termination of this contract. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.

22. AGREEMENT OF THE PARTIES:

- A. This contract is binding on the parties, their heirs, executors, representatives, successors, and permitted assigns.
- B. This contract is to be construed in accordance with the laws of the State of Texas.
- C. This contract contains the entire agreement of the parties and may not be changed except in writing.
- D. If this contract is executed in a number of identical counterparts, each counterpart is an original and all counterparts, collectively, constitute one agreement.

E. Addenda which are part of this contract are: (Check all that apply.)

- (1) Property Description Exhibit identified in Paragraph 2;
- (2) Commercial Contract Financing Addendum;
- (3) Commercial Property Condition Statement;
- (4) Notice to Purchaser of Real Property in a Water District (MUD);
- (5) Addendum for Coastal Area Property;
- (6) Addendum for Property Located Seaward of the Gulf Intracoastal Waterway; and
- (7) _____

(Note: Counsel for the Texas Association of REALTORS® (TAR) has determined that any of the foregoing addenda which are promulgated by the Texas Real Estate Commission (TREC) or published by TAR are appropriate for use with this form.)

(TAR-1862) 10-18-05

Initialed for Identification by Buyer CD and Seller S.R.

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Commercial Contract - Unimproved Property Concerning _____

F. Buyer may may not assign this contract. If Buyer assigns this contract, Buyer will be relieved of any future liability under this contract only if the assignee assumes, in writing, all obligations and liability of Buyer under this contract.

23. **TIME:** Time is of the essence in this contract. The parties require strict compliance with the times for performance. If the last day to perform under a provision of this contract falls on a Saturday, Sunday, or legal holiday, the time for performance is extended until the end of the next day which is not a Saturday, Sunday, or legal holiday.

24. **EFFECTIVE DATE:** The effective date of this contract for the purpose of performance of all obligations is the date the escrow agent receipts this contract after all parties execute this contract.

25. **ADDITIONAL NOTICES:**

A. Buyer should have an abstract covering the Property examined by an attorney of Buyer's selection, or Buyer should be furnished with or obtain a title policy.

B. If the Property is situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, Chapter 49, Texas Water Code, requires Seller to deliver and Buyer to sign the statutory notice relating to the tax rate, bonded indebtedness, or standby fees of the district before final execution of this contract.

C. Notice Required by §13.257, Water Code: "The real property, described below, that you are about to purchase may be located in a certificated water or sewer service area, which is authorized by law to provide water or sewer service to the properties in the certificated area. If your property is located in a certificated area there may be special costs or charges that you will be required to pay before you can receive water or sewer service. There may be a period required to construct lines or other facilities necessary to provide water or sewer service to your property. You are advised to determine if the property is in a certificated area and contact the utility service provider to determine the cost that you will be required to pay and the period, if any, that is required to provide water or sewer service to your property. The undersigned purchaser hereby acknowledges receipt of the foregoing notice at or before the execution of a binding contract for the purchase of the real property described in the notice or at closing of purchase of the real property." The real property is described in Paragraph 2 of this contract.

D. If the Property adjoins or shares a common boundary with the tidally influenced submerged lands of the state, §33.135 of the Texas Natural Resources Code requires a notice regarding coastal area property to be included as part of this contract.

E. If the Property is located seaward of the Gulf Intracoastal Waterway, §61.025, Texas Natural Resources Code, requires a notice regarding the seaward location of the Property to be included as part of this contract.

F. If the Property is located outside the limits of a municipality, the Property may now or later be included in the extra-territorial jurisdiction (ETJ) of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and ETJ. To determine if the Property is located within a municipality's ETJ, Buyer should contact all municipalities located in the general proximity of the Property for further information.

G. Brokers are not qualified to perform property inspections, surveys, engineering studies, environmental assessments, or inspections to determine compliance with zoning, governmental regulations, or laws. Buyer should seek experts to perform such services. Selection of inspectors and repairmen is the responsibility of Buyer and not the brokers.

26. **CONTRACT AS OFFER:** The execution of this contract by the first party constitutes an offer to buy or sell the Property. Unless the other party accepts the offer by 5:00 p.m., in the time zone in which the Property is located, on January 8, 2009, the offer will lapse and become null and void.

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Initialed for Identification by Buyer CD and Seller B.R.

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Commercial Contract - Unimproved Property Concerning _____

READ THIS CONTRACT CAREFULLY. The brokers and agents make no representation or recommendation as to the legal sufficiency, legal effect, or tax consequences of this document or transaction. CONSULT your attorney BEFORE signing.

Buyer: DDG Belmont, Ltd. Seller: Leander 263 Investment, LLC
By: [Signature] By: [Signature]

Printed Name: Colby Denison Printed Name: Blake Rue

Title: President Authorized Representative Title: Managing Member

Buyer: _____ Seller: _____

By: _____ By: _____

Printed Name: _____ Printed Name: _____

Title: _____ Title: _____

AGREEMENT BETWEEN BROKERS

Principal Broker agrees to pay _____ (Cooperating Broker) a fee of \$ _____ or _____ % of the sales price when the Principal Broker's fee is received. Escrow agent is authorized and directed to pay Cooperating Broker from Principal Broker's fee at closing. This Agreement Between Brokers supersedes any prior offers and agreements for compensation between brokers.

Cooperating Broker By: _____ Principal Broker By: _____

ATTORNEYS

Buyer's attorney is: _____ Seller's attorney is: _____
Name: _____ Name: _____

Address: _____ Address: _____

Phone & Fax: _____ Phone & Fax: _____

E-mail: _____ E-mail: _____

Buyer's attorney requests copies of documents, notices, and other information:
 the title company sends to Buyer.
 Seller sends to Buyer.

Seller's attorney requests copies of documents, notices, and other information:
 the title company sends to Seller.
 Buyer sends to Seller.

ESCROW RECEIPT

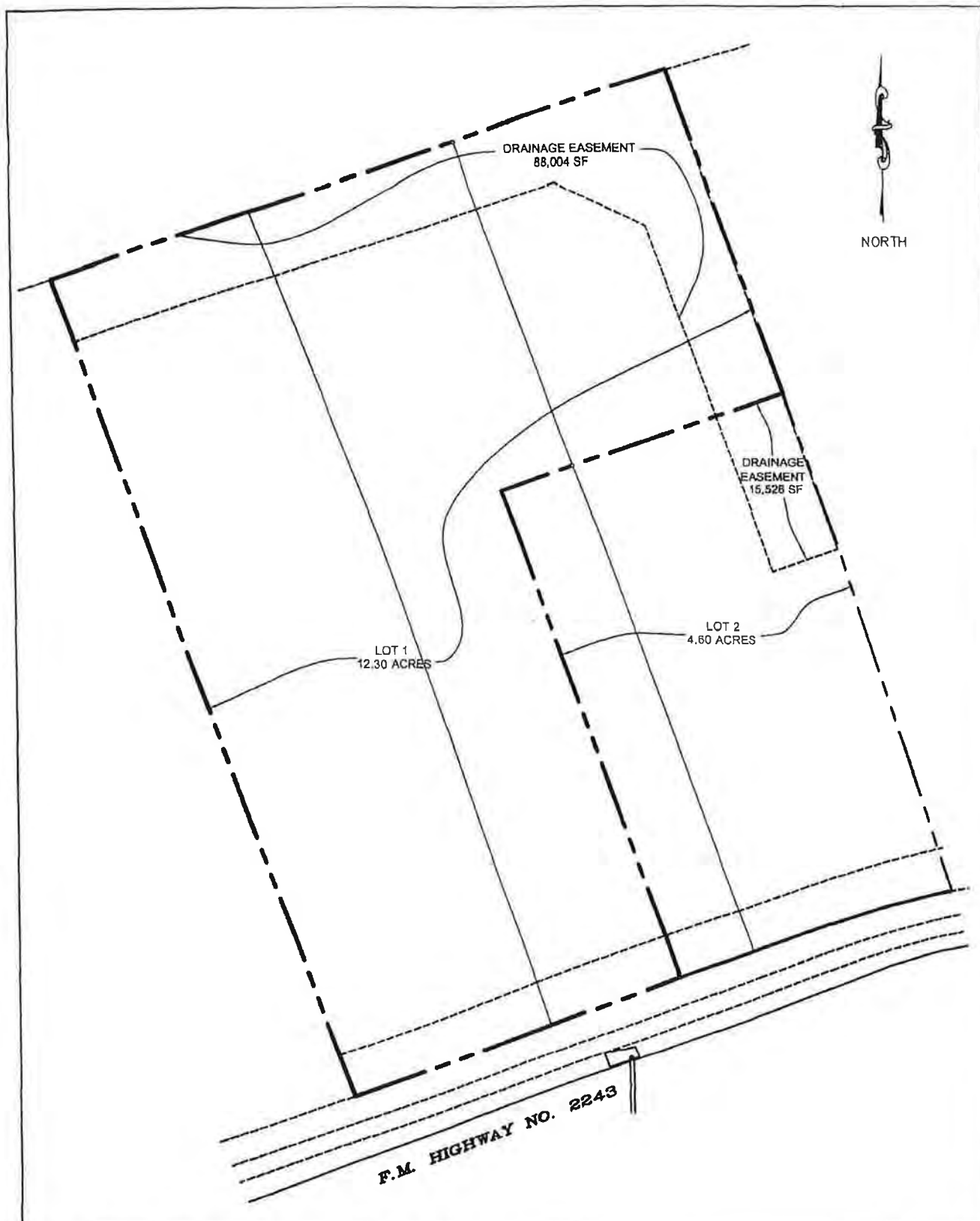
Escrow agent acknowledges receipt of:
 A. the contract on this day _____ (effective date);
 B. earnest money in the amount of \$ _____ in the form of _____ on _____

Escrow Agent: Heritage Title Company Address: 401 Congress, Suite 1300
Aurora, TX 78701

By: _____ Phone & Fax: _____

E-mail: _____

Exhibit #



STANDARD NO.

12.3 ACRES
LEANDER, TX
F.M. HIGHWAY No. 2243

SCALE: N.T.S.

AUSTIN CIVIL
ENGINEERING, INC.

2708 SOUTH LAMAR BLVD.
AUSTIN, TEXAS 78704
PHONE: (512) 306-0018
FAX: (512) 306-0048



10040



TEXAS ASSOCIATION OF REALTORS®
COMMERCIAL CONTRACT - UNIMPROVED PROPERTY

USE OF THIS FORM BY PERSONS WHO ARE NOT MEMBERS OF THE TEXAS ASSOCIATION OF REALTORS® IS NOT AUTHORIZED.
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1. **PARTIES:** Seller agrees to sell and convey to Buyer the Property described in Paragraph 2. Buyer agrees to buy the Property from Seller for the sales price stated in Paragraph 3. The parties to this contract are:

Seller: Oryx Development, LLC
Address: P.O. Box 302663, Austin, Tx 78703
Phone: (512) 294-4017 Fax: _____
E-mail: blake@rueinvestments.com

Buyer: Denison Construction, Inc.
Address: 3701 N. Lamar, Suite 206, Austin, Tx 78705
Phone: (512) 732-1226 Fax: _____
E-mail: colby@denisondevelopment.com

2. **PROPERTY:**

A. "Property" means that real property situated in Guadalupe County, Texas at 10.629 Acres on Borgfeld Rd., Schertz, Texas 78154 (address) and that is legally described on the attached Exhibit _____ or as follows: See attached Exhibit "A"

B. Seller will sell and convey the Property together with:
(1) all rights, privileges, and appurtenances pertaining to the Property, including Seller's right, title, and interest in any minerals, utilities, adjacent streets, alleys, strips, gores, and rights-of-way;
(2) Seller's interest in all leases, rents, and security deposits for all or part of the Property; and
(3) Seller's interest in all licenses and permits related to the Property.

(Describe any exceptions, reservations, or restrictions in Paragraph 12 or an addendum.)

3. **SALES PRICE:**

A. At or before closing, Buyer will pay the following sales price for the Property:

(1) Cash portion payable by Buyer at closing \$ 1,388,214.00
(2) Sum of all financing described in Paragraph 4 \$ _____
(3) Sales price (sum of 3A(1) and 3A(2)) \$ 1,388,214.00

10.629 Acres on Borgfeld Rd., Schertz, Texas
78154

Commercial Contract - Unimproved Property Concerning _____

B. Adjustment to Sales Price: (Check (1) or (2) only.)

- (1) The sales price will not be adjusted based on a survey.
- (2) The sales price will be adjusted based on the latest survey obtained under Paragraph 6B.
 - (a) The sales price is calculated on the basis of \$ _____ per:
 - (i) square foot of total area net area.
 - (ii) acre of total area net area.
 - (b) "Total area" means all land area within the perimeter boundaries of the Property. "Net area" means total area less any area of the Property within:
 - (i) public roadways;
 - (ii) rights-of-way and easements other than those that directly provide utility services to the Property; and
 - (iii) _____.
 - (c) If the sales price is adjusted by more than _____ % of the stated sales price, either party may terminate this contract by providing written notice to the other party within _____ days after the terminating party receives the survey. If neither party terminates this contract or if the variance is less than the stated percentage, the adjustment to the sales price will be made to the cash portion of the sales price payable by Buyer.

4. **FINANCING:** Buyer will finance the portion of the sales price under Paragraph 3A(2) as follows:

- A. Third Party Financing: One or more third party loans in the total amount of \$ _____ . This contract:
 - (1) is not contingent upon Buyer obtaining third party financing.
 - (2) is contingent upon Buyer obtaining third party financing in accordance with the attached Commercial Contract Financing Addendum.
- B. Assumption: In accordance with the attached Commercial Contract Financing Addendum, Buyer will assume the existing promissory note secured by the Property, which balance at closing will be \$ _____ .
- C. Seller Financing: The delivery of a promissory note and deed of trust from Buyer to Seller under the terms of the attached Commercial Contract Financing Addendum in the amount of \$ _____ .

5. **EARNEST MONEY:**

- A. Not later than 3 days after the effective date, Buyer must deposit \$ 10,000.00 as earnest money with Heritage Title Company Attn: Brenda Hindsman (escrow agent) at 401 Congress Ave, Austin, Tx 78701 (address). If Buyer fails to timely deposit the earnest money, Seller may terminate this contract by providing written notice to Buyer before Buyer deposits the earnest money and may exercise Seller's remedies under Paragraph 15.
- B. Buyer will deposit an additional amount of \$ 10,000.00 with the escrow agent to be made part of the earnest money on or before:
 - (i) _____ days after Buyer's right to terminate under Paragraph 7B expires; or
 - (ii) April 15, 2010
 Buyer will be in default if Buyer fails to deposit the additional amount required by this Paragraph 5B within 3 days after Seller notifies Buyer that Buyer has not timely deposited the additional amount.
- C. Buyer may instruct the escrow agent to deposit the earnest money in an interest-bearing account at a federally insured financial institution and to credit any interest to Buyer.

10.629 Acres on Borgfeld Rd., Schertz, Texas
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Commercial Contract - Unimproved Property Concerning _____

6. TITLE POLICY AND SURVEY:

A. Title Policy:

- (1) Seller, at Seller's expense, will furnish Buyer an Owner's Policy of Title Insurance (the title policy) issued by Heritage Title Company (title company) in the amount of the sales price, dated at or after closing, insuring Buyer against loss under the title policy, subject only to:
 - (a) those title exceptions permitted by this contract or as may be approved by Buyer in writing; and
 - (b) the standard printed exceptions contained in the promulgated form of title policy unless this contract provides otherwise.
- (2) The standard printed exception as to discrepancies, conflicts, or shortages in area and boundary lines, or any encroachments or protrusions, or any overlapping improvements:
 - (a) will not be amended or deleted from the title policy.
 - (b) will be amended to read "shortages in areas" at the expense of Buyer Seller.
- (3) Buyer may object to any restrictive covenants on the Property within the time required under Paragraph 6C.
- (4) Within 20 days after the effective date, Seller will furnish Buyer a commitment for title insurance (the commitment) including legible copies of recorded documents evidencing title exceptions. Seller authorizes the title company to deliver the commitment and related documents to Buyer at Buyer's address.

B. Survey: Within 225 days after the effective date:

- (1) Buyer will obtain a survey of the Property at Buyer's expense and deliver a copy of the survey to Seller. The survey must be made in accordance with the Texas Society of Professional Surveyors' standards for a Category 1A survey under the appropriate condition.
- (2) Seller, at Seller's expense, will furnish Buyer a survey of the Property dated after the effective date. The survey must be made in accordance with the Texas Society of Professional Surveyors' standards for a Category 1A survey under the appropriate condition.
- (3) Seller will deliver to Buyer and the title company a true and correct copy of Seller's existing survey of the Property dated _____ along with an affidavit required by the title company for approval of the survey. If the survey is not acceptable to the title company, Seller, at Seller's expense, will obtain a survey acceptable to the title company and deliver the acceptable survey to the Buyer and the title company within 15 days after Seller receives notice that the existing survey is not acceptable to the title company. The closing date will be extended daily up to 15 days if necessary for Seller to deliver an acceptable survey within the time required.

C. Buyer's Objections to the Commitment and Survey:

- (1) Within 30 days after Buyer receives the commitment, copies of the documents evidencing the title exceptions, and any required survey, Buyer may object in writing to matters disclosed in the items if: (a) the matters disclosed constitute a defect or encumbrance to title other than those permitted by this contract or liens that Seller will satisfy at closing or Buyer will assume at closing; or (b) the items show that any part of the Property lies in a special flood hazard area (an "A" or "V" zone as defined by FEMA). If Paragraph 6B(1) applies, Buyer is deemed to receive the survey on the earlier of: (i) the date of Buyer's actual receipt of the survey; or (ii) of the deadline specified in Paragraph 6B.

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(2) Seller may, but is not obligated to, cure Buyer's timely objections within 15 days after Seller receives the objections. The closing date will be extended as necessary to provide such time to cure the objections. If Seller fails to cure the objections by the time required, Buyer may terminate this contract by providing written notice to Seller within 5 days after the time by which Seller must cure the objections. If Buyer terminates, the earnest money, less any independent consideration under Paragraph 7B(1), will be refunded to Buyer.

(3) Buyer's failure to timely object or terminate under this Paragraph 6C is a waiver of Buyer's right to object except that Buyer will not waive the requirements in Schedule C of the commitment.

7. PROPERTY CONDITION:

A. Present Condition: Buyer accepts the Property in its present condition except that Seller, at Seller's expense, will complete the following before closing: _____

B. Feasibility Period: Buyer may terminate this contract for any reason within 225 days after the effective date (feasibility period) by providing Seller written notice of termination. (Check only one box.)

(1) If Buyer terminates under this Paragraph 7B, the earnest money will be refunded to Buyer less \$ 10,000.00 that Seller will retain as independent consideration for Buyer's unrestricted right to terminate. Buyer has tendered the independent consideration to Seller upon payment of the amount specified in Paragraph 5A to the escrow agent. The independent consideration is to be credited to the sales price only upon closing of the sale. If no dollar amount is stated in this Paragraph 7B(1) or if Buyer fails to timely deposit the earnest money, Buyer will not have the right to terminate under this Paragraph 7B.

(2) Not later than 3 days after the effective date, Buyer must pay Seller \$ _____ as independent consideration for Buyer's right to terminate by tendering such amount to Seller or Seller's agent. If Buyer terminates under this Paragraph 7B, the earnest money will be refunded to Buyer and Seller will retain the independent consideration. The independent consideration will be credited to the sales price only upon closing of the sale. If no dollar amount is stated in this Paragraph 7B(2) or if Buyer fails to timely pay the independent consideration, Buyer will not have the right to terminate under this Paragraph 7B.

C. Inspections, Studies, or Assessments:

(1) During the feasibility period, Buyer, at Buyer's expense, may complete or cause to be completed any and all inspections, studies, or assessments of the Property (including all improvements and fixtures) desired by Buyer.

(2) Buyer must:

- (a) employ only trained and qualified inspectors and assessors;
- (b) notify Seller, in advance, of when the inspectors or assessors will be on the Property;
- (c) abide by any reasonable entry rules or requirements of Seller;
- (d) not interfere with existing operations or occupants of the Property; and
- (e) restore the Property to its original condition if altered due to inspections, studies, or assessments that Buyer completes or causes to be completed.

(3) Except for those matters that arise from the negligence of Seller or Seller's agents, Buyer is responsible for any claim, liability, encumbrance, cause of action, and expense resulting from

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Buyer's inspections, studies, or assessments, including any property damage or personal injury. Buyer will indemnify, hold harmless, and defend Seller and Seller's agents against any claim involving a matter for which Buyer is responsible under this paragraph. This paragraph survives termination of this contract.

D. Property Information:

- (1) Delivery of Property Information: Within 30 days after the effective date, Seller will deliver to Buyer:
 - (a) copies of all current leases pertaining to the Property, including any modifications, supplements, or amendments to the leases;
 - (b) copies of all notes and deeds of trust against the Property that Buyer will assume or that Seller will not pay in full on or before closing;
 - (c) copies of all previous environmental assessments, geotechnical reports, studies, or analyses made on or relating to the Property;
 - (d) copies property tax statements for the Property for the previous 2 calendar years;
 - (e) plats of the Property;
 - (f) copies of current utility capacity letters from the Property's water and sewer service provider; and
 - (g) _____

- (2) Return of Property Information: If this contract terminates for any reason, Buyer will, not later than 10 days after the termination date: (a) return to Seller all those items described in Paragraph 7D(1) that Seller delivered to Buyer and all copies that Buyer made of those items; and (b) deliver copies of all inspection and assessment reports related to the Property that Buyer completed or caused to be completed. This Paragraph 7D(2) survives termination of this contract.

E. Contracts Affecting Operations: Until closing, Seller: (1) will operate the Property in the same manner as on the effective date under reasonably prudent business standards; and (2) will not transfer or dispose of any part of the Property, any interest or right in the Property, or any of the personal property or other items described in Paragraph 2B or sold under this contract. After the feasibility period ends, Seller may not enter into, amend, or terminate any other contract that affects the operations of the Property without Buyer's written approval.

8. **LEASES:**

A. Each written lease Seller is to assign to Buyer under this contract must be in full force and effect according to its terms. Seller may not enter into any new lease, fail to comply with any existing lease, or make any amendment or modification to any existing lease without Buyer's written consent. Seller must disclose, in writing, if any of the following exist at the time Seller provides the leases to the Buyer or subsequently occur before closing:

- (1) any failure by Seller to comply with Seller's obligations under the leases;
- (2) any circumstances under any lease that entitle the tenant to terminate the lease or seek any offsets or damages;
- (3) any advance sums paid by a tenant under any lease;
- (4) any concessions, bonuses, free rents, rebates, brokerage commissions, or other matters that affect any lease; and
- (5) any amounts payable under the leases that have been assigned or encumbered, except as security for loan(s) assumed or taken subject to under this contract.

B. Estoppel Certificates: Within N/A days after the effective date, Seller will deliver to Buyer estoppel certificates signed not earlier than _____ by each tenant that leases space in the Property. The estoppel certificates must state:

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- (1) that no default exists under the lease by the landlord or tenant as of the date the estoppel certificate is signed;
- (2) the amount of the scheduled rents to be paid through the end of the lease and any rental payments that have been paid in advance;
- (3) the amount of any security deposit;
- (4) the amount of any offsets tenant is entitled against rent;
- (5) the expiration date of the lease;
- (6) a description of any renewal options; and
- (7) _____

9. BROKERS:

A. The brokers to this sale are:

<u>E. Ted Davis and Associates</u>	<u>Oryx Commercial Properties, LLC</u>
Cooperating Broker	Principal Broker
License No. _____	0437687 License No.
<u>50 Briar Hollow Ln, Ste 490E</u>	<u>2403 Rockmoor Ave.</u>
Address	Address
<u>Houston, Texas 77027</u>	<u>Ausitn, Texas 78703</u>
<u>(713) 552-1920</u>	<u>(512) 636-6076</u>
Phone	Phone
Fax _____	Fax _____
E-mail: _____	E-mail: <u>britt@oryxproperties.net</u>

Cooperating Broker represents buyer.

Principal Broker: (Check only one box.)

- represents Seller only.
- represents Buyer only.
- is an intermediary between Seller and Buyer.

B. Fees. (Check only one box.)

- (1) Seller will pay Principal Broker the fee specified by separate written commission agreement between Principal Broker and Seller. Principal Broker will pay Cooperating Broker the fee specified in the Agreement Between Brokers found below the parties' signatures to this contract.

(2) At the closing of this sale, Seller will pay:

Cooperating Broker a total cash fee of:	Principal Broker a total cash fee of:
<input checked="" type="checkbox"/> <u>3.000</u> % of the sales price.	<input checked="" type="checkbox"/> <u>3.000</u> % of the sales price.
<input type="checkbox"/> _____	<input type="checkbox"/> _____

The cash fees will be paid in Travis County, Texas. Seller authorizes escrow agent to pay the brokers from the Seller's proceeds at closing.

NOTICE: Chapter 62, Texas Property Code, authorizes a broker to secure an earned commission with a lien against the Property.

C. The parties may not amend this Paragraph 9 without the written consent of the brokers affected by the amendment.

10. CLOSING:

A. The closing of the sale will be on or before October 31, 2010 or within 7 days after objections made under Paragraph 6C have been cured or waived, whichever date is later (the closing date).

B. If either party fails to close by the closing date, the non-defaulting party may exercise the remedies in Paragraph 15.

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Initialed for Identification by Buyer CD, _____ and Seller BR

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- C. At closing, Seller will execute and deliver, at Seller's expense, a general special warranty deed. The deed must include a vendor's lien if any part of the sales price is financed. The deed must convey good and indefeasible title to the Property and show no exceptions other than those permitted under Paragraph 6 or other provisions of this contract. Seller must convey the Property:
- (1) with no liens, assessments, or other security interests against the Property which will not be satisfied out of the sales price, unless securing loans Buyer assumes;
 - (2) without any assumed loans in default; and
 - (3) with no persons in possession of any part of the Property as lessees, tenants at sufferance, or trespassers except tenants under the written leases assigned to Buyer under this contract.

- D. At closing, Seller, at Seller's expense, will also deliver to Buyer:
- (1) tax statements showing no delinquent taxes on the Property;
 - (2) an assignment of all leases to or on the Property;
 - (3) to the extent assignable, an assignment to Buyer of any licenses and permits related to the Property;
 - (4) evidence that the person executing this contract is legally capable and authorized to bind Seller;
 - (5) an affidavit acceptable to the escrow agent stating that Seller is not a foreign person or, if Seller is a foreign person, a written authorization for the escrow agent to: (i) withhold from Seller's proceeds an amount sufficient to comply applicable tax law; and (ii) deliver the amount to the Internal Revenue Service (IRS) together with appropriate tax forms; and
 - (6) any notices, statements, certificates, affidavits, releases, and other documents required by this contract, the commitment, or law necessary for the closing of the sale and issuance of the title policy, all of which must be completed by Seller as necessary.

- E. At closing, Buyer will:
- (1) pay the sales price in good funds acceptable to the escrow agent;
 - (2) deliver evidence that the person executing this contract is legally capable and authorized to bind Buyer;
 - (3) sign and send to each tenant in a lease for any part of the Property a written statement that:
 - (a) acknowledges Buyer has received and is responsible for the tenant's security deposit; and
 - (b) specifies the exact dollar amount of the security deposit;
 - (4) sign an assumption of all leases then in effect; and
 - (5) execute and deliver any notices, statements, certificates, or other documents required by this contract or law necessary to close the sale.

F. Unless the parties agree otherwise, the closing documents will be as found in the basic forms in the current edition of the State Bar of Texas Real Estate Forms Manual without any additional clauses.

11. POSSESSION: Seller will deliver possession of the Property to Buyer upon closing and funding of this sale in its present condition with any repairs Seller is obligated to complete, ordinary wear and tear excepted. Any possession by Buyer before closing or by Seller after closing that is not authorized by a separate written lease agreement is a landlord-tenant at sufferance relationship between the parties.

12. SPECIAL PROVISIONS: *(Identify exhibit if special provisions are contained in an attachment.)*

10.629 Acres on Borgfeld Rd., Schertz, Texas

Commercial Contract - Unimproved Property Concerning 78154

13. SALES EXPENSES:

- A. Seller's Expenses: Seller will pay for the following at or before closing:
 - (1) releases of existing liens, other than those liens assumed by Buyer, including prepayment penalties and recording fees;
 - (2) release of Seller's loan liability, if applicable;
 - (3) tax statements or certificates;
 - (4) preparation of the deed;
 - (5) one-half of any escrow fee;
 - (6) costs to record any documents to cure title objections that Seller must cure; and
 - (7) other expenses that Seller will pay under other provisions of this contract.
- B. Buyer's Expenses: Buyer will pay for the following at or before closing:
 - (1) all loan expenses and fees;
 - (2) preparation of any deed of trust;
 - (3) recording fees for the deed and any deed of trust;
 - (4) premiums for flood insurance as may be required by Buyer's lender;
 - (5) one-half of any escrow fee;
 - (6) other expenses that Buyer will pay under other provisions of this contract.

14. PRORATIONS:

- A. Prorations:
 - (1) Interest on any assumed loan, taxes, rents, and any expense reimbursements from tenants will be prorated through the closing date.
 - (2) If the amount of ad valorem taxes for the year in which the sale closes is not available on the closing date, taxes will be prorated on the basis of taxes assessed in the previous year. If the taxes for the year in which the sale closes vary from the amount prorated at closing, the parties will adjust the prorations when the tax statements for the year in which the sale closes become available. This Paragraph 14A(2) survives closing.
 - (3) If Buyer assumes a loan or is taking the Property subject to an existing lien, Seller will transfer all reserve deposits held by the lender for the payment of taxes, insurance premiums, and other charges to Buyer at closing and Buyer will reimburse such amounts to Seller by an appropriate adjustment at closing.
- B. Rollback Taxes: If Seller changes the use of the Property before closing or if a denial of a special valuation on the Property claimed by Seller results in the assessment of additional taxes, penalties, or interest (assessments) for periods before closing, the assessments will be the obligation of the Seller. If this sale or Buyer's use of the Property after closing results in additional assessments for periods before closing, the assessments will be the obligation of Buyer. This Paragraph 14B survives closing.
- C. Rent and Security Deposits: At closing, Seller will tender to Buyer all security deposits and the following advance payments received by Seller for periods after closing: prepaid expenses, advance rental payments, and other advance payments paid by tenants. Rents prorated to one party but received by the other party will be remitted by the recipient to the party to whom it was prorated within 5 days after the rent is received. This Paragraph 14C survives closing.

15. DEFAULT:

- A. If Buyer fails to comply with this contract, Buyer is in default and Seller may:
 - (1) terminate this contract and receive the earnest money as liquidated damages, thereby releasing the parties from this contract; or
 - (2) enforce specific performance, or seek other relief as may be provided by law, or both.

(TAR-1802) 10-18-05 Initialed for Identification by Buyer CD and Seller BE

10.629 Acres on Borgfeld Rd., Schertz, Texas
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Commercial Contract - Unimproved Property Concerning

- B. If, without fault, Seller is unable within the time allowed to deliver the estoppel certificates, survey, or commitment, Buyer may:
 - (1) terminate this contract and receive the earnest money, less any independent consideration under Paragraph 7B(1), as the sole remedy; or
 - (2) extend the time for performance up to 15 days and the closing will be extended as necessary.
- C. Except as provided in Paragraph 15B, if Seller fails to comply with this contract, Seller is in default and Buyer may:
 - (1) terminate this contract and receive the earnest money, less any independent consideration under Paragraph 7B(1), as liquidated damages, thereby releasing the parties from this contract; or
 - (2) enforce specific performance, or seek such other relief as may be provided by law, or both.
- 16. CONDEMNATION:** If before closing, condemnation proceedings are commenced against any part of the Property, Buyer may:
 - A. terminate this contract by providing written notice to Seller within 15 days after Buyer is advised of the condemnation proceedings and the earnest money, less any independent consideration paid under Paragraph 7B(1), will be refunded to Buyer; or
 - B. appear and defend in the condemnation proceedings and any award will, at Buyer's election, belong to:
 - (1) Seller and the sales price will be reduced by the same amount; or
 - (2) Buyer and the sales price will not be reduced.
- 17. ATTORNEY'S FEES:** If Buyer, Seller, any broker, or any escrow agent is a prevailing party in any legal proceeding brought under or with relation to this contract or this transaction, such party is entitled to recover from the non-prevailing parties all costs of such proceeding and reasonable attorney's fees. This Paragraph 17 survives termination of this contract.

18. ESCROW:

- A. At closing, the earnest money will be applied first to any cash down payment, then to Buyer's closing costs, and any excess will be refunded to Buyer.
- B. If both parties make written demand for the earnest money, escrow agent may require payment of unpaid expenses incurred on behalf of the parties and a written release of liability of escrow agent from all parties.
- C. If one party makes written demand for the earnest money, escrow agent will give notice of the demand by providing to the other party a copy of the demand. If escrow agent does not receive written objection to the demand from the other party within 15 days after the date escrow agent sent the demand to the other party, escrow agent may disburse the earnest money to the party making demand, reduced by the amount of unpaid expenses incurred on behalf of the party receiving the earnest money and escrow agent may pay the same to the creditors.
- D. Escrow agent will deduct any independent consideration under Paragraph 7B(1) before disbursing any earnest money to Buyer and will pay the independent consideration to Seller.
- E. If escrow agent complies with this Paragraph 18, each party hereby releases escrow agent from all claims related to the disbursement of the earnest money.
- F. Notices under this Paragraph 18 must be sent by certified mail, return receipt requested. Notices to escrow agent are effective upon receipt by escrow agent.

19. MATERIAL FACTS: To the best of Seller's knowledge and belief: *(Check only one box.)*

- A. Seller is not aware of any material defects to the Property except as stated in the attached Property Condition Statement.

(TAR-1802) 10-18-05 Initialed for Identification by Buyer and Seller

10.629 Acres on Borgfeld Rd., Schertz, Texas
78154

Commercial Contract - Unimproved Property Concerning _____

- B. Except as otherwise provided in this contract, Seller is not aware of:
 - (1) any subsurface: structures, pits, waste, springs, or improvements;
 - (2) any pending or threatened litigation, condemnation, or assessment affecting the Property;
 - (3) any environmental hazards or conditions that materially affect the Property;
 - (4) whether the Property is or has been used for the storage or disposal of hazardous materials or toxic waste, a dump site or landfill, or any underground tanks or containers;
 - (5) whether radon, asbestos containing materials, urea-formaldehyde foam insulation, lead-based paint, toxic mold (to the extent that it adversely affects the health of ordinary occupants), or other pollutants or contaminants of any nature now exist or ever existed on the Property;
 - (6) any wetlands, as defined by federal or state law or regulation, on the Property;
 - (7) any threatened or endangered species or their habitat on the Property;
 - (8) any present or past infestation of wood-destroying insects in the Property's improvements;
 - (9) any contemplated material changes to the Property or surrounding area that would materially and detrimentally affect the ordinary use of the Property;
 - (10) any condition on the Property that violates any law or ordinance.

(Describe any exceptions to (1)-(10) in Paragraph 12 or an addendum.)

20. NOTICES: All notices between the parties under this contract must be in writing and are effective when hand-delivered, mailed by certified mail return receipt requested, or sent by facsimile transmission to the parties addresses or facsimile numbers stated in Paragraph 1. The parties will send copies of any notices to the broker representing the party to whom the notices are sent.

- A. Seller also consents to receive any notices by e-mail at Seller's e-mail address stated in Paragraph 1.
- B. Buyer also consents to receive any notices by e-mail at Buyer's e-mail address stated in Paragraph 1.

21. DISPUTE RESOLUTION: The parties agree to negotiate in good faith in an effort to resolve any dispute related to this contract that may arise. If the dispute cannot be resolved by negotiation, the parties will submit the dispute to mediation before resorting to arbitration or litigation and will equally share the costs of mutually acceptable mediator. This paragraph survives termination of this contract. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.

22. AGREEMENT OF THE PARTIES:

- A. This contract is binding on the parties, their heirs, executors, representatives, successors, and permitted assigns.
- B. This contract is to be construed in accordance with the laws of the State of Texas.
- C. This contract contains the entire agreement of the parties and may not be changed except in writing.
- D. If this contract is executed in a number of identical counterparts, each counterpart is an original and all counterparts, collectively, constitute one agreement.

E. Addenda which are part of this contract are: (Check all that apply.)

- (1) Property Description Exhibit identified in Paragraph 2;
- (2) Commercial Contract Financing Addendum;
- (3) Commercial Property Condition Statement;
- (4) Notice to Purchaser of Real Property in a Water District (MUD);
- (5) Addendum for Coastal Area Property;
- (6) Addendum for Property Located Seaward of the Gulf Intracoastal Waterway; and
- (7) _____

(Note: Counsel for the Texas Association of REALTORS® (TAR) has determined that any of the foregoing addenda which are promulgated by the Texas Real Estate Commission (TREC) or published by TAR are appropriate for use with this form.)

10.629 Acres on Borgfeld Rd., Schertz, Texas
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Commercial Contract - Unimproved Property Concerning

F. Buyer may may not assign this contract. If Buyer assigns this contract, Buyer will be relieved of any future liability under this contract only if the assignee assumes, in writing, all obligations and liability of Buyer under this contract.

23. **TIME:** Time is of the essence in this contract. The parties require strict compliance with the times for performance. If the last day to perform under a provision of this contract falls on a Saturday, Sunday, or legal holiday, the time for performance is extended until the end of the next day which is not a Saturday, Sunday, or legal holiday.

24. **EFFECTIVE DATE:** The effective date of this contract for the purpose of performance of all obligations is the date the escrow agent receipts this contract after all parties execute this contract.

25. **ADDITIONAL NOTICES:**

A. Buyer should have an abstract covering the Property examined by an attorney of Buyer's selection, or Buyer should be furnished with or obtain a title policy.

B. If the Property is situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, Chapter 49, Texas Water Code, requires Seller to deliver and Buyer to sign the statutory notice relating to the tax rate, bonded indebtedness, or standby fees of the district before final execution of this contract.

C. Notice Required by §13.257, Water Code: "The real property, described below, that you are about to purchase may be located in a certificated water or sewer service area, which is authorized by law to provide water or sewer service to the properties in the certificated area. If your property is located in a certificated area there may be special costs or charges that you will be required to pay before you can receive water or sewer service. There may be a period required to construct lines or other facilities necessary to provide water or sewer service to your property. You are advised to determine if the property is in a certificated area and contact the utility service provider to determine the cost that you will be required to pay and the period, if any, that is required to provide water or sewer service to your property. The undersigned purchaser hereby acknowledges receipt of the foregoing notice at or before the execution of a binding contract for the purchase of the real property described in the notice or at closing of purchase of the real property." The real property is described in Paragraph 2 of this contract.

D. If the Property adjoins or shares a common boundary with the tidally influenced submerged lands of the state, §33.135 of the Texas Natural Resources Code requires a notice regarding coastal area property to be included as part of this contract.

E. If the Property is located seaward of the Gulf Intracoastal Waterway, §61.025, Texas Natural Resources Code, requires a notice regarding the seaward location of the Property to be included as part of this contract.

F. If the Property is located outside the limits of a municipality, the Property may now or later be included in the extra-territorial jurisdiction (ETJ) of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and ETJ. To determine if the Property is located within a municipality's ETJ, Buyer should contact all municipalities located in the general proximity of the Property for further information.

G. Brokers are not qualified to perform property inspections, surveys, engineering studies, environmental assessments, or inspections to determine compliance with zoning, governmental regulations, or laws. Buyer should seek experts to perform such services. Selection of inspectors and repairmen is the responsibility of Buyer and not the brokers.

26. **CONTRACT AS OFFER:** The execution of this contract by the first party constitutes an offer to buy or sell the Property. Unless the other party accepts the offer by 5:00 p.m., in the time zone in which the Property is located, on January 8, 2010, the offer will lapse and become null and void.

(TAR-1802) 10-18-05

Initialed for Identification by Buyer CD and Seller BR

Page 11 of 12

10.629 Acres on Borgfeld Rd., Schertz, Texas
78154

Commercial Contract - Unimproved Property Concerning

READ THIS CONTRACT CAREFULLY. The brokers and agents make no representation or recommendation as to the legal sufficiency, legal effect, or tax consequences of this document or transaction. **CONSULT your attorney BEFORE signing.**

Buyer: Denison Construction, Inc. Seller: Oryx Development, LLC

By: [Signature] By: [Signature]

Printed Name: Colby Denison Printed Name: Blake A. Rue

Title: President Title: Managing Member

Buyer: _____ Seller: _____

By: _____ By: _____

Printed Name: _____ Printed Name: _____

Title: _____ Title: _____

AGREEMENT BETWEEN BROKERS

Principal Broker agrees to pay _____ (Cooperating Broker) a fee of \$ _____ or _____ % of the sales price when the Principal Broker's fee is received. Escrow agent is authorized and directed to pay Cooperating Broker from Principal Broker's fee at closing. This Agreement Between Brokers supersedes any prior offers and agreements for compensation between brokers.

Cooperating Broker _____ Principal Broker _____
By: _____ By: _____

ATTORNEYS

Buyer's attorney is: _____ Seller's attorney is: _____
Name: _____ Name: _____
Address: _____ Address: _____
Phone & Fax: _____ Phone & Fax: _____
E-mail: _____ E-mail: _____

Buyer's attorney requests copies of documents, notices, and other information:
 the title company sends to Buyer.
 Seller sends to Buyer.

Seller's attorney requests copies of documents, notices, and other information:
 the title company sends to S
 Buyer sends to Seller.

Heritage Title Company of Austin, Inc.
401 Congress Avenue, Suite 1500
Austin, Texas 78701
512.505.5000 • 512.505.5024 fax
www.heritagetitleofaustin.com

ESCROW RECEIPT

Escrow agent acknowledges receipt of:
 A. the contract on this day January 5, 2010 (effective date);
 B. earnest money in the amount of \$ 10,000.00 in the form of business check no. 4142 on January 5, 2010.

Escrow Agent: Heritage Title Company Address: 401 Congress Ave
Austin, Tx 78701

By: [Signature] Phone & Fax: _____

Attn: Brenda Hindsmans E-mail: bhindsman@heritage-title.com
Executive Vice President

(TAR-1802) 10/18/05
AND CONDITIONS CONTAINED
IN THE ATTACHED EARNEST
MONEY RECEIPT."

Ex: A
Pg 2 of 3

FIELD NOTES,

For

A 10.629 Acres tract (463,008.83 square feet) tract of Land, more or less, being the remaining portion of a 13.653 Acres tract out of the Genobera Malpaz Survey No. 67, Abstract No. 221, recorded in Volume 1351, Page 135 of the Deed Records of Guadalupe County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING from a 1/2-inch iron pin found in the northeast Right-of-Way line of F.M. 3009, said point being the most westerly corner of a 1.067 acres tract, recorded in Volume 1264, Page 0857 of said Guadalupe County Deed Records, and being the most westerly southwest corner of said 13.653 Acres tract, and of this tract;

THENCE, N 29° 56' 35" W, with and along the northeast Right-of-Way line of said F.M. 3009, a distance of 139.47 feet, to a 1/2-inch iron pin set on the most southerly corner of Lot 5, Block 1, ISENHOUR Subdivision, recorded in Volume 6, Page 669 of the Plat Records of Guadalupe County, Texas, for the most westerly northwest corner of this tract;

THENCE, N 63° 54' 40" W, departing from the northeast Right-of-Way line of said F.M. 3009, and following with and along the southeast line of said Lot 5, a distance of 267.02 feet, to a 1/2-inch iron pin set, for an angle point;

THENCE, N 59° 45' 30" E, with and along the southeast line of said Lot 5, pass a 1/2-inch iron pin found at 30.00 feet, for a total distance of 50.90 feet, to a 1/2-inch iron pin set at the most easterly corner of said Lot 5, for an angle point of this tract;

THENCE, N 29° 56' 35" W, with and along the northeast line of said ISENHOUR Subdivision, a distance of 241.84 feet, to a 1/2-inch iron pin set on the northeast line of Lot 6, said point also being the most southerly corner of a 0.275 acre tract recorded in Volume 1592, Page 93 of said Deed Records, for an angle point of this tract;

THENCE, N 63° 54' 40" E, with and along the southeast line of said 0.275 acre tract, a distance of 71.01 feet, to a 1/2-inch iron pin found at the most easterly corner of said 0.275 acre tract, for an angle point of this tract;

THENCE, N 29° 56' 35" W, with and along the northeast line of said 0.275 acre tract, a distance of 157.45 feet, to a 1/2-inch iron pin set on the south Right-of-Way line of BORGFELD ROAD, on the line of a curve to the right, for the most northerly corner of said 0.275 acre tract, and also of this tract;

THENCE, continuing with and along the south Right-of-Way line of said BORGFELD ROAD, with said curve to the right, having a radius of 646.00 feet, an interior angle of 18° 39' 14", a tangent of 106.10 feet, an arc length of 210.32

Ex: A
Pg 3 of 3

feet, a chord bearing of S 84° 44' 16" E, and a chord distance of 209.39 feet to a 1/2-inch iron pin set, for a corner;

THENCE, S 74° 56' 35" W, continuing with and along the south Right-of-Way line of said BORGFIELD ROAD, a distance of 302.28 feet, to a 1/2-inch iron pin found at the point of curvature of a curve to the left,

THENCE, continuing with and along the south Right-of-Way line of said BORGFIELD ROAD, with said curve to the left, having a radius of 630.00 feet, an interior angle of 29° 41' 06", a tangent of 166.95 feet, an arc length of 326.40 feet, a chord bearing of S 89° 01' 52" E, and a chord distance of 322.76 feet to a 1/2-inch iron pin found at the northwest corner of Lot 1, Block 1, BUFFALO FLATS Subdivision, recorded in Volume 6, Page 513 of said Plat Records of Guadalupe County, Texas, for the most northeasterly corner of this tract;

THENCE, S 31° 17' 32" E, departing from the south Right-of-Way line of said BORGFIELD ROAD, and following with and along the southwest line of said Lot 1, a distance of 344.69 feet, to a 1/2-inch iron pin found at the south corner of said Lot 1, for the most easterly corner of this tract;

THENCE, S 60° 06' 37" W, with and along the northerly line of the remaining portion of a 61.222 acres tract recorded in Volume 653, Page 801 of said Deed Records, to a found concrete monument (damaged), for the most southerly corner of this tract;

THENCE, N 30° 05' 32" W, a distance of 329.70 feet, to a 1/2-inch iron pin found at the most northerly corner of said 1.067 acres tract, for an angle point of this tract;

THENCE, S 59° 45' 30" W (Bearing of Reference), with and along the north line of said 1.067 acres tract, a distance of 343.89 feet, to the POINT OF BEGINNING.

Note: See attached Survey Plat.

Job: #06170



100 Congress, Suite 300
Austin, TX 78701
Telephone: 512-305-4700
Fax: 512-305-4800
www.lockelord.com

Cynthia L. Bast
Direct Telephone: 512-305-4707
Direct Fax: 512-391-4707
cbast@lockelord.com

June 27, 2011

Ms. Raquel Morales
Texas Department of Housing and Community Affairs
221 West 11th Street
Austin, Texas 78701

Re: Merritt Bryan Station Senior Village (Bryan)
TDHCA No. 11169

Dear Raquel:

We represent DDC Bryan TC, Ltd. (our "**Client**"), which is the Applicant for tax credits for Merritt Bryan Station Senior Village in Bryan (the "**Development**"), bearing application number 11169. Our Client is responding to a letter dated June 15, 2011 from a competitor, MGroup, with respect to scoring of its Application (the "**Challenge**").

The Challenge alleges that the Development does not qualify for points for quantifiable community participation under Section 49.9(a)(2) of the Qualified Allocation Plan (the "**QAP**")¹ based on the suggestion that the individuals who formed the neighborhood organization are agents of the Applicant.

Our Client acknowledges that Mr. Benton and Mr. Rue are two of the principals of the land seller. In the interests of selling the land for the Development. Messrs. Benton and Rue did facilitate the creation of the Old Reliance Neighborhood Association (the "**Organization**"). The members of the Organization include the land seller and seven homeowners², each of which is entitled to one vote for each parcel owned, in matters submitted to the members of the Organization for a vote.³

In Texas, the formation of a non-profit corporation like the Organization requires at least three people to get together and serve as the initial directors and officers so that the appropriate paperwork can be filed with the Secretary of State. Once the corporation is formed and has Bylaws, it proceeds to do business consistent with its purpose. Messrs. Benton and Rue took the initiative to take care of this paperwork on behalf of the neighbors. Once the paperwork part was complete, the members met to elect officers and directors for the Organization going forward, choosing two of the homeowners to replace Mrs. Rue and Mr. Benton as members of the board of directors.

¹ Capitalized terms used but not defined in this letter will have the meanings given them in the QAP.

² Based on the membership list provided by the Organization to TDHCA.

³ Based upon a review of the Organization's Bylaws.

Ms. Raquel Morales
June 27, 2011
Page 2

These directors also elected one of the homeowners as the Chairman of the Organization. This sequence of events indicates that the Organization is acting in a manner typical of newly organized non-profit associations. The organizers who facilitated the paperwork are stepping aside for the active members to run the show.

After three different meeting opportunities, the members of the Organization met to discuss various items, including potential support for the Development. The minutes of the meeting clearly show that six of the seven homeowners submitted votes to support the Development, in accordance with the Organization's Bylaws. Obviously, the Organization is not being run by Mr. Rue or Mr. Benton. The homeowners are participating in the process, as TDHCA intends.

It cannot be said that Mr. Benton and Mr. Rue are agents of our Client, merely because they took steps to form the Organization and the Organization subsequently chose to support the Development. Nor are Messrs. Benton and Rue agents of our Client because they have assisted with the formation of neighborhood organizations in other circumstances in the past.

The legal definition of agency requires that one person give another person authority to act on his or her behalf. According to Black's Law Dictionary, this "means more than tacit permission, and involves request, instruction, or command." It includes a "consensual relation existing between two persons, by virtue of which one is subject to other's control." Our Client has not given any such authority to Mr. Benton, Mr. Rue, or the land seller and does not control their activities. Our Client did not instruct such parties to form the Organization or to support the Development. Messrs. Benton and Rue are smart real estate investors who understand that they have a better chance to sell land to a tax credit developer when there is neighborhood support for the developer's application. They are pursuing their own interests as land sellers. Moreover, Mr. Rue is an attorney who clearly has the background to understand the rules of the QAP and the laws of agency. Mr. Rue has confirmed in a letter, dated June 21, 2011, that neither he nor Mr. Benton is an agent of our Client.

We trust that this response provides adequate information to show that the allegation in the Challenge is without merit and the points that have been awarded to the Application should remain. However, if you need additional information, please feel free to contact me or our Client.

Thank you very much.

Sincerely,



Cynthia L. Bast

cc: Colby Denison

From: [Gary Welch](#)
To: liz.cline@tdhca.state.tx.us;
Subject: Fwd: #11169 Merritt Bryan Station Senior Village-Challenge
Date: Monday, June 20, 2011 5:20:17 PM

----- Forwarded message -----

From: **Gary Welch** <garywelchconstruction@gmail.com>
Date: Mon, Jun 20, 2011 at 5:14 PM
Subject: Fwd: #11169 Merritt Bryan Station Senior Village-Challenge
To: blake@rueinvestments.com

Ms. Kline:

I believe that as a property owner in this area, Blake Rue qualifies to be a member of the Old Reliance Neighborhood Association. I believe he and Bitt Benton are simply exercising their right to conduct free enterprise transactions with Mr. Denison and are not acting as his agents. I am a construction contracting business owner and do repeated work for several businesses and individuals, yet I do not consider myself their agent in any other matters.

No proof has been presented to me that they are acting as Mr. Denison's agent. Only allegations in a newspaper article.

I believe their project should be awarded the points for neighborhood support. The three men mentioned above are honest, straightforward and thorough. They are the kind of people I want doing business in my area.

I hope this fulfills my challenge response. If not please call me at [\(979\) 777-2456](tel:979-777-2456) or email.

Gary A. Welch

On Mon, Jun 20, 2011 at 1:09 PM, Liz Cline <liz.cline@tdhca.state.tx.us> wrote:

The attached challenge has been received by the Department

and is being forwarded to you for a response pursuant to §49.10(e) of the 2011 QAP. You have 7 business days to respond to the attached challenge and provide that response to the Department. At issue is a factual question as to whether your organization, at the time it provided its QCP letter, met the statutory requirements to be treated as a neighborhood organization. The applicant of the subject application has been copied on this email and may assist you in understanding the technical requirements presented but the response needs to be from you and to be based on facts established by you. If you contend that you did meet the requirements, the challenge will still need to be addressed. If you determine that you did not, in fact, meet the requirements, the scoring will be revised accordingly. If there are any factual representations that were inaccurate or misleading this would be the time to correct them.

I will send two email with PDF files attached because the files are too large to send in one email. Please confirm receipt of this email. Please contact me with any questions.

Thank you

Liz Cline

Multifamily Finance Housing Specialist

Texas Department of Housing and Community Affairs

221 E. 11th Street | Austin, TX 78701

Office: [512.475.3227](tel:512.475.3227)

Fax: [512.475.1895](tel:512.475.1895)



About TDHCA

The Texas Department of Housing and Community Affairs is the state agency responsible for affordable housing, community services, energy assistance, colônia housing programs, and disaster recovery housing programs. It currently administers over \$3 billion through for-profit, nonprofit, and local government partnerships to deliver local housing and community-based opportunities and assistance to Texans in need. For more information please visit www.tdhca.state.tx.us.

June 21, 2011

Liz Cline
Multifamily Finance Housing Specialist
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, TX 78701

RE: TDHCA #11169 – Merritt Bryan Station Senior Village
Challenge to Quantifiable Community Participation Points

Dear Ms. Cline,

Mr. Gary Welch, Chair of the Old Reliance Neighborhood Association, forwarded to me the challenge to the Quantifiable Community Participation Points awarded to the Merritt Bryan Station Senior Village made by Mark Musemeche. I would like to provide you with additional information regarding Mr. Musemeche's claims.

Mr. Musemeche claims Mr. Britt Benton and I are agents of Mr. Colby Denison and therefore the certification provided in the Old Reliance Neighborhood Association's support letter certifying "the organization was not formed by the applicant or any employee or agent of the applicant" is not correct. Mr. Musemeche's claim is inaccurate and fails for a number of reasons.

Although I did not find a definition for "agent" on TDHCA's website, a common legal definition in Texas for an "agent" is:

a fiduciary relationship which results from the manifestation of consent by one party to another that the other shall act on his/her behalf and subject to his/her control, and consent.

Additionally, TDHCA's website defines "affiliate" as:

an individual, corporation, partnership, joint venture, limited liability company, trust, estate, association, cooperative or other organization or entity of any nature whatsoever that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with any other person or principal. All entities that share a Principal are Affiliates.

Mr. Benton, myself and a third principal, Mr. David Middleton, own, control and manage 100% of DBB Old Reliance, LLC which owns approximately 25 acres on Old Reliance Road in Bryan, Texas. DBB Old Reliance has contracted with Denison Construction, Inc. to sell approximately 9 acres. There are no other agreements between the parties.

Neither Mr. Benton, Mr. Middleton, myself or DBB Old Reliance, LLC share a fiduciary relationship, business interest, or ownership interest of any kind with Mr. Denison and/or his business

Page 2 of 2

interests. Mr. Denison further has no right, legal or otherwise, to assert control directly or indirectly over Mr. Benton, Mr. Middleton, myself or DBB Old Reliance, LLC. Nor do Mr. Benton, Mr. Middleton, myself or DBB Old Reliance, LLC have any obligation, duty, or agreement to act on Mr. Denison's behalf through an employment agreement, agency agreement or otherwise. Mr. Benton's, Mr. Middleton's, DBB Old Reliance, LLC's and my relationship with Mr. Denison is simply that of a land seller and a land buyer. Mr. Musmeche presents no facts that state otherwise.

Mr. Musmeche claims that by previously selling a property or multiple properties to the same buyer an "agency" relationship has been created between Mr. Benton, myself and Mr. Denison. Texas agency law is clear as are the definitions on TDCHA's website. Previously selling a property or multiple properties to the same buyer does not, in and of itself, create an "agency" or an "affiliate" relationship. Agency and affiliate relationships require elements such as a fiduciary relationship, control, or shared ownership of which none exist between Mr. Benton, Mr. Middleton, myself, DBB Old Reliance, LLC and Mr. Denison. As a result Mr. Musmeche's agency claim fails.

In section 6 of Mr. Musmeche's challenge, Mr. Musmeche questions whether Karen Melvin and Becky Simmons, who were in attendance at the February 25 meeting of the members, are members of the Old Reliance Neighborhood Association.

Ms. Simmons and Ms. Melvin are members of the Old Reliance Neighborhood Association and are listed on the Old Reliance Property owner list previously submitted to TDHCA. As evidenced in the minutes of the February 25 meeting and associated written proxy's previously submitted to TDHCA, Ms. Simmons, Ms. Melvin and other residential members of the Association voted to authorize the newly elected directors (Mr. Gary Welch, Mr. Robert Holtzweiss and Mr. Blake Rue) to write a letter of support for the application for tax credits TDHCA #11169 – Merritt Bryan Station Senior Village.

Because no "agency" or "affiliate" relationship exists between Mr. Benton, Mr. Middleton, myself, DBB Old Reliance, LLC and Mr. Denison the support of the residential property owners who reside inside the boundaries of the Association and are members of the Old Reliance Neighborhood Association should be heard and counted by maintaining the award of 24 points to TDHCA #11169 – Merritt Bryan Station for Quantifiable Community Participation.

I appreciate the opportunity to present this information. Should I be able to provide any additional information, please contact me at Blake@rueinvestments or 512-294-4017.

Sincerely,



Blake A. Rue
Director
Old Reliance Neighborhood Association

L L & C PROPERTIES, INC.

June 14, 2011

Mrs. Robbye Meyer
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701-2410

Re: Application Challenge- The Overlook at Plum Creek # 11217

Dear Mrs. Meyer:

It appears that the above referenced application has claimed, and based upon the latest scoring logs has received, three points for a development located within an area covered by a Community Revitalization Plan. Included with the application was a letter from the City of Kyle verifying that the proposed development site was located within the area covered by the City of Kyle's community revitalization plan, known as the City of Kyle's Comprehensive Plan. The letter further states that *"The plan encompasses the entirety of the City of Kyle and includes goals to revitalize downtown Kyle"*.

Had the applicant provided the entire City of Kyle Comprehensive Plan, it would have been evident that the proposed location for the Overlook at Plum Creek is NOT in the targeted Downtown area, but rather is located within the Ranch North District, a district that is in the new development corridor and the future growth area of the city and not in the older and established Town Center District where downtown is located. There is no indication or any discussion of "revitalization" whatsoever in the Ranch North District.

Comprehensive plans are very general in nature and cover a wide range of visionary planning and growth objectives including future land use and thoroughfare plans so that the timing of these growth objectives can be matched with a community's "vision of the future". For Kyle, the Comprehensive Plan was intended to provide *"guidance for increasing ad valorem tax revenues to fund service provision, protecting sensitive cultural and natural features in key locations to create nodal destinations, and ensuring a high quality of form and design in new development."* The plan projected a horizon of 30 years. Conversely, a Revitalization Plan is a plan that targets a very specific area for revitalization and redevelopment and typically has incentives to develop within such targeted area.

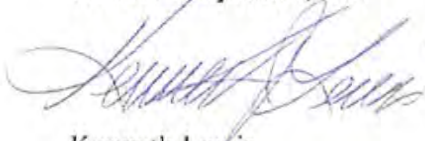
Mrs. Robbye Meyer
June 14, 2011
Page 2

As confirmed by the letter from the City, the only area targeted within the entire city for any revitalization is the downtown core area and this area is specifically identified in the Comprehensive Plan as "The Downtown Revitalization Plan". It is far reaching and improper to then assert that the Overlook at Plum Creek somehow qualifies for Community Revitalization points simply because a very small area of a city is targeted for revitalization therefore any site located anywhere else in the city must also qualify for revitalization, regardless if the comprehensive plan in its entirety is called a "Revitalization Plan" for the convenience of an application scoring letter. Indeed, to "revitalize" is "to give new life or vigor to" (Mirriam-Webster). A simple review of the City's growth patterns annexations, land use and history would show that the location of the proposed Overlook is not in need of "new life" but actually continues to grow and prosper naturally as a result of its location in the growth path of Kyle.

We respectfully request that staff reconsider the awarded points for Community Revitalization for this application. We have included under separate cover the complete City of Kyle Comprehensive Plan for review but due to its large size, we have only attached to this letter the relevant sections and maps that pertain to this challenge.

Sincerely,

LL&C Properties, Inc.

A handwritten signature in cursive script, appearing to read "Kenneth Lewis".

Kenneth Lewis
President

LL & C PROPERTIES, INC.

June 15, 2011

Mrs. Robbye Meyer
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701-2410

RE: Supplement to Application Challenge – The Overlook at Plum Creek, #11217

Dear Mrs. Meyer,

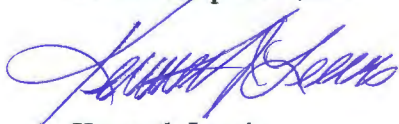
Please accept this letter as a supplement to the original Application Challenge submission sent to your office via Federal Express on June 14, 2011. We represent the housing tax credit applicant for Allegre Point, TDHCA No. 11123 in Urban Region 7.

Please note the following contact information should you require additional information in regards to the above-mentioned Application Challenge:

Kenneth Lewis
2211 Norfolk Suite 1030
Houston, Texas 77098
(713) 403-2000 office
(713) 403-2009 fax
kjl@alumni.utexas.net

Sincerely,

LL&C Properties, Inc.



Kenneth Lewis
President



CITY OF KYLE

100 W. Center • P.O. Box 40 • Kyle, Texas 78640 • (512) 262-1010 • FAX (512) 262-3800

February 8, 2011

Ms. Robbye Meyer
Director of Multifamily Programs
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701-2410

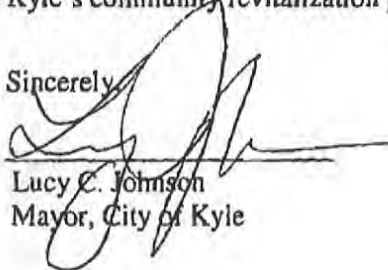
*RE: The Overlook at Plum Creek Housing Tax Credit Application
Kyle, Texas 78640*

Dear Ms. Meyer,

Please consider this letter verification that *The Overlook at Plum Creek* development site is located within the area covered by the City of Kyle's community revitalization plan, known as the City of Kyle Comprehensive Plan. The City of Kyle Comprehensive Plan is the plan that establishes the vision for Kyle's future and provides a guide for the city's future development, economic vitality, transportation and mobility, and community identity. The plan was approved by the Kyle City Council in July 2010. **The plan encompasses the entirety of the City of Kyle and includes goals to revitalize downtown Kyle** and to promote residential development that supports neighborhood identity and social interaction.

Attached are the approved Kyle Regular Council Meeting Minutes from the City Council Meeting on July 6th, 2010. This document confirms the City of Kyle Comprehensive Plan, Kyle's community revitalization plan, was adopted on this date.

Sincerely,



Lucy C. Johnson
Mayor, City of Kyle

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INTRODUCTION TO THE COMPREHENSIVE PLAN

The Importance of Planning

A Comprehensive Plan provides a clear record of the community's goals and visions and supplies guidance for future municipal decisions. A Comprehensive Plan is firmly grounded in assessments of the existing natural, physical, social, and economic conditions of the community. Public input, comments, and support are gathered at each stage of the planning process, in order to educate the public, foster local leadership, and ensure that the Plan is representative of the will of the people. Individual plan elements reflect these inputs and are synchronized to create coordinated directives for desired development in the future. Finally, an implementation strategy is prepared to guide realization of the Comprehensive Plan and of the community's vision. A Comprehensive Plan prepared with these methods and components will be a record of publicly derived vision that directs decision-making and actions by elected officials and City staff in matters of all scales.

What the Plan does for Kyle

Kyle is experiencing rapid growth that applies a great deal of pressure on all systems within the City, including transportation systems, provision of utilities, and access to goods and services. Additionally, residents of Kyle express a desire for increasing the sense of community, connectivity, and civic institutions within the City. In order to ensure adequate provision of basic services and needs, while also fostering a high quality of life and preserving Kyle's unique community, it is necessary for the City to be proactive in planning for the future. This Comprehensive Plan for the City of Kyle provides guidance for increasing ad valorem tax revenues to fund service provision, protecting sensitive cultural and natural features representative of Kyle's history and character, directing growth in key locations to create nodal destinations, and ensuring a high quality of form and design in new development. The planning horizon of this Comprehensive Plan is 2040, when it is projected that approximately 90,000 residents will live in Kyle. The directives of this Plan will provide for these future residents within a framework that will make Kyle self-sufficient and prosperous.

The Structure of the Plan

The Kyle Comprehensive Plan is divided into four main sections: Assessments, Visioning, Plan Elements, and Plan

Implementation. Each of these sections is described in greater detail below.

Assessments. This section provides context for the Comprehensive Plan by describing existing conditions in Kyle and evaluating how these conditions will impact future growth and development in the City. Assessments contain the following components: Regulatory Profile; Population, Demographics, and Market Analysis; Tax Gap Analysis; Development Trends; Infrastructure Profile; Circulation Analysis; Natural Systems; Form Analysis; and Workshop #1 Summary.

Visioning. The Visioning process creates a Planning Framework, based on Assessment data and public input, which will guide the Plan elements. Visioning contains the following components: compilation of community goals from Workshop #1; matrix analysis of goals to determine the most strategic goals; design of the highly graphical planning framework; and Workshop #2 summary.

Plan Elements. The Plan Elements identified for the Kyle Comprehensive Plan direct and facilitate future development that is in keeping with the vision manifest in the Planning Framework. The Plan Elements are: Future Land Use Plan; Open Space Plan; Public Facilities Plan; Transportation Plan Update; Urban Design Plan; and Downtown Revitalization Plan. This section also contains a summary of Workshop #3.

Plan Implementation. This section makes recommendations and details strategies that will foster realization of the individual Plan Elements. Components included in this section are: Economic Development Strategy and Plan Implementation.

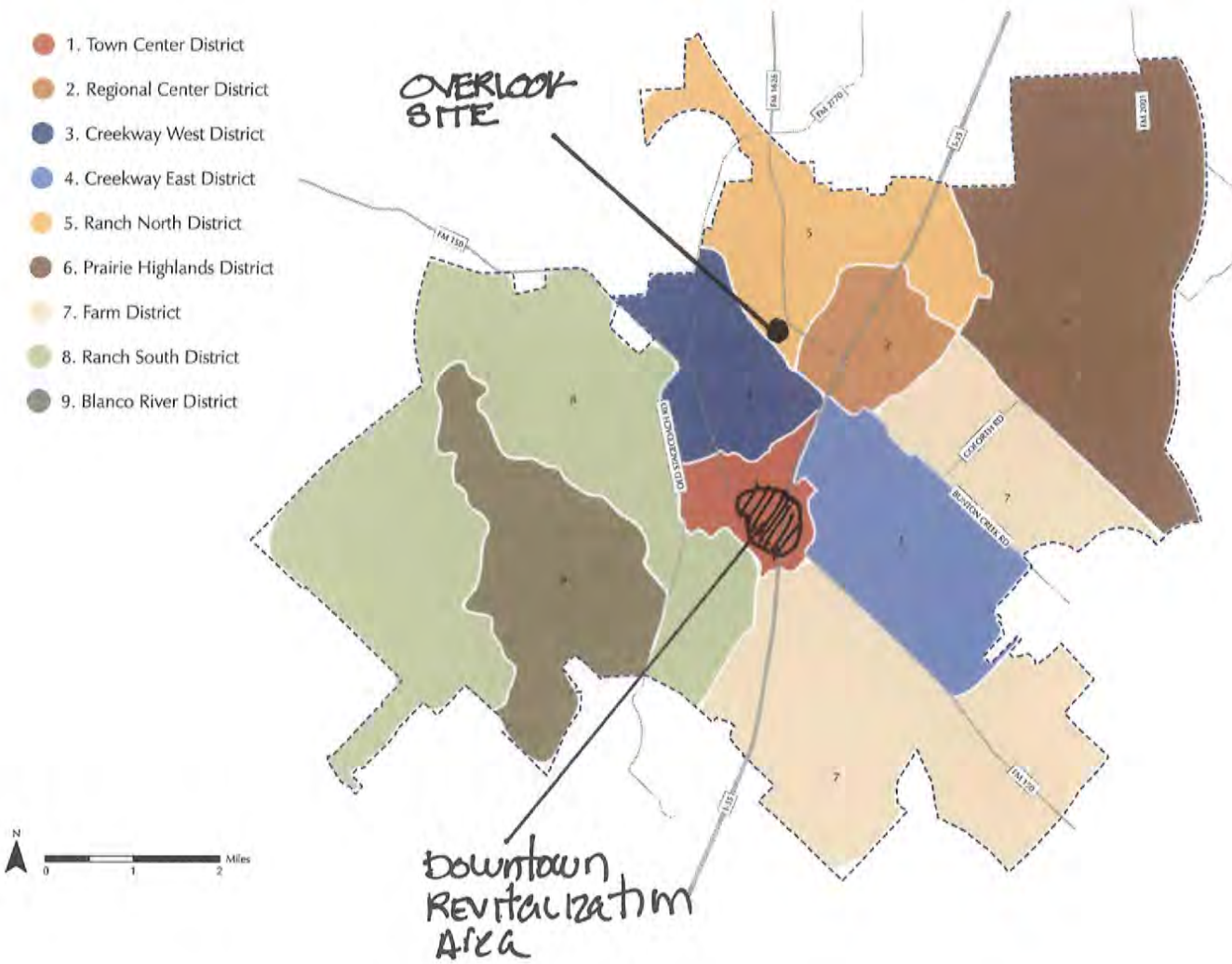
Additionally, Appendices are included that provide a quick reference to some of the main components of the Comprehensive Plan, including a compilation of all key recommendations from each Plan Element and a zoning application table that details which zoning categories are appropriate in each Land Use District.

FORM ANALYSIS

As the summation of the Assessments phase for the Kyle Comprehensive Plan, a Form Analysis is performed. Based on the history, current use, natural features, character, and feel of Kyle, the Form Analysis separates the City into nine distinct districts. Each district is described in the following pages as a way to explain the essence of Kyle and connect to the residents in each area. The nine Form Districts are as follows:

- Farm District: an agricultural and rural landscape that is being altered by residential development
- Creekway East District: flat land surrounding Plum Creek to the east of I-35
- Prairie Highlands District: rolling hills and lakes in the north-eastern portion of Kyle's ETJ
- Regional Center District: area of retail and healthcare services development at I-35 and FM 1626
- Ranch North District: rolling hills in the north of Kyle that is poised for development from the north
- Creekway West District: residential development nestled around Plum Creek to the west of I-35
- Ranch South District: tree-covered, rolling hills in the uplands surrounding the Blanco River in the south-west portion of Kyle's ETJ
- Town Center District: the historic downtown core of Kyle, located around the intersection of Center Street with I-35
- Blanco River District: alluvial bottomlands used for farming surrounding the Blanco River

form analysis



RANCH NORTH

The Ranch North District is located along both sides of FM 1626. It is primarily undeveloped land north of the Plum Creek subdivision and west of the Prairie Highlands District, excluding the area of the Regional Center District. This District is characterized by rolling hills, with groves of trees scattered throughout the landscape and shallow drainage ways running generally south-southeast. A large cement factory can be seen in the distance, in contrast to the rural feel of the surrounding undeveloped prairie.

OBSERVATIONS

FM 1626 is the only major arterial extending south from key growth areas in Buda and south Austin. Property owners in the Ranch North District recognize the likelihood of market-driven growth moving south out of Buda and Austin and have already attained entitlements for various commercial and retail developments (as evidenced by signs for such projects that line FM 1626 within Kyle). This growth is part of the expanding urban sphere of Austin and will endeavor to cling to the roadways and arterials that are part of that expansion. *Therefore...create a land use plan that effectively integrates regional and local scale development.*

As new development extends along FM 1626 and Kohler's Crossing, it will become important to establish a policy for land use transition, to avoid conflict between historic and future uses. Such transitions would encourage complementary, rather than conflicting adjacency conditions, thereby preserving land value and inviting desirable development. *Therefore...the land use plan should define appropriate transitions between the various categories of use in the Ranch North District.*

This District is poised to become a high value/high growth corridor between Kyle and Buda, as it provides connection to the Seton Hospital complex. The extension of FM 1626 has energized development in the area and in anticipation of retail activity moving along the corridor toward Buda, the City has already constructed streets with large rights of way, enhanced intersections, and large lane capacities. *Therefore...the land use plan should avoid "under-development" and protect the taxpayer's infrastructure investment.*



Signs along FM 1626 and Kohler's Crossing reveal the high level of mixed-use employment development planned for this area. This level of commercial development will stimulate residential growth and provide Kyle with greater residential options. This diversity of housing options is essential for Kyle and will help the City expand its residential base beyond the current dominance of price point and unit type. Key among these housing options should be various forms of higher density living, including town houses and high-end rental units. The

RANCH NORTH

presence of higher density forms of housing will enhance the potential for mixed-use development and creation of sub-districts within Kyle that enrich the City's quality of life. Higher density projects in the vicinity of employment centers will also reduce vehicular trips. Trip reduction and closer proximity between home and work is important because of Kyle's constrained internal movement as a result of limited I-35 crossings and limited railroad crossings. *Therefore...encourage higher density housing in proximity to employment.*

FM 1626 as it is currently laid out has little relevance to the operations of Kyle. It is instead a link to the north and a major structural element of the Ranch North District, which could make the District more a part of Buda and South Austin than a part of Kyle. Commercial and retail projects already developed along FM 1626 are regional in their form and visual character (similar to what is seen in other regional corridors of Austin). FM 1626 also flows to the new medical center, making this area more connected to the regional roadways than to the local system. In order for development along regional roadways from the north to benefit Kyle and enhance the economic value of the City fabric, those regional roadways must engage the local road system in ways that energize the City. The economic power of FM 1626 should energize Kyle's historic downtown core, as well as the hospital and the Regional Center District within which it resides. If FM 1626 terminates at the hospital, it will be difficult for Kyle to realize significant economic development in other areas. *Therefore...permit the influence of FM 1626 to extend to other cross-town movement routes to alleviate future traffic pressure.*

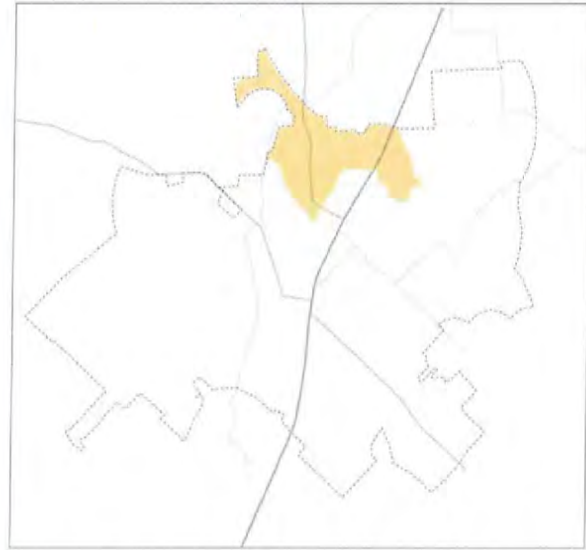
Currently, the hierarchy of street types in Kyle is fairly limited. In areas of the Ranch North District where residential subdivisions are large, greater street differentiation is important. It aids not only with traffic management, but with way-finding and place-making. *Therefore...a hierarchy of street types should be defined for Kyle to aid in traffic management, way-finding, and place-making.*

Future east-to-west movement will be constrained by the presence of the railroad, as a result of the limited number of rail crossings. Future crossings (in addition to the present crossings) will require agreement from the railroad or future commuter rail company. Failure to get a significant number of new crossings will necessitate road overpasses. Both of these options will inhibit and shape east-to-west movement and place greater traffic pressure on Kohler's Crossing and FM 1626 to I-35. All growth within this area will flow to these two streets, possibly creating traffic problems, unless other way to disperse trip volumes can be found. *Therefore...address the effect of limited railroad crossings on east-to-west movement*

The Ranch North District will likely experience larger developments than other areas of Kyle and realize the potential for attracting a higher price point. Such likelihoods are a result of the District's relationship to Austin growth and the rich natural landscape within which this growth will occur. However, the landscape vistas that make this district unique are experienced from the roadways, such as FM 1626 and Kohler's Crossing. As that roadscape fills in with the conventional form of regional development, this presentation of natural fabric could be lost to the ubiquitous appearance of Austin's outward expansion. The demand for larger projects and a higher price point is an opportunity to create a distinctive built product within the Ranch North District.

The rolling topography and drifts of native trees create a pastoral landscape that is truly unique and should be preserved as development moves forward. The design of neighborhoods and projects should express these natural qualities, such as with streets that engage landscape vistas instead of being totally defined by lot or building development.

Also, future development should not forget the ranch landscape that is part of the history of Kyle. Preservation of the ranch landscape includes preservation of artifacts and landscape forms remaining from the earlier ranch use. The challenge to growth will be to preserve the rural aspects of Kyle within the roadscape and development design. *Therefore...encourage growth that expresses qualities that are uniquely Kyle.*



supporting street network that will expand the capacity of the intersection to accommodate development. The present isolation of the performing arts center (off the road in an expanse of parking) in a suburban setting hinders the ability of this facility to contribute to the emergence of specialization. All the corners of the FM 1626 and Kohler's Crossing intersection should be brought into a single vision that includes the performing arts center and levels of specialization (in retail and residential development) that are possible for this location. *Therefore...encourage specialization at FM 1626 and Kohler's Crossing*

The intersection of Kohler's Crossing and FM 1626 will be an important center of development enhanced by the presence of the performing arts center. The unique relationship of this intersection to both rapid growth from the north and to the hospital in the south makes land at this location attractive to a level of retail specialization not available at I-35. However, the intersection alone will not make this specialization happen. The economic potential of roads flowing into the intersection must arrive at a place of distinction. The presence of a public/cultural use affords an opportunity to transform the intersection into a place with a greater expression of a public domain and a

TOWN CENTER

The Town Center District comprises the historic downtown core of Kyle, the surrounding small residential blocks, early highway frontage along Old Highway 81 (south of Plum Creek), and the blocks fronting West Center Street (out to Old Stagecoach Road). The District extends to the north along North Burleson Road to its intersection with I-35. The Town Center District also includes the extension of Center Street east across I-35 to its intersection with FM 150.

OBSERVATIONS

Downtown Kyle is comprised primarily of one story buildings, with the key exception of the new City Hall, and building plates are relatively small by the present day norms of retail construction. As a result, revitalization of downtown Kyle that includes preservation of its current physical fabric will require a high degree of retail specialization (e.g. the Texas Pie Company). A largely one story/small plate downtown fabric makes the economic future of downtown dependent on limited land use diversity. This means that any strategy for revitalization must be careful to put in place those physical features/qualities that retail specialization will find attractive. *Therefore...support retail specialization within the downtown core.*

Among these attractors would be the potential location of a commuter rail station within the Kyle downtown core. Such an asset will be most influential in this location because the forms of historic development are more supportive of an appropriate development response. Other areas of Kyle have not prepared for the station with commercial/mixed use aggregation, but instead have allowed low FAR's and auto-dominated commercial forms to proliferate. As a result, pedestrian use of the station in these areas would be difficult, as the economic benefit of a station is derived from the people that flow to and from the facility through retail/commercial spaces. *Therefore... consider locating a ASA rail station in Downtown Kyle.*

A mixture of land uses is present within the District, including commercial, institutional, civic, residential, and, to some extent, agricultural. These diverse uses are not present in distinctive clusters, but instead are intermingled.



This mixing is visually reinforced by the presence of commercial uses that are established in converted residential buildings. In this way, the distinction between residential and commercial uses is blurred, both by adjacent locations and by similar form. Some vacant lots are present in this District, and evidence of a gradual and continual pattern of development is found in the wide range of building dates, from the late 1800s to the present. *Therefore...as development and redevelopment occur within the Town Center District, attention should be paid to preserving the unique mixture of land uses.*



The Town Center District's connection to I-35 is hampered by the rail line that runs parallel to I-35 to the west. The rail line inhibits an economically beneficial relationship between downtown and the I-35 corridor. Attempts have been made to expand the Town Center District to the east of I-35 by extending Center Street across the Interstate. However, current land uses and transportation patterns on the eastern end of Center Street are quite different from the character of West Center Street. *Therefore...build communication between West Center Street and the portion of Center Street on either side*



of I-35 through common thematic elements to increase the economic potential along I-35 and attract visitors to downtown Kyle.

The core of the Town Center District is defined by a generally uniform street grid with Center Street as the main east-west corridor. Moving east along Center Street from Old Stagecoach Road, there are elements of an approach sequence, cues that signal arrival and reinforce the primacy of Kyle's downtown as the center of the City. However, this sense of approach and arrival is not found on the other key roadways leading to the Town Center District, especially North Burleson Street and Old Highway 81. *Therefore...elements to signal arrival in Kyle, such as banners, sidewalks, distinctive paving, lighting, signage, and land uses that engage with the street, should be promoted along North Burleson Street and Old Highway 81.*

There are two intersections along Center Street in the Town Center District that compete with each other for significance. One is at the intersection of Old Highway 81 and Center Street, which is the historical center of commercial activity in Kyle due to the adjacent railroad track and former station stop around which Kyle grew. The second is the intersection of Main Street and Center Street, which

TOWN CENTER

has recently been given prominence by the location of the new City Hall and Visitor Center. However, Main Street makes no meaningful connections to either the north or south, weakening this location as a point of confluence. Additionally, neither of these intersections are adjacent to Kyle's City Square Park, diminishing the Park's ability to act as a point of significance for the City. *Therefore...establish points of significance within the Town Center District that do not compete with each other and that communicate with traffic patterns, land uses, and historical features in a meaningful way.*

Due to the mixture of land uses throughout the Town Center District, definition of the District is communicated through the street pattern, rather than by clusters of uses. The street pattern in the District is an approximately 200 foot by 200 foot block grid, which is quite urban in size and form. However, the road sections are quite rural in form, with open ditches for drainage and either flat concrete curbs or no curbs. This minimal demarcation at the roadway edges results in the road plane flowing seamlessly into the yard plane of the properties along the roadways. In this rural pattern, yard landscaping plays a large role in defining the street space. As the existing landscaping in the Town Center District is highly diversified and unresponsive to the roadway corridor, the streetscape has a disjointed character that is defined by the adjoining uses. The tension between the urban block pattern and the rural street edges and landscaping is reinforced by the irregularity of the built structures within the uniform blocks. Incremental growth that has occurred on a lot-by-lot basis rather than on a project basis has created a visual tension from the disparate building styles and lot placement imposed on the uniform grid. Overall, this situation reinforces the porosity of downtown Kyle, where the thin demarcation between what is urban and what is rural is an essential aspect of the form of the Town Center District. *Therefore...definition of the Town Center District must respect this historical blurring between urban and rural forms to retain the unique character of Kyle.*

Visibility within the ground plane of the Town Center District is unencumbered by opaque fences or other disruptions, creating a sense of open space and lower density within the development of the District. This open ground plane is a distinctive spatial condition that contributes to the unique character of Kyle. The sense of an open ground plane is contributed to by the significant amount of vacant land that is currently present in the Town Center District and that appears to have been a prevailing condition throughout much of Kyle's history. Growth pressures may soon cause infill development that, as it fills these vacant spaces, could urbanize the more rural character of the District. *Therefore...infill and redevelopment within the Town Center District must be designed to preserve the current and historical appearance, form, and ground plane emblematic of Kyle.*

Lack of a strong defining street wall within the heart of downtown blurs the distinction of residential and commercial, making downtown Main Street a distinctive combination of commercial and residential buildings. The clear mixture of residential and commercial structures prevents the downtown from attaining a clear definition. Definition of the downtown Kyle area is communicated through the street pattern rather than the structures. This pattern is a distinctly urban block grid that stands in stark contrast to the rest of Kyle, which is spread out over rural roadways and curvilinear subdivision streets. This grid is an important attribute of the Town Center District, which must be preserved and used to define a public domain that could be extremely appropriate for pedestrian use.

The urban-ness of the grid is challenged by the voids within the built form it hosts. The amount of vacant land that populates the fabric of Kyle's Town Center District has been a prevailing condition throughout Kyle's history and therefore is a spatial aspect of its image and identity. Town Center growth that fills the voids of this fabric would begin to alter the historically rural appearance. However, growth pressures and increasing value will logically precipitate fabric infill, and care should be taken that this type of infill development is performed with sensitivity. Also, within the downtown block grid is a mixture

of land uses that do not reside in distinctive clusters. *Therefore...preserve the distinct spatial character of downtown Kyle.*

One of the key spatial challenges of the downtown core is the lack of spatial focus. The City Square and the potential railroad station are not at the center of downtown activity. As a result, more common comprehensions of a downtown and how it is structured are not (and will not) be affirmed. This is especially true as downtown reaches across I-35 and north toward the Regional Center. This potential direction of growth means that the present downtown may actually be on the edge of a more commercial core. However, the train station would end up more centrally located. Historically, downtown Kyle grew from the railroad and the City Square never attained the form-giving influence normally associated with such spaces. For this reason, part of the Square frontage is residential.

Movement of the commercial core of downtown also addresses problems associated with downtown's relationship to I-35. The economic potential of this association has been largely nullified by the rail barrier that inhibits any economically meaningful connection to the I-35 corridor. The result has been an isolation of downtown from the new commercial areas emerging within the I-35 corridor. However, while there are economic benefits associated with shifting the commercial center toward the rail and freeway, a challenge for the historic downtown fabric is imposed. The key to overcoming this challenge is the design and significance of West Center Street and its place in the overall thoroughfare plan of the City. If downtown establishes and maintains a significance in the movement patterns of the City then the historic areas of the existing downtown core will not fall into further isolation. *Therefore...keep the historic downtown central to Kyle.*

The City Square Park and former City Hall site has an unusual relationship to downtown, as it is surrounded

by both residential and commercial structures. This mixture of adjacent uses and the informal form of the space itself are more evocative of a park rather than a traditional town square. However, it is an important public space and point of significance for the Town Center District that should be utilized for events and activities that celebrate Kyle. *Therefore...future plans for the City Square Park should seek to activate the space without altering its historic form and relationship to the City's fabric.*

The majority of the buildings within the core of the Town Center District are only one story tall and lot sizes are small and somewhat irregular. These conditions may pose limitations to future economic development in the District. *Therefore...creative land aggregation and redevelopment should be pursued to maximize economic development potential without drastically altering the historic fabric and form of the Town Center District.*



DOWNTOWN REVITALIZATION PLAN

Downtown Kyle is the oldest part of the City, with historic built fabric and local character, and also one of the keys to the future vision of Kyle established by its citizens in the comprehensive planning process. Downtown's street grid, the historic commercial buildings, and residences set it apart from the rest of today's growing City, which is predominantly residential in character with areas of commercial concentration. While the heritage character of Downtown is unique today, the district must address existing challenges in order to ensure that new public and private development reinforce and strengthen the character, even as the district is reborn to serve as a thriving commercial and civic center of the City of Kyle.

The intent of the Downtown Revitalization Plan is to identify and document critical issues facing Downtown today, present strategies and initiatives that will address those issues, and to assemble a toolkit of implementation approaches. Downtown Kyle presents a remarkable opportunity to establish a district of civic identity that citizens of Kyle and visitors will reference to define the City and its culture.

HISTORY

Kyle was founded in 1880 on 200 acres of land donated to the International-Great Northern Railroad by local landowners Fergus Kyle and David Moore. The local economy was dominated by agriculture, and the new railroad opened up new markets for goods produced in and around Kyle. The original town plat contained eighteen blocks, which were auctioned off under the Kyle Auction Oak, which still stands on Sledge Street. Commercial and residential lots were sold, and the first business opened soon after on the public square.

While new commercial development was made possible by the arrival of the railroad, the economic engine of Kyle remained agriculturally-oriented. As an agricultural community, Kyle's downtown served the needs of the City's population and the infrastructural demands of the goods and services exchanged there. Given this level of economic exchange, Downtown developed to serve Kyle's population of several hundred to a few thousand people and to direct their goods to market via rail connections to regional cities. Rural residential housing types dominated, with a few local businesses present. This Downtown character continues to the present time, with some additions to the built fabric placed on the same street grid and infrastructural base that has been in place since Kyle was founded.

The advent of the automobile influenced a new spatial reality for urban development, with new road widths, turning radii, demands for parking spaces, and traffic control measures necessary to direct the flow of automobiles. With the new built environment also came new patterns of accompanying economic development, with new commercial forms oriented to sites along high-volume roadways. Interstate 35 was completed in Central Texas in the 1960s, which brought higher speed travel and new volumes of automobile traffic to the alignment formerly occupied by the old U.S. 81 corridor that passed directly adjacent to Downtown Kyle. New commercial development in Downtown did not accompany the arrival of I-35 to a significant degree, due to the small population of Kyle and the lack of developable land to be easily and cheaply assembled for commercial development scaled to the demands of the age of the automobile. The historic residential fabric and limited commercial uses of Downtown Kyle therefore remained essentially unchanged.

Despite limited new development, Downtown Kyle continues to play an important role in the civic and cultural functions of the City. Kyle's City Hall, constructed within the downtown area, is evidence of this sustained meaning. However, the core area's unique spatial conditions, coupled with the dominance of a single traffic spine, hinder economic development efforts aimed at attracting conventional development investment. Downtown's special and historic qualities and the desire to preserve them make it increasingly difficult for the downtown area to compete with areas offering greater visibility, access, and traffic movement convenience. Therefore, downtown Kyle must attract a more specialized form of investment by encouraging a more specialized form of retail. However, even this investment requires resolution of certain hindrances to development. These include the barrier presented by the rail line, congestion along Center Street, and awkward parcel configuration in land adjacent to Interstate 35. Recommendations for revitalization of downtown Kyle must set out a series of physical initiatives, programmatic endeavors, and implementation strategies that preserve the best of what history has provided and remove key impediments that restrain downtown's ability to attract investment.

The built fabric of the town as drawn in the original plat largely remains, and even today the Auction Oak, public square, and historic residential and commercial buildings are present in Downtown Kyle. The qualitative feel of the City is of a rural residential township, where single family houses are the dominant land use, along with a small commercial strip.



Figure 1. Downtown Kyle in the Land Use Plan.

FUTURE ROLE

The vision for downtown Kyle is rooted in the Goals that grew out of the community's input and participation in three Comprehensive Plan Workshops. Downtown is a living reference to the past, a district central to Kyle's present, and a keystone district for the future growth and development of the City. This essential centrality is evidenced in the breadth of Goals that address issues related to downtown Kyle. Many of the Goals also relate to the entire City and the role to be played by Downtown Kyle in the future of Kyle.

The Planning Framework calls for articulation of the Downtown as an anchor to the commercial and community core of Kyle, while reinforcing its historic significance. The convergence of the transportation network within Downtown adds an additional element of complexity to this area.

Interstate 35 delivers value to Downtown in the form of automobile traffic and the consumer demand and spending power associated with that flow. The Framework references the need for a roadway system to connect these regional flows with local traffic, distributing the value throughout Kyle and not limiting the potential for economic value capture to the interstate frontage. A loop road system is present, connecting Downtown Kyle with other regional and local nodes in the City. Pedestrian movement, which is vital to a thriving Downtown, is enhanced via a network of pedestrian routes that converge in Downtown Kyle.



Downtown Kyle in the Planning Framework graphic.

downtown plan

- Goal 3. Connect Downtown Kyle to surrounding neighborhoods.
- Goal 8. Create integrated and inter-connected mixed use districts.
- Goal 20. Encourage regional centers that include public facilities.
- Goal 23. Encourage trail system connections to the Downtown and other commercial centers.
- Goal 45. Improve accessibility for residents to local goods and services.
- Goal 46. Establish commercial centers that provide transition between commercial and residential use.
- Goal 58. Preserve the uses and character of Downtown Kyle.
- Goal 72. Provide linkages between Downtown and new commercial centers.
- Goal 74. Reduce current traffic congestion and promote a street identity that remembers the rural heritage of Kyle.
- Goal 76. Reduce congestion in the Downtown area by providing alternate routes and improving linkages to other commercial areas.
- Goal 83. Utilize sidewalks to connect residential areas to commercial areas and other destinations.

Figure 2. Strategic Community Goals related to downtown revitalization.

EXISTING CONDITIONS

Downtown Kyle is a representation of the historic fabric of the original settlement of the City, including single-family residential fabric and a small strip of commercial uses. This positions Downtown as a point of interest in Kyle, but does not promote Downtown's emergence as a destination. Downtown should not seek to compete with the regional node that includes Seton Hospital but should seek to define itself as an integrated community with destination significance.

Other challenges imposed by the existing urban form relate to its isolation from other districts of the City and surrounding regional centers. Downtown lacks a convenient connection to I-35, which impedes the ability to benefit from proximity to the interstate. It also heightens traffic congestion along Center Street and cuts Downtown off from many other areas of Kyle. In addition to isolation, Downtown offers few true amenities for patrons and lacks critical commercial mass to successfully serve as a commercial destination. The number of vacant lots, the lack of visual continuity, the lack of clear

edges, and the dissipation of commercial land uses around the railroad track all detract from its destination potential. Without place-making characteristics such as edges, portals, landmarks, nodes, and paths to stitch the interesting pieces of Downtown Kyle together into a destination and specialized commercial center, the district has little opportunity to fulfill the need for a unique place in Kyle.

Another area of concern relates to the voids in the urban fabric and divisions inserted by the railroad line and I-35. Each of these transportation corridors divides the Downtown, creates irregular land parcels, and exacerbates the lack of cohesion and traffic problems in the district. The lack of a coherent street hierarchy and a street grid uninterrupted by transportation corridors of a larger size, along with their associated irregular parcels, makes land assembly for development difficult and creates a challenge to economic value capture and commercial viability in Downtown Kyle. Therefore, a unique form must be defined for downtown, requiring a more specialized type of commercial/retail investment.

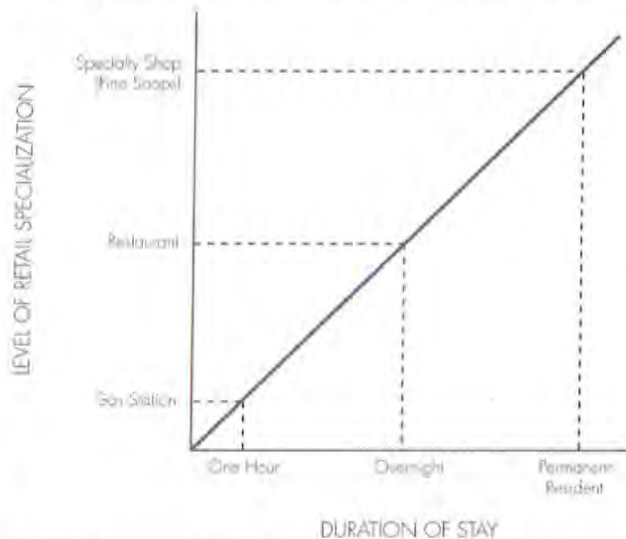


Figure 3. Duration of stay influences the level of retail specialization.

Only specialized forms of development will find a place in Downtown, and the future success of Downtown Kyle will be found in higher degrees of specialization. Figures 3 and 4 illustrate the relationship of specialized uses and determined duration of stay. Figure 4, in particular, shows how components of the Downtown Plan relate directly to duration of stay.

Downtown Plan Components

Duration of Stay	Connections	Plaza	Thematic Streets	Use Clustered Sub Districts	Events, Festivals	Local Scale Retail
four hours						
overnight						
housing						

Figure 4. Elements of downtown revitalization that impact duration of stay.

In order to create a Downtown that is a cohesive point of interest functioning as a commercial and civic node, the following issues must be addressed:

- Locational disadvantage causing lack of significance and character within the City
- Cognitive isolation from other districts in the City
- Low levels of service
- Lack of nodal intersection
- Lack of destination due to voids in urban fabric



downtown plan

APPROACH

In order to address the various challenges facing Downtown Kyle, it is necessary to formulate a body of strategic objectives which in turn will serve to further organize and direct the Downtown Revitalization Plan towards assembly of a toolbox of implementation approaches to ensure success. While numerous impediments to commercial development and economic value capture currently confront Kyle, the character of the impediments is largely similar and interrelated. Correspondingly, a family of related strategic objectives will address the impediments and establish Downtown Kyle as a specialized commercial node with significant civic presence and cultural identity for the City.

Improving Downtown's locational advantage and significance as a commercial and civic destination is a primary objective, and can be addressed by connecting Downtown streets to each other and a larger grid of transportation corridors such as I-35 and its access ramps. Redefining and extending the existing Downtown street grid to the edge of I-35 and across to the eastern side of the interstate would provide additional connectivity, as well as additional reliever routes to mitigate traffic congestion. This approach would also activate and enliven what are now second-tier streets in relation to Center Street, which would help the district and its commercial viability as a whole. A connection from Center Street that

bridges I-35 and flows into a regional road network on the east side of I-35 allows for greater potential value capture.

The void in Kyle's urban fabric caused by the railroad line and I-35 can be bridged through the creation of a rail plaza, in which the existing Center Street crossing is reconfigured to create a large public space, streetscape, and pedestrian trail within one unified ground plane. This is represented by the green area in Figure 6. The rail plaza addresses the void and allows for the spatial relationship between City Hall and the traffic flows of Center Street and the rail line to co-exist within a new organizing feature that is accessible to pedestrians as well. The plaza would be an identifiable and iconic place that supports the goals of the Comprehensive Plan process and knits together Downtown's disparate urban forms and uses. Such a crossroads creates a destination for people and commerce and resolves conflicts between Downtown and the railroad by making the present under-utilized space a meaningful centerpiece for future development.

Additional public spaces in Kyle, both existing and newly proposed, must be incorporated into the central identity of Kyle as well. Public open spaces at the center and termini of the Downtown spine of Center Street would work in conjunction with an improved streetscape experience and

Issue	Resolution	Outcome
Lack of destination due to voids in urban fabric	Create identifiable plaza at major intersection: place along rail corridor and Center Street maintain unified ground plane	Creates spatial relationship between existing buildings, streets and rail line Becomes destination for future development Knits together urban forms and uses
Locational disadvantage causing lack of significance and character within the City	Create public spaces and provide enhanced streetscapes: place along major spine (Center Street) as center and termini use special monumentation, signage, paving and landscaping	Creates unique sense of place one can identify
Lack of nodal Intersection	Connect downtown street grid across interstate: allow secondary streets in relation to Center Street to connect to east side of I-35	Allows for greater potential value capture in the Downtown district as a whole Creates energy and critical mass
Low levels of service	Connect downtown street grid to larger grid of transportation : join grid to service roads extend grid to east side of I-35	Creates easier access in and out of Downtown Alleviates traffic congestion Connects to regional districts
Cognitive isolation from other districts in the City	Connect downtown development and civic presence: create pedestrian connections create public spaces	Knits together urban forms and uses of the Downtown district to regional districts

Figure 5. Top Five Issues, Resolutions and Outcomes, Downtown Kyle.

defined district identity to knit the whole of Downtown together. As Downtown is currently contained by residential fabric on its western edge, in order to grow it must expand to the east. A new public space to the east of I-35, along with an improved historic City Square, would form termini to the central spine of Downtown. Each of these two could be marked by entry monumentation. The five major issues, resolutions and outcomes are described in Figure 5.

The identity of Downtown and its character must also relate to the rest of the City of Kyle and surrounding context. Along with the new rail plaza and open spaces, a pedestrian trail that connects to a wider network would move through Downtown along the rail right-of-way. Even as Downtown connects to the City through improved vehicular and pedestrian corridors, the district must maintain its distinct identity and level of commercial specialization. Downtown must function in relation to the regional node at Seton Hospital so that these two endpoints define a district in between oriented to complementary economic value capture from I-35. Figure 6 breaks down the intended organizing structure using existing corridors in Downtown Kyle while Figure 7 shows the suggested sub-districts as they relate to the proposed organizing structure. Economic energy is predicted to increase and plateau in the core of downtown where civic and commercial sub-districts merge along the primary connection. As the secondary connections expand to other sub-districts, the economic energy subsides as the commercial sub-districts fade into the residential sub-districts.

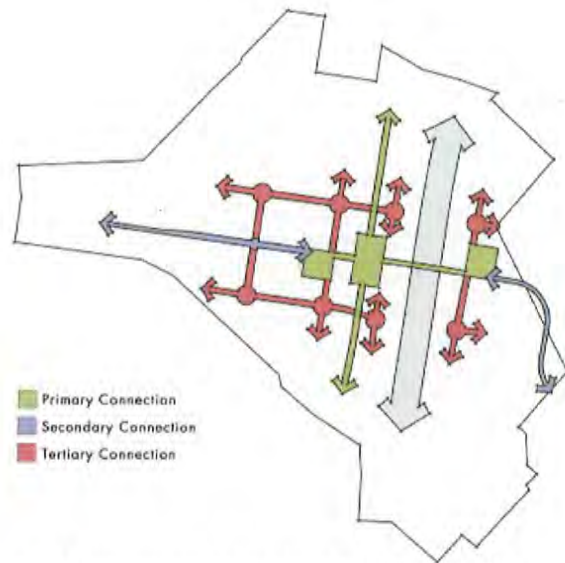


Figure 6. Proposed organizing structure, Downtown Kyle.

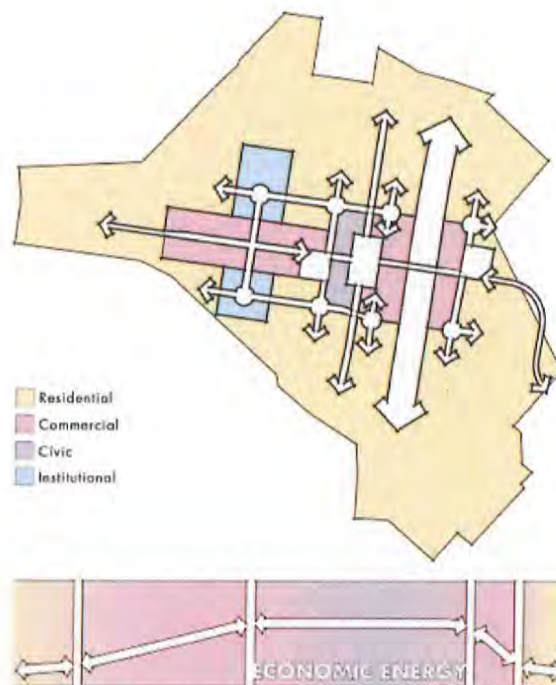


Figure 7. Proposed sub-districts and level of economic energy, Downtown Kyle.

downtown plan

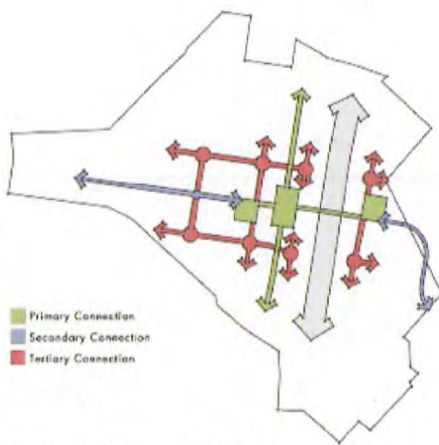


Figure 8. Proposed organizing structure and section reference.



Figure 9. Enhanced Downtown streetscape, Primary Section.

Located in the core of Downtown, this enhanced streetscape unifies historic and future downtown. There is expected heavy pedestrian and vehicular use due to its proximity to the interstate. Enhancements include large sidewalks to encourage pedestrian movement and cafe seating, pedestrian scale lighting and signage, and charming use of landscape plants.



Figure 10. Enhanced Downtown streetscape, Secondary Section.

This enhanced Downtown streetscape serves as the spine linking the primary connections to districts beyond the Downtown district. With commercial and civic uses lining these corridors, there is expected heavy pedestrian and vehicular use. Enhancements include large sidewalks with buffering vegetation to separate pedestrian use from vehicular use, large scale lighting, and pedestrian scale signage.



Figure 11. Enhanced Downtown streetscape, Tertiary Section.

This enhanced Downtown streetscape occurs throughout the downtown grid to connect urban uses and create opportunity for economic development. There is expected medium pedestrian and vehicular use. Enhancements include neighborhood sidewalks, street trees, and pedestrian scale lighting.

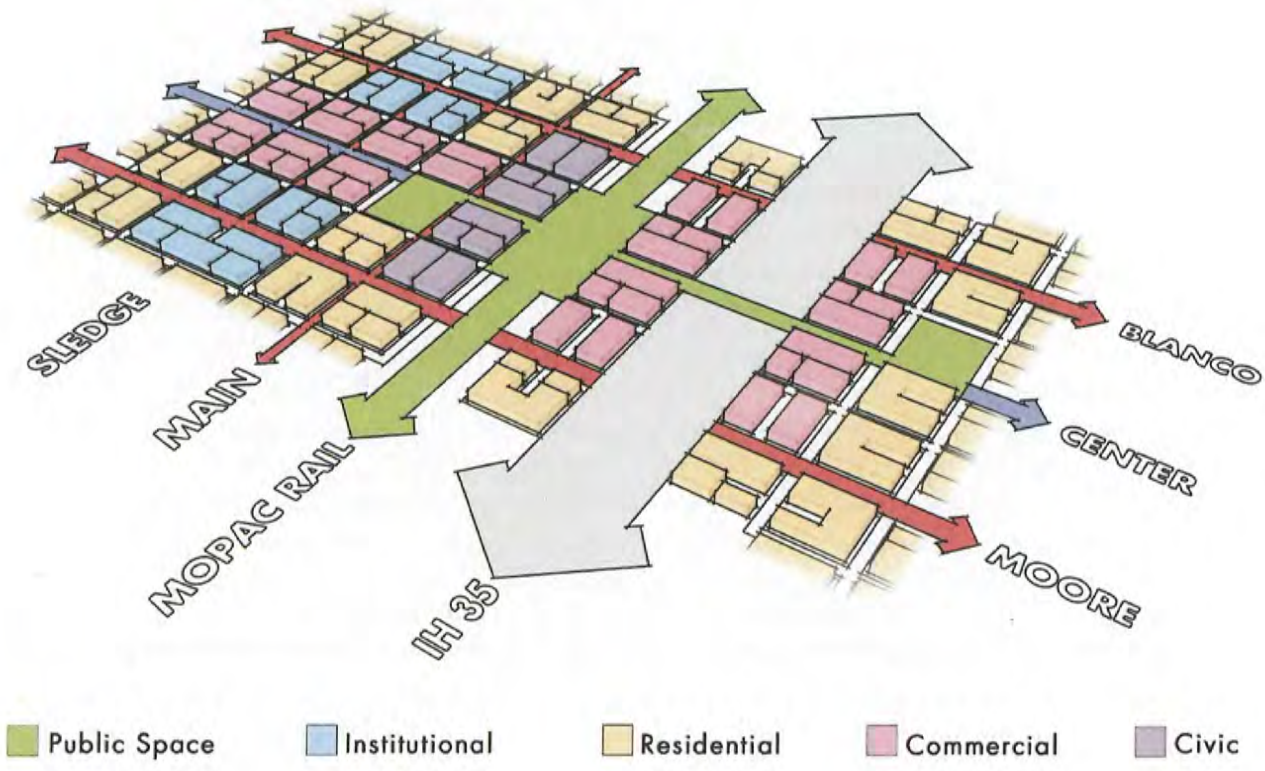


Figure 12. Proposed structure and sub-districts composite.

Figure 12 demonstrates how the enhanced Downtown streetscapes influence the use that abuts it. The primary connection shown in green joins the east and west sides of downtown and reaches to regional districts through a suggest greenway along side the Mopac Rail Line. The tertiary connections extend over I-35 to employ the existing street grid further unifying Downtown urban uses. Infill allows for the correction of void and encourages economic development and growth thus creating an identifiable downtown node within the City of Kyle.

downtown plan

PUBLIC PLAZA

The void in Kyle's Downtown fabric caused by the railroad line and I-35 can be bridged through the creation of a rail plaza, in which the existing Center Street crossing is reconfigured to create a large public space, streetscape, and pedestrian trail within one unified ground plane. The plaza would be an identifiable and iconic place that supports the goals of the Comprehensive Plan process and knits together Downtown's disparate urban forms and uses. The rail plaza addresses the void and allows for the spatial relationship between City Hall and the traffic flows of Center Street and the rail line to co-exist within a new organizing feature that is accessible to pedestrians as well.



Figure 13. Proposed Rail Plaza, Downtown Kyle.

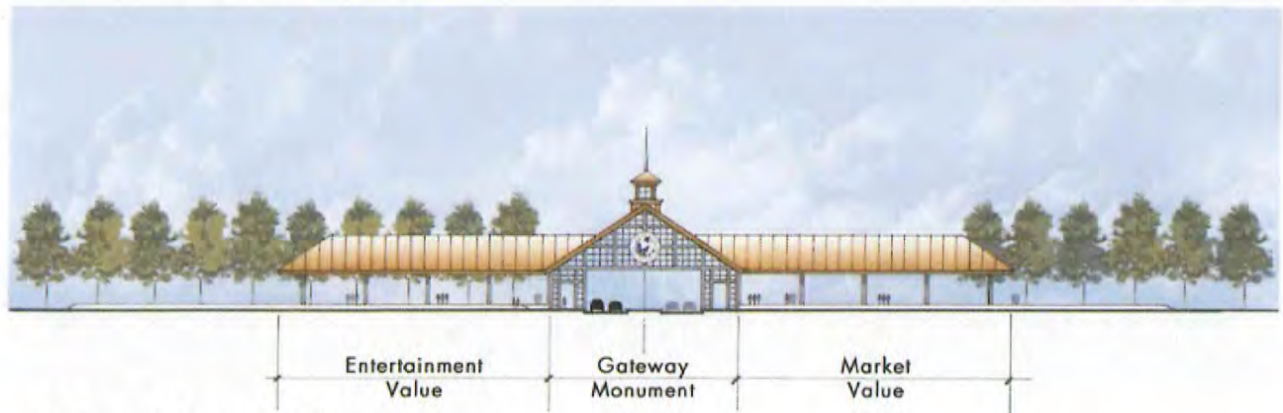


Figure 14. Proposed elevation, Rail Plaza.

DISTRICTS

By creating District Designations within Downtown Kyle, a policy framework can be established that is compatible within the City's larger municipal planning efforts. Policy parameters, appropriate development activity, and funding mechanisms are important considerations in district designations. In this report, eight special districts will be considered, with an included description of their opportunities and constraints. A comparative table of district application in Kyle and a recommendation regarding the most suitable district designations will be included in this section. The districts summarized here include:

- Targeted Planning Zones (Sub-area Plans)
- Design Overlay District
- Historic Districts
- Municipal Management District
- Tax Increment Finance District
- Capital Improvement District
- Public Improvement District
- Business Improvement District
- Planned Development District

TARGETED PLANNING ZONES

Targeted Planning Zones are designated when a particular area requires a greater level of detail than can be obtained through a City's Comprehensive Plan or when unique actions are necessary in the area. A Sub-area Plan would remain consistent with the City's Comprehensive Plan and would include tools and mechanisms tailored directly to the targeted area. By designating the area a Targeted Planning Zone, an additional level of public participation, review, and input can be incorporated into the design of the area. After the Targeted Planning Zone is defined, the plan is adopted, implemented, and overseen by the Planning Commission and the City Council. A Targeted Planning Zone could be eligible for Community Development Block Grant funds for activities related to the removal of blight and the provision of low-income housing in the zone.

Description of Functions

- Design review procedures
- Zoning regulations
- Streetscape element standards
- Character and design guidelines
- Development strategies
- Creation of incentives
- Public review and input

SUB-DISTRICTS

The creation of Sub-Districts within Downtown Kyle allows for the formulation of a more detailed level of proposed policy and design initiatives that respond to and build upon the existing fabric of Downtown. Areas of commercial, civic, and institutional concentration are present, with residential uses continuing to account for the a significant portion of the Downtown area.

- Residential Sub-District
- Commercial Sub-District
- Civic Sub-District
- Institutional Sub-District



Figure 16. Proposed sub-districts, Downtown Kyle.

DESIGN OVERLAY DISTRICT

Design Overlay Districts do not change existing, underlying zoning categories, but rather provide requirements and incentives to preserve a defined district form or character and to encourage development of a certain quality. They provide guidance for private entities (developers, designers, and investors) as they embark upon projects in the designated district. It also provides standards for the visual form and appearance to which property owners and occupants must comply, in order to preserve the visual form and overall appearance within the District. Overlay Districts can also be established so as to provide effective land use planning and facilitate traffic flow. Guidelines typically articulated in a Design Overlay District would address such components as:

Typical Elements Defined and Regulated through Design Overlay Districts:

- Landscaping
- Architecture
- Lighting
- Signage
- Parking lots
- Transportation elements (intersections, trails, transit stops)

CAPITAL IMPROVEMENT DISTRICT

The creation of a Capital Improvement District allows cities and counties to provide new public facilities and expand existing facilities in order to accommodate existing and anticipated growth. Funding for these Districts typically stems from capital improvement revenue funds, state and federal sources, grants, development exactions and impact fees, dedications of land, taxes, assessments, and charges. Physical, environmental, and topographical constraints must be considered when designating areas for the expansion of public facilities.

A Capital Improvement District's functions are as follows:

- Prioritize the new public facilities
- Estimate the cost of improvements or repairs
- Analyze the fiscal capacity of the city or county to finance and construct improvements
- Establish financial policies to provide for the funding of improvements
- Schedule the funding, prioritization, and construction of improvements to ensure that public facilities are provided when required based on needs identified in the Comprehensive Plan.

POSSIBLE DISTRICT DESIGNATIONS FOR DOWNTOWN KYLE

FUNCTION	Due Process	Regulatory Control	Shared Governance	Targeted Public Funding	General Public Funding	Premium Funding
DESCRIPTION OF FUNCTION	Provide public deliberation for the purpose of preventing capricious actions on part of council, while permitting specific actions within a targeted area	Target enforcement or regulatory oversight in a specified area	Establish governmental subdivisions for the purpose of executing specific tasks normally assigned to general governance	Redirect public revenues within a particular zone to a target area/set of targeted projects	Focus general revenues to targeted area/targeted projects	Create revenue streams in addition to normal public sources
DISTRICTS	Land Use areas (entertainment, school, hospital, etc.)	Design Overlay Districts	Municipal Management Districts	Tax Increment Finance District	Capital Improvement District	Public Improvement District
	Target Planning Zones (Sub-area plan)	Planned Development Districts	Legislated Districts			Business Improvement District
		Historic Districts				
	Reinvestment Zones	Code Enforcement Districts				


 Recommended for Downtown Kyle

Figure 17. Possible District Designations, Kyle, Texas

HISTORIC DISTRICTS

The creation of Historic Districts is a way to target the preservation of historic buildings, streets, features, and the fabric of an area. The National Parks Service maintains the National Register of Historic Places, which recognizes districts, sites, buildings, structures, and objects that are significant to American history, architecture, archeology, engineering, and culture. The process of obtaining National Register designation can be lengthy and requires extensive documentation of a site's merits.

The Texas Historical Commission administers the Certified Local Government (CLG) program, which provides support to cities in creating Historic Districts. In order to qualify as a CLG, a city must:

1. Enforce state or local legislation that protects historic properties
2. Establish a qualified review commission composed of professional and lay members
3. Maintain a system for surveying and inventorying historic properties
4. Provide for public participation in the historic preservation process, including recommending properties to the National Register of Historic Places.

Once certified, a CLG becomes eligible for grant funds to support:

- Training for local preservation commissions
- Completing or updating surveys of historic resources
- Producing historical walking or driving tour brochures, videos or other educational materials
- Preparing preservation plans
- Preparing National Register of Historic Places nominations

MUNICIPAL MANAGEMENT DISTRICT

Municipal Management Districts, also referred to as Downtown Management Districts, can be created within an existing commercial area to finance facilities, infrastructure, and services beyond those already provided by individual property owners, or by the municipality. Municipal Management Districts are created to supplement, not supplant, the municipal services in the designated district. A Municipal Management District actually functions under dual provisions of rights, powers, privileges, authority, and functions. It functions as both a conservation and reclamation district, and as a road and road utility district.

Projects and services approved for Municipal Management Districts:

- Landscaping
- Streets/Sidewalks/Signage
- Marinas
- drainage improvements
- pedestrian malls
- solid waste/water/sewer/power facilities
- parks and plazas
- lakes, rivers, ponds, bayous
- recreation/scenic areas
- historic areas
- fountains/art
- off-street parking
- bus terminals, heliports, and mass transit systems
- demolition costs associated with designated improvements
- property acquisition in connection with an improvement project
- supplemental services for improvement projects (advertising, economic development, health and sanitation, security, etc.)
- administrative expenses incurred in district management

Funding options provided through Municipal Management Districts include:

- Self-imposed property taxes
- Special assessments
- Impact Fees
- Other charges to property owners

TAX INCREMENT FINANCE DISTRICT (TIF)

Tax Increment Finance Districts are useful primarily in the funding of structural and infrastructural improvements within a designated Reinvestment Zone.

Approved Appropriations of Funds

The governing body/board of directors may regulate/restrict the use of land by imposing conditions, restrictions, or covenants that run with the land. In a Tax Increment Financing District, the “increment” of increased tax value created by new development (increase over present value) is directed toward approved projects documented in a TIF Plan. These funds are administered by a TIF Board. TIF Districts are set up by City Ordinance and typically last 10 to 20 years.

The governing body/board of directors may use funds for project costs that benefit the reinvestment zone, including those relating to:

- railroad or transit facilities
- affordable housing
- the remediation of conditions that contaminate public or private land or buildings
- the preservation of the facade of a private or public building
- the demolition of public or private buildings
- providing affordable housing or areas of public assembly in or out of the zone
- paying a neighborhood enterprise association for providing services or carrying out authorized projects in the zone
- activities that benefit the zone and stimulate business and commercial activity in the zone

PUBLIC IMPROVEMENT DISTRICT (PID)

Public Improvement Districts offer cities and counties a means for improving their infrastructure to promote economic growth in a designated area, by levying and collecting special assessments on properties within the city or its ETJ. Public improvements typically funded through use of a PID include improvements in areas such as infrastructure, civic space, and business-related services.

Authorized Improvement Projects

- landscaping
- erection of fountains, distinctive lighting, and signs
- acquiring, constructing, improving, widening, narrowing, closing, or rerouting of sidewalks or of streets, any other roadways, or their rights-of-way
- construction or improvement of pedestrian malls
- acquisition and installation of pieces of art
- acquisition, construction, or improvement of libraries
- acquisition, construction, or improvement of off-street parking facilities
- acquisition, construction, improvement, or rerouting of mass transportation facilities
- acquisition, construction, or improvement of water, wastewater, or drainage facilities or improvements
- the establishment or improvement of parks
- acquisition, by purchase or otherwise, of real property in connection with an authorized improvement
- special supplemental services for improvement and promotion of the district, including services relating to advertising, promotion, health and sanitation, water and wastewater, public safety, security, business recruitment, development, recreation, and cultural enhancement
- payment of expenses incurred in the establishment, administration, and operation of the district

BUSINESS IMPROVEMENT DISTRICT (BID)

A Business Improvement District (BID) is an organizing and financing mechanism used by property owners and merchants to determine the future of their retail, commercial and industrial areas. The BID is based on state and local law, which permits property owners and merchants to band together to use the city's tax collection powers to assess properties, thereby creating a reliable, multi-year source of funds for economic development. These funds are collected by the city and returned in their entirety to the BID and are used for supplemental services (maintenance, sanitation, security, promotions and special events) and capital improvements (street furniture, trees, signage, special lighting) beyond those services and improvements provided by the municipal government. In essence, the program is one of self-help through self-assessment and business-led management. In the BID era, business leaders assume that by acting collectively they themselves can correct as many of the problems that affect their economic self-interest as they can afford. There are 1,200 BIDs in North America in central business districts and other commercial areas of all sizes, from tiny Hampton, Virginia, to Times Square in New York City.

BIDs typically serve 10 functions:

1. Maintenance. Collecting rubbish, removing litter and graffiti, washing sidewalks, shoveling snow, cutting grass, trimming trees, planting flowers in public places.
2. Security and hospitality. Hiring uniformed security and street "guides" or "ambassadors"; buying and installing electronic security equipment or special police equipment, staffing sidewalk tourism kiosks.
3. Consumer marketing. Producing festivals and events; coordinating sales promotions, producing maps and newsletters; launching image enhancement and advertising campaigns; erecting directional signage.
4. Business recruitment and retention. Conducting market research; producing data-oriented reports; offering financial incentives for new and expanding businesses; marketing to investors.
5. Public space regulation. Managing sidewalk vending, street performances, street furniture, code compliance.
6. Parking and transportation management. Managing the public parking system; maintaining transit shelters; operating ridesharing programs.
7. Urban design. Developing urban design guidelines; managing facade improvement programs.
8. Social services. Creating or aiding help-the-homeless, job training, and youth services programs.
9. Visioning. Developing a vision or strategic plan.
10. Capital improvements. Installing pedestrian-scale lighting and street furniture; planting and maintaining trees and flowers.

A STRATEGY FOR DOWNTOWN REVITALIZATION

Relationships describe the interconnection of the internal and external organizational structures that act upon the implementation strategy. Acts (or actions) necessary to implementation include funding, implementation/construction, and maintenance. Gathering/generating funds, expending funds to create value, and maintaining that value is a broad set of relationships that define the interconnecting relationships between those agencies, boards, commissions, committees, associations, and tasks forces associated within the implementation strategy. To make the collective body of organizations (such as those specified above) functional, it is necessary to set them in a hierarchical association which ultimately defines a community under the leadership of elected officials (the City Council). In this way the operations of the implementation strategy maintain public accountability and respect the rights of public due process and uniform/non-capricious application of laws/policies/procedures.

The following is a sequence of actions recommended for Downtown Revitalization in Kyle. These actions integrate both public and private actions, involving policy, regulatory, and form-based mechanisms. There are five recommendations in total.

1. Adopt the Kyle Downtown Revitalization Plan
2. Create special districts
3. Create district committees and boards
4. Craft guidelines and pass ordinances that codify the guidelines
5. Begin detailed design work on the downtown design projects (see Figure 18 below):
 - a. Create identifiable plaza at major intersection. Place along rail corridor and Center Street and maintain unified ground plane.
 - b. Create public spaces and provide enhanced streetscapes. Place along major spine (Center Street) as center and termini and use special monumentation, signage, paving and landscaping.
 - c. Connect downtown street grid across interstate. Allow secondary streets in relation to Center Street to connect to east side of I-35.
 - d. Connect downtown street grid to larger grid of transportation. Join grid to service roads and extend grid to east side of I-35.
 - e. Connect downtown development and civic presence. Create pedestrian connections and public spaces.

Issue	Resolution	Outcome
Lack of destination due to voids in urban fabric	Create identifiable plaza at major intersection: place along rail corridor and Center Street maintain unified ground plane	Creates spatial relationship between existing buildings, streets and rail line Becomes destination for future development Knits together urban forms and uses
Locational disadvantage causing lack of significance and character within the City	Create public spaces and provide enhanced streetscapes: place along major spine (Center Street) as center and termini use special monumentation, signage, paving and landscaping	Creates unique sense of place one can identify
Lack of nodal intersection	Connect downtown street grid across interstate: allow secondary streets in relation to Center Street to connect to east side of I-35	Allows for greater potential value capture in the Downtown district as a whole Creates energy and critical mass
Low levels of service	Connect downtown street grid to larger grid of transportation : Join grid to service roads extend grid to east side of I-35	Creates easier access in and out of Downtown Alleviates traffic congestion Connects to regional districts
Cognitive isolation from other districts in the City	Connect downtown development and civic presence: create pedestrian connections create public spaces	Knits together urban forms and uses of the Downtown district to regional districts

Figure 18. Top Five Issues, Resolutions and Outcomes, Downtown Kyle.



June 20, 2011

VIA E-Mail

Ms. Liz Cline
 Texas Department of Housing and Community Affairs
 221 E. 11th Street
 Austin, TX 78701

Re: *Response to Challenge by Kenneth Lewis regarding
 The Overlook at Plum Creek, Kyle, Hays County, Texas
 TDHCA #11217*

Dear Ms. Cline:

This letter responds to the challenge submitted by Kenneth Lewis to our application #11217, The Overlook at Plum Creek in Kyle.

Mr. Lewis contends that the site for The Overlook at Plum Creek is not within the downtown area and therefore is not covered by the City of Kyle community revitalization plan, known as the City of Kyle's Comprehensive Plan. He has several misstatements in his challenge which I will address, but first and foremost, the information presented in our application accurately represents the location of our site in a targeted area and correctly conforms with §49.9(a) (13) of the 2011 Qualified Allocation Plan for the following reason:

The Comprehensive Plan of the City of Kyle, which encompasses the entire City of Kyle including our site, meets the definition of a Community Revitalization Plan as defined by TDHCA in the Consolidated Definitions. The Definition reads: A community revitalization plan is "a published document under any name, approved and adopted by the local Governing Board . . . that targets specific geographic areas for revitalization and development of residential developments."

In a letter dated February 8, 2011, the Mayor of the City of Kyle specifically states that "*The Overlook at Plum Creek development site is located within the area covered by the City of Kyle's community revitalization plan, known as the City of Kyle Comprehensive Plan.*" Mayor Johnson further states that the plan "*encompasses the entirety of the City of Kyle (emphasis added) and includes goals to revitalize downtown Kyle and to promote residential development that supports neighborhood identity and social interaction (emphasis added).*"

It is also important to note here that another challenger (to application #11077) made the same argument about a Comprehensive Plan not counting as a Community Revitalization Plan, and following review, the Department staff denied the challenge.

While the City of Kyle has clearly indicated that their Comprehensive Plan is a community revitalization plan, the challenger has taken it upon himself to "pick and choose" pieces of the Plan to support his challenge and to offer up definitions of "revitalization" that are outside the QAP definition and outside the City of Kyle's Plan. I do not believe that the QAP language intended that an accurate statement by a Local Government could be challenged.

1. The challenger alleges that the plan ONLY targets the downtown area for revitalization. In one instance, the Challenger highlights only a phrase from the letter from the Mayor of Kyle and in another, the challenger misrepresents that "as confirmed by the letter from the City, the only area targeted within the entire city for any revitalization is the downtown core area and this area is specifically identified in the Comprehensive Plan as "The Downtown Revitalization Plan." This is blatantly false. This idea that "revitalization" only applies to the downtown area is contrary to the letter from the Mayor and contrary to the report itself. The plan has six elements of which downtown revitalization is but one. The challenger himself highlights the Planning Framework outlined in the Comprehensive Plan which includes not only downtown revitalization, but also Future Land Use Plan, Open Space Plan, Public Facilities Plan, Transportation Plan, Urban Design Plan, etc. (See Table of Contents, page vii.) These other aspects of the plan affect the entire City of Kyle. A "downtown revitalization plan" and a "community revitalization plan" are not mutually exclusive concepts. In this case, the "downtown revitalization" plan is just one component of a broader "community revitalization plan."

Ms. Liz Cline
Page 2
June 20, 2011

The City of Kyle Plan clearly provides for revitalization and development of residential developments as evidenced by the sections of the plan that the challenger himself highlighted. Specifically, *"This Comprehensive Plan for the City of Kyle provides guidance for . . . directing growth in key locations to create nodal destinations, and ensuring a high quality of form and design in new development."* (See page 1). This language is directly on point and provides sufficient justification for the Comprehensive Plan to count as a Community Revitalization Plan.

Furthermore, the Comprehensive Plan targets specific geographic areas for revitalization as the challenger points out. Not only is the downtown area targeted for revitalization, but so are 8 other areas, including Ranch North District which contains The Overlook site. (See pages 71, 83, 84.) Based on the language regarding desired development, including the desired residential development, in the Ranch North District (See pages 83, 84), it is beyond doubt that this area of Kyle is *"targeted for revitalization and development of residential developments,"* as required in the Consolidated Definitions.

2. The challenger opines that "comprehensive plans are very general in nature" and that "a Revitalization Plan is a plan that targets a very specific area for revitalization and redevelopment and typically has incentives to develop within such targeted area." While the challenger is entitled to have an opinion on this, the QAP already provides the definition upon which applicants rely. And the City of Kyle, like other cities in the State of Texas, may determine for itself what a community revitalization plan is.
3. The challenger also opines regarding the meaning of the word "revitalization." According to the challenger, "to 'revitalize' is 'to give new life or vigor to' (Mirriam(sic)-Webster)" and alleges that "Overlook is not in need of 'new life' . . ." While the challenger is entitled to look to the dictionary for direction on the meaning of "revitalization," "community revitalization" is a much broader concept than the mere word "revitalize." The QAP is very clear in its definition of a community revitalization plan.

Not only does the City of Kyle recognize The Overlook at Plum Creek as part of its community revitalization plan, the City Council unanimously endorsed the development of this senior community in February 2011, as did the long-standing Homeowners Association and two active senior groups.

In closing, we believe that the City of Kyle has clearly and appropriately included The Overlook at Plum Creek within their community revitalization plan. The entire plan is available at the following link (<http://www.cityofkyle.com/planning/comprehensive-plan>), as it is too large to attach here. Fortunately, the challenger includes all the appropriate pages that support our positions. We have attached those here, but highlighted the relevant areas again.

Please let me know if you require further information. Thank you for your consideration.

Sincerely,

DMA DEVELOPMENT COMPANY, LLC



Diana McIver
President

Enclosures



CITY OF KYLE

100 W. Center • P.O. Box 40 • Kyle, Texas 78640 • (512) 262-1010 • FAX (512) 262-3800

February 8, 2011

Ms. Robbye Meyer
Director of Multifamily Programs
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701-2410

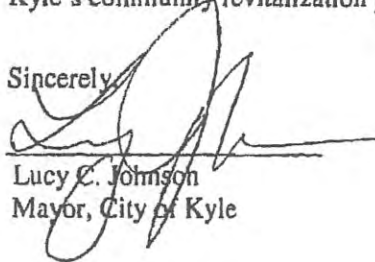
*RE: The Overlook at Plum Creek Housing Tax Credit Application
Kyle, Texas 78640*

Dear Ms. Meyer,

Please consider this letter verification that The Overlook at Plum Creek development site is located within the area covered by the City of Kyle's community revitalization plan, known as the City of Kyle Comprehensive Plan. The City of Kyle Comprehensive Plan is the plan that establishes the vision for Kyle's future and provides a guide for the city's future development, economic vitality, transportation and mobility, and community identity. The plan was approved by the Kyle City Council in July 2010. The plan encompasses the entirety of the City of Kyle and includes goals to revitalize downtown Kyle and to promote residential development that supports neighborhood identity and social interaction.

Attached are the approved Kyle Regular Council Meeting Minutes from the City Council Meeting on July 6th, 2010. This document confirms the City of Kyle Comprehensive Plan, Kyle's community revitalization plan, was adopted on this date.

Sincerely,



Lucy C. Johnson
Mayor, City of Kyle

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INTRODUCTION TO THE COMPREHENSIVE PLAN

The Importance of Planning

A Comprehensive Plan provides a clear record of the community's goals and visions and supplies guidance for future municipal decisions. A Comprehensive Plan is firmly grounded in assessments of the existing natural, physical, social, and economic conditions of the community. Public input, comments, and support are gathered at each stage of the planning process, in order to educate the public, foster local leadership, and ensure that the Plan is representative of the will of the people. Individual plan elements reflect these inputs and are synchronized to create coordinated directives for desired development in the future. Finally, an implementation strategy is prepared to guide realization of the Comprehensive Plan and of the community's vision. A Comprehensive Plan prepared with these methods and components will be a record of publicly derived vision that directs decision-making and actions by elected officials and City staff in matters of all scales.

What the Plan does for Kyle

Kyle is experiencing rapid growth that applies a great deal of pressure on all systems within the City, including transportation systems, provision of utilities, and access to goods and services. Additionally, residents of Kyle express a desire for increasing the sense of community, connectivity, and civic institutions within the City. In order to ensure adequate provision of basic services and needs, while also fostering a high quality of life and preserving Kyle's unique community, it is necessary for the City to be proactive in planning for the future. This Comprehensive Plan for the City of Kyle provides guidance for increasing ad valorem tax revenues to fund service provision, protecting sensitive cultural and natural features representative of Kyle's history and character, directing growth in key locations to create nodal destinations, and ensuring a high quality of form and design in new development. The planning horizon of this Comprehensive Plan is 2040, when it is projected that approximately 90,000 residents will live in Kyle. The directives of this Plan will provide for these future residents within a framework that will make Kyle self-sufficient and prosperous.

The Structure of the Plan

The Kyle Comprehensive Plan is divided into four main sections: Assessments, Visioning, Plan Elements, and Plan

Implementation. Each of these sections is described in greater detail below.

Assessments. This section provides context for the Comprehensive Plan by describing existing conditions in Kyle and evaluating how these conditions will impact future growth and development in the City. Assessments contain the following components: Regulatory Profile; Population, Demographics, and Market Analysis; Tax Gap Analysis; Development Trends; Infrastructure Profile; Circulation Analysis; Natural Systems; Form Analysis; and Workshop #1 Summary.

Visioning. The Visioning process creates a Planning Framework, based on Assessment data and public input, which will guide the Plan elements. Visioning contains the following components: compilation of community goals from Workshop #1; matrix analysis of goals to determine the most strategic goals; design of the highly graphical planning framework; and Workshop #2 summary.

Plan Elements. The Plan Elements identified for the Kyle Comprehensive Plan direct and facilitate future development that is in keeping with the vision manifest in the Planning Framework. The Plan Elements are: Future Land Use Plan; Open Space Plan; Public Facilities Plan; Transportation Plan Update; Urban Design Plan and Downtown Revitalization Plan. This section also contains a summary of Workshop #3.

Plan Implementation. This section makes recommendations and details strategies that will foster realization of the individual Plan Elements. Components included in this section are: Economic Development Strategy and Plan Implementation.

Additionally, Appendices are included that provide a quick reference to some of the main components of the Comprehensive Plan, including a compilation of all key recommendations from each Plan Element and a zoning application table that details which zoning categories are appropriate in each Land Use District.

RANCH NORTH

The Ranch North District is located along both sides of FM 1626. It is primarily undeveloped land north of the Plum Creek subdivision and west of the Prairie Highlands District, excluding the area of the Regional Center District. This District is characterized by rolling hills, with groves of trees scattered throughout the landscape and shallow drainage ways running generally south-southeast. A large cement factory can be seen in the distance, in contrast to the rural feel of the surrounding undeveloped prairie.

OBSERVATIONS

FM 1626 is the only major arterial extending south from key growth areas in Buda and south Austin. Property owners in the Ranch North District recognize the likelihood of market-driven growth moving south out of Buda and Austin and have already attained entitlements for various commercial and retail developments (as evidenced by signs for such projects that line FM 1626 within Kyle). This growth is part of the expanding urban sphere of Austin and will endeavor to cling to the roadways and arterials that are part of that expansion. *Therefore...create a land use plan that effectively integrates regional and local scale development.*

As new development extends along FM 1626 and Kohler's Crossing, it will become important to establish a policy for land use transition, to avoid conflict between historic and future uses. Such transitions would encourage complementary, rather than conflicting adjacency conditions, thereby preserving land value and inviting desirable development. *Therefore...the land use plan should define appropriate transitions between the various categories of use in the Ranch North District.*

This District is poised to become a high value/high growth corridor between Kyle and Buda, as it provides connection to the Seton Hospital complex. The extension of FM 1626 has energized development in the area and in anticipation of retail activity moving along the corridor toward Buda, the City has already constructed streets with large rights of way, enhanced intersections, and large lane capacities. Therefore...the land use plan should avoid "under-development" and protect the taxpayer's infrastructure investment.



Signs along FM 1626 and Kohler's Crossing reveal the high level of mixed-use employment development planned for this area. This level of commercial development will stimulate residential growth and provide Kyle with greater residential options. This diversity of housing options is essential for Kyle and will help the City expand its residential base beyond the current dominance of price point and unit type. Key among these housing options should be various forms of higher density living, including town houses and high-end rental units. The

RANCH NORTH

presence of higher density forms of housing will enhance the potential for mixed-use development and creation of sub-districts within Kyle that enrich the City's quality of life. Higher density projects in the vicinity of employment centers will also reduce vehicular trips. Trip reduction and closer proximity between home and work is important because of Kyle's constrained internal movement as a result of limited I-35 crossings and limited railroad crossings. Therefore...encourage higher density housing in proximity to employment.

FM 1626 as it is currently laid out has little relevance to the operations of Kyle. It is instead a link to the north and a major structural element of the Ranch North District, which could make the District more a part of Buda and South Austin than a part of Kyle. Commercial and retail projects already developed along FM 1626 are regional in their form and visual character (similar to what is seen in other regional corridors of Austin). FM 1626 also flows to the new medical center, making this area more connected to the regional roadways than to the local system. In order for development along regional roadways from the north to benefit Kyle and enhance the economic value of the City fabric, those regional roadways must engage the local road system in ways that energize the City. The economic power of FM 1626 should energize Kyle's historic downtown core, as well as the hospital and the Regional Center District within which it resides. If FM 1626 terminates at the hospital, it will be difficult for Kyle to realize significant economic development in other areas. *Therefore...permit the influence of FM 1626 to extend to other cross-town movement routes to alleviate future traffic pressure.*

Currently, the hierarchy of street types in Kyle is fairly limited. In areas of the Ranch North District where residential subdivisions are large, greater street differentiation is important. It aids not only with traffic management, but with way-finding and place-making. *Therefore...a hierarchy of street types should be defined for Kyle to aid in traffic management, way-finding, and place-making.*

Future east-to-west movement will be constrained by the presence of the railroad, as a result of the limited number of rail crossings. Future crossings (in addition to the present crossings) will require agreement from the railroad or future commuter rail company. Failure to get a significant number of new crossings will necessitate road overpasses. Both of these options will inhibit and shape east-to-west movement and place greater traffic pressure on Kohler's Crossing and FM 1626 to I-35. All growth within this area will flow to these two streets, possibly creating traffic problems, unless other way to disperse trip volumes can be found. *Therefore...address the effect of limited railroad crossings on east-to-west movement*

The Ranch North District will likely experience larger developments than other areas of Kyle and realize the potential for attracting a higher price point. Such likelihoods are a result of the District's relationship to Austin growth and the rich natural landscape within which this growth will occur. However, the landscape vistas that make this district unique are experienced from the roadways, such as FM 1626 and Kohler's Crossing. As that roadscape fills in with the conventional form of regional development, this presentation of natural fabric could be lost to the ubiquitous appearance of Austin's outward expansion. The demand for larger projects and a higher price point is an opportunity to create a distinctive built product within the Ranch North District.

The rolling topography and drifts of native trees create a pastoral landscape that is truly unique and should be preserved as development moves forward. The design of neighborhoods and projects should express these natural qualities, such as with streets that engage landscape vistas instead of being totally defined by lot or building development.

Also, future development should not forget the ranch landscape that is part of the history of Kyle. Preservation of the ranch landscape includes preservation of artifacts and landscape forms remaining from the earlier ranch use. The challenge to growth will be to preserve the rural aspects of Kyle within the roadscape and development design. Therefore...encourage growth that expresses qualities that are uniquely Kyle.



June 15, 2011

Ms. Robbye Meyer
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78711-3941

Subject: Challenge of TDHCA Application #11227
Dolphin's Landing Apartments

Dear Ms. Meyer:

Please accept this letter as a challenge to the points applied for and awarded to TDHCA Application #11227 (Dolphin's Landing Apartments) under Sections 49.9(a)(26) *Leveraging of Private, State, and Federal Resources* and 49.9(a)(27) *Third Party Funding Outside of Qualified Census Tracts* of the 2011 *Qualified Allocation Plan* (Regulations). The Regulations require that in order for an applicant to be eligible for points under each of these sections the identified funding source cannot be an affiliate of the Applicant. Additionally, the Regulation sections require the Applicant to attest that the funding source is not the Applicant, Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed application. Based on information obtained from publicly-available resources, it appears the funding source reflected in the Subject's application to garner points under Sections 49.9(a)(26) & (27) is affiliated with the Applicant and Developer and is also affiliated with an individual or entity that is acting on behalf of the proposed application. Therefore, it appears the Applicant is ineligible to receive the points associated with each of these two sections of the Regulations.

Arlington Capital Corporation (Funding Source)

Please see **Exhibit A** that contains a copy of Volume 4, Tabs 26 & 27 that was included in the Subject's application to evidence the funding source represented by the Applicant to garner points under Regulation Sections 49.9(a)(26) & (27). Each of these Application Tabs reflect Arlington Capital Corporation as the committed funding source. Additionally, the commitment is executed by Mr. Tom D. McVay, President of Arlington Capital Corporation, and includes an attestation by Mr. McVay that such Company is not affiliated with the Applicant or Developer or any individual or entity acting on behalf of the proposed application.

Atlantic Housing Foundation, Inc. (Member of General Partner and Developer)

Please see **Exhibit B** that contains copies of selected documents from Volume 1, Tab 5 and Volume 3, Tab 8 of the Subject's application. Such documents reflect that Mr. Richard Whaley is a Board Member/Trustee of Atlantic Housing Foundation, Inc., which is a Member of both the General Partner and Developer of the Applicant Entity. The documents further disclose and contain a certification that Mr. Whaley is an affiliate of the Applicant and Development Team.

Arlington Capital Corporation (Affiliation to Applicant)

Please see **Exhibit C** that contains select pages from a Dun and Bradstreet report on Arlington Capital Corporation that reflect Mr. Richard Whaley as an officer and owner of Arlington Capital Corporation, along with Mr. Tom D. McVay. **Exhibit C** additionally contains select pages from a Dun and Bradstreet report on MAS Apartment Corporation dba MAS Properties, a company in which Mr. Whaley and Mr. McVay are officers, and information on such company obtained from (i) the Florida Department of State Division of Corporations, (ii) the MAS Companies website, and (iii) the Better Business Bureau website. The documents obtained on MAS Properties reflect that both Mr. Richard Whaley and Mr. Tom D. McVay are officers of MAS Properties, and that Arlington Capital Corporation is an affiliate of MAS Properties. The documents on both entities further reflect the entities share the same office space and telephone number and that there is a link between the two companies.

Summary

Due to the apparent relationship between (i) Mr. Richard Whaley, as Board Member/Trustee of the General Partner and Developer of the Applicant, and as owner/officer of Arlington Capital Corporation and/or (ii) Mr. Richard Whaley, as Board Member/Trustee of the General Partner and Developer of the Applicant, and Mr. Tom D. McVay as an officer of Arlington Capital Corporation and as a co-officer (with Mr. Whaley) of MAS Properties, we request TDHCA Staff to re-evaluate the Applicant's eligibility for points under Sections *49.9(a)(26) Leveraging of Private, State, and Federal Resources* and *49.9(a)(27) Third Party Funding Outside of Qualified Census Tracts* of the *2011 Qualified Allocation Plan*.

Please feel free to call if I can be of any further assistance on this matter or if you desire a copy of an unabbreviated set of the documents included herein. My contact information is included on this letterhead and my email address is p.patierno@highlandcompanies.com.

Sincerely,



Paul Patierno

Encl.

cc: Raquel Morales (TDHCA)

Exhibit A

Volume 4, Tab 26

LEVERAGING OF PRIVATE, STATE AND FEDERAL RESOURCES (§49.9(a)(26))

Complete the following information for 1 point under §49.9(a)(26) of the 2011 QAP. Applicants may submit enough sources to substantiate the point request. For example, two sources may be submitted if each is for an amount equal to 1% of the Total Housing Development Cost.

The funding must be equal to or greater than 2% of the Total Housing Development Costs, without rounding, reflected in the Volume 1, Tab 3, Part A. Development Cost Schedule. In addition, the Volume 1, Tab 2, Part B. Rent Schedule must show that at least 3% of all low-income Units are designated to serve individuals or families with incomes at or below 30% AMGI.

IMPORTANT! Funding sources used for points under §49.9(a)(5) may be used for this point item but funding may not earn points twice. Funds committed must be enough so that both requests can be covered by the committed funds without counting any of the funds more than once.

Complete one form for each score. Use additional pages if necessary.

1. Name of Private, State or Federal Funding Entity: Arlington Capital Corporation

2. Funding Source. Refer to HTC Procedures Manual and 2011 QAP for specific requirements of each funding source. Check one box.

Loan

Source:	<u>Arlington Capital Corporation</u>	<u>\$490,000</u>
Source:	<u></u>	<u></u>
Source:	<u></u>	<u></u>

Total Loan Amount attributed to the Total Housing Development Costs: \$490,000

Grant

Source:	<u></u>	<u></u>
Source:	<u></u>	<u></u>
Source:	<u></u>	<u></u>

Total Grant Amount attributed to the Total Housing Development Costs: \$0

TDHCA HOME Funds
 TDHCA HOME funds will only qualify if there is a Notice of Funding Availability (NOFA) out for available funds and the Applicant is eligible under that NOFA.

Total Amount attributed to the Total Housing Development Costs:

In-kind Contribution
 For in-kind contributions, evidence must be submitted from a private, state or federal resource which substantiates the value of the in-kind contribution.

Source:	<u></u>	<u></u>
Source:	<u></u>	<u></u>
Source:	<u></u>	<u></u>

Total Amount attributed to the Total Housing Development Costs (from August 1, 2011 through Placed in Service date): \$0

Type of in-kind contribution:

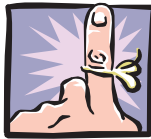
Volume 4, Tab 26**LEVERAGING OF PRIVATE, STATE AND FEDERAL RESOURCES (§49.9(a)(26)) (cont.)**

- Development Based Rental Subsidy
Development based rental subsidies from private, state or federal resource may qualify under this section if evidence of the remaining value of the contract is submitted from the source. In this case, the value of the contract does not include past subsidies

Total Amount of Remaining Subsidy (August 1, 2011 through expiration of contract):

3. Evidence of Funding. One of the following must be submitted.

- Copy of commitment of funds. The commitment must include a statement that the provider of funds is not the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application and that none of the funds committed were first provided to the entity by the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application, unless the Applicant itself is a Unit of General Local Government or Governmental Instrumentality.
- Copy of the application to the funding entity and a letter from the funding entity indicating that the application was received. The Application should include the amount and terms of the proposed funding. For in-kind contributions and development based rental subsidies, a letter from the funding entity substantiating the anticipated value must be provided.



REMEMBER TO SUBMIT YOUR EVIDENCE BEHIND THIS FORM

Arlington Capital Corporation

1105 SCHROCK ROAD, SUITE 206

COLUMBUS, OHIO 43229

*COMMITMENT FOR LOAN TO
VDC CORPUS CHRISTI RESERVE I, LP
SUMMARY OF TERMS AND CONDITIONS
February 28, 2011*

BORROWER: VDC CORPUS CHRISTI RESERVE I, LP.

PRINCIPAL AMOUNT: \$490,000 (the "Loan").

LENDER: Arlington Capital Corporation Inc.
Lender is not a commercial lender.

PROJECT: Dolphin's Landing. *The Project is located outside of a Qualified Census Tract.*

TAX CREDITS: Development of the Project will be financed, in part, with the proceeds of low-income housing tax credits ("Tax Credits") authorized under Section 42 of the Internal Revenue Code of 1986, as amended. Borrower has applied for a commitment of Tax Credits from the Texas Department of Housing and Community Affairs pursuant to its 2011 Qualified Allocation Plan [10 T.A.C. Chapter 50] (the "QAP"). This Loan allows Borrower to qualify for certain points under its Tax Credit application (the "Application") and Borrower and Lender intend this Loan to comply with the QAP.

SOURCES: The funds used to make this Loan will not be: (1) first provided to Lender by Borrower or by the Applicant, Developer, Consultant, Related Party, or any individual or entity acting on behalf of the Application (as such terms are defined in the QAP). Lender is not the Applicant, Developer, Consultant, Related Party, or any individual or entity acting on behalf of the Application

TERM: 15 ^{MONTHS} ~~years~~ from the date of execution of the promissory note (the "Note") evidencing the Loan (the "Maturity Date").

INTEREST RATE: The annual rate of 12 %.

REPAYMENT: All principal and accrued interest will be due and payable at the Maturity Date with no prepayment penalty.


GUARANTOR: BORROWER

COLLATERAL: 3RD LIEN.

This Summary of Terms and Conditions constitutes the commitment of Lender to make a loan to Borrower on the terms and conditions described above. Such commitment is conditioned upon: (1) Lender's receipt and approval of final form loan documents; (2) establishment of collateral in a manner acceptable to Lender; (3) Borrower's receipt of low-income housing tax credits for the development of the Project; (4) no material adverse change in Borrower or the Project or the circumstances surrounding Borrower's development of the Project that would, in Lender's reasonable discretion, make the Loan unacceptable to Lender; and (5) final approval of the transaction by Lender's counsel.

Agreed as of the date first written above.

LENDER:


Arlington Capital Corporation, Inc.
Tom D. McVay, President

BORROWER:


Authorized Representative
VDC Corpus Christi Reserve I, LP

Volume 4, Tab 27

**THIRD-PARTY FUNDING COMMITMENT OUTSIDE OF QUALIFIED CENSUS TRACTS
(\$49.9(a)(27))**

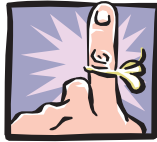
Complete the following information for 1 point under §49.9(a)(27) of the 2011 QAP. Use additional pages if necessary. For all sources, submit the funding commitment behind this tab. All sources must be included in the Volume 1, Tab 4, Part A. Summary of Sources and Uses form and Volume 1, Tab 4, Part B. Financing Narrative. Funding must equal at least 2% of the Total Housing Development Costs, without rounding, reflected in the Volume 1, Tab 3, Part A. Development Cost Schedule. The Development must be located outside a qualified census tract and have at least 10% of the units in the Development serving households at 30% AMGI or below. The funding source can not be a commercial lender. Funds from the Department’s HOME and Housing Trust Fund sources are not eligible for these points.

Funding Source: Arlington Capital Corporation

Total Amount: \$490,000

Percentage of Development Cost: 2%

- Copy of commitment of funds is attached. The commitment must include a statement that the provider of funds is not the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application and that none of the funds committed were first provided to the entity by the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application.



REMEMBER TO SUBMIT EVIDENCE BEHIND THIS FORM

Arlington Capital Corporation

1105 SCHROCK ROAD, SUITE 206

COLUMBUS, OHIO 43229

*COMMITMENT FOR LOAN TO
VDC CORPUS CHRISTI RESERVE I, LP
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Agreed as of the date first written above.

LENDER:

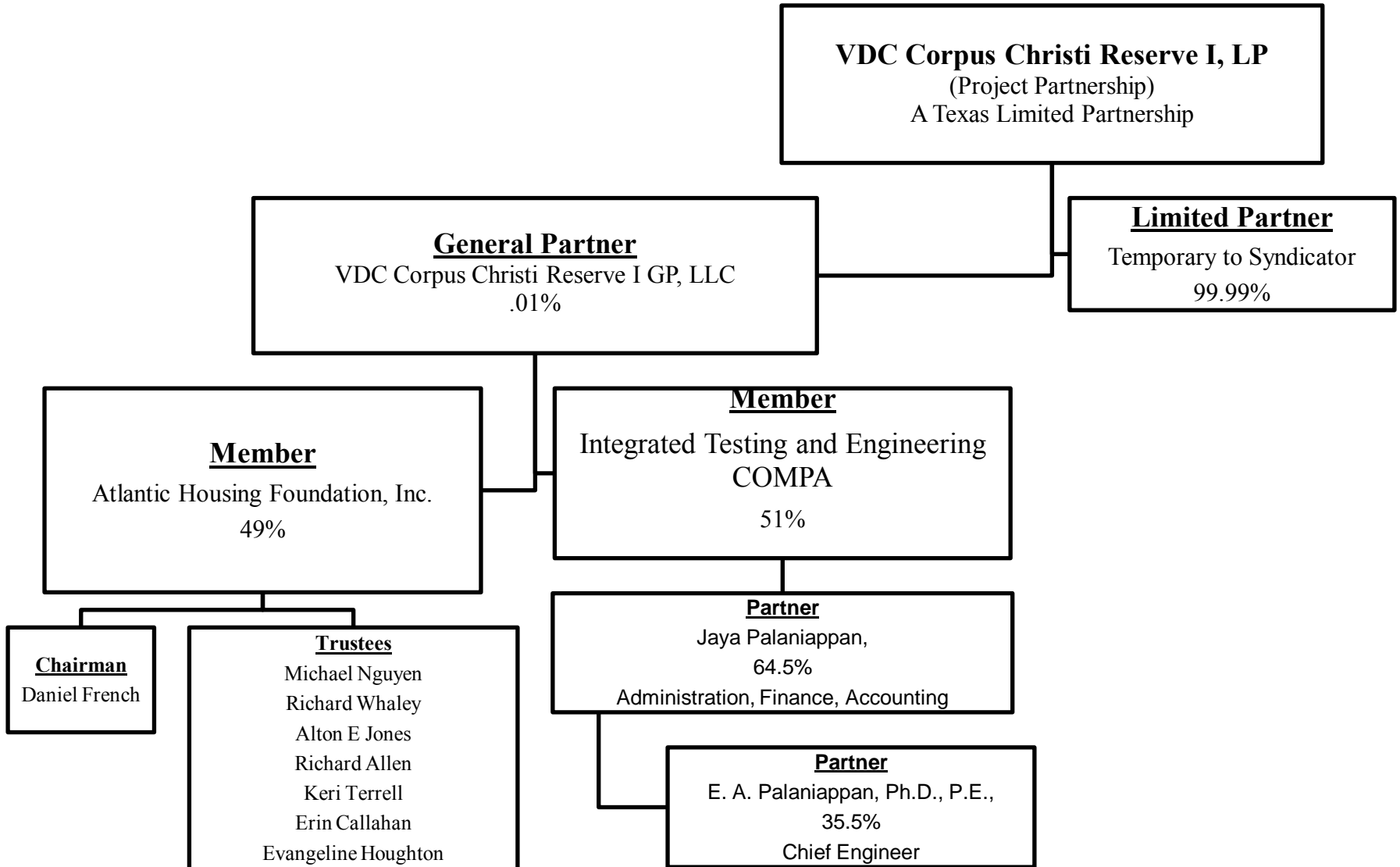

Arlington Capital Corporation, Inc.
Tom D. McVay, President

BORROWER:

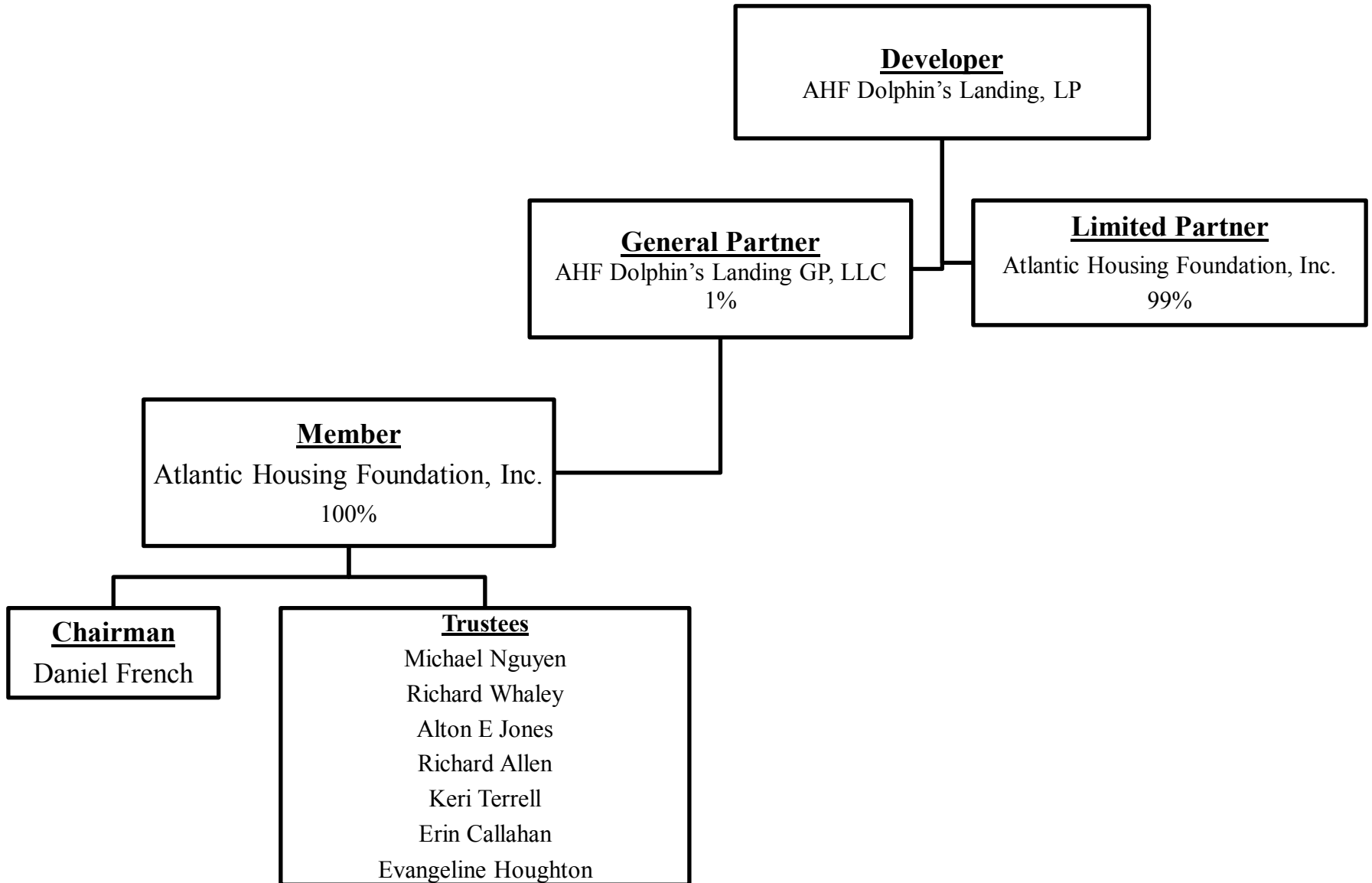

Authorized Representative
VDC Corpus Christi Reserve I, LP

Exhibit B

Dolphin's Landing - Owner



Dolphin's Landing - Developer



VOLUME 1, TAB 5**PART E. CERTIFICATION OF PRINCIPAL or DEVELOPMENT OWNER**

Development Name: Dolphin's Landing Apartments Development City: Corpus Christi

All defined terms used in this certification and not specifically defined herein have the meanings ascribed to them in the 2011 Qualified Allocation Plan of the Texas Department of Housing and Community Affairs (the "Department"), 10 TAC Chapter 49 (the "QAP") or the Department's Definitions for Housing Program Activities regarding multifamily applications, 10 TAC §1.1.

The undersigned, in each and all of the following capacities in which it may serve or exist -- Applicant, Development Owner, Developer, Guarantor of any obligation of the Applicant, and/or Principal of the Applicant and hereafter referred to as "Applicant," whether serving in one or more such capacities, is hereby submitting its Application to the Department for consideration of an allocation of Housing Tax

Applicant hereby represents, warrants, agrees, acknowledges and certifies to the Department and to the State of Texas that:

- 1) This Application and all materials submitted to the Department constitute records of the Department subject to Chapter 552, Texas Government Code, the Texas Public Information Act.
- 2) All representations, undertakings and commitments made by Applicant in the Application process for a Development, whether with respect to Threshold Criteria, Selection Criteria or otherwise, expressly constitute conditions to any Commitment, Determination Notice, or Carryover Allocation for such Development which the Department may issue or award, and the violation of any such condition shall be sufficient cause for the cancellation and rescission of such Commitment, Determination Notice, or Carryover Allocation by the Department. If any such representations, undertakings and commitments concern or relate to the ongoing features or operation of the Development, they shall each and all shall be enforceable even if not reflected in the Land Use Restriction Agreement. All such representations, undertakings and commitments are also enforceable by the Department and the tenants of the Development, including enforcement by administrative penalties for failure to perform, in accordance with the Land Use Restriction Agreement.
- 3) Applicant has not been or is not barred, suspended, or terminated from procurement in a state or federal program or listed in the List of Parties Excluded from Federal Procurement or Non-Procurement Programs.
- 4) Applicant has not been convicted of a state or federal felony crime involving fraud, bribery, theft, misrepresentation of material fact, misappropriation of funds, or other similar criminal offenses within fifteen (15) years preceding the Application deadline.
- 5) Applicant is not subject to an enforcement or disciplinary action under state or federal securities law or by the NASD; is not subject to a federal tax lien; and is not the subject of an enforcement proceeding with any Governmental Entity.
- 6) Applicant has no past due audits, has submitted all previous audits to the Department in a satisfactory format and has demonstrated fiscal, programmatic, and contractual compliance on previously awarded Department contracts or loan agreements and resolution of any previous audit findings, and has no outstanding monetary obligation to the Department.
- 7) At all times during the two-year period preceding the date the Application Round begins (or for Tax-Exempt Bond Developments any time during the two-year period preceding the date the Application is submitted to the Department), the Applicant or a Related Party is not or has not been:
 - (a) A member of the Board; or
 - (b) The Executive Director, a Deputy Executive Director, the Director of Multifamily Finance Production, the Director of Portfolio Management and Compliance, the Director of Real Estate Analysis, or a manager over Housing Tax Credits
 - (c) In violation of §2306.6733 of the Texas Government Code
- 8) The Development Owner has not contracted and will not contract for any aspect of the proposed Development with any Developer that 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; has not breached a contract with a public agency and failed to cure that breach; and has not 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 agency.

VOLUME 1, TAB 5

PART E. CERTIFICATION OF PRINCIPAL or DEVELOPMENT OWNER (cont.)

Development Name: Dolphin's Landing Apartments Development City: Corpus Christi

- 9) All the instances in which the Developer or Principal of the Applicant has been voluntarily or involuntarily removed by the lender, equity provider, or any other owners or investors, however designated, or any combination thereof or if any litigation to effectuate such removal is instituted in the past ten years for its failure to perform its obligations under the loan documents or limited partnership agreement have been fully disclosed. Applicant understands that if the Department learns at a later date that removal did take place as described and was not disclosed, the Application will be terminated and any Allocation or Award made will be . . .
- 10) Applicant does not employ and will not knowingly employ any undocumented worker, meaning an individual who, at the time of employment, is not lawfully admitted for permanent residence to the United States or authorized under law to be employed in that manner in the United States. If, after receiving a public subsidy, Applicant, or a branch, division, or department of Applicant is convicted of a violation under 8 U.S.C Section 1324a(f), Applicant shall repay the amount of the public subsidy with interest, at the rate and according to the other terms provided by an agreement under Tex. Gov't Code §2264.053, not later than the 120th day after the date the Department notifies Applicant of the violation.
- 11) All housing developments with which Applicant, Development owner, Developer, Guarantor and/or Principle thereof participating, are in compliance with:
 - (a) state and federal fair housing laws, including Chapter 301, Property Code, the Texas Fair Housing Act; Title VIII of the Civil Rights Act of 1968 (42 U.S.C. Section 3601 et seq.); and the Fair Housing Amendments Act of 1988 (42 U.S.C. Section 3601 et seq.),
 - (b) the Civil Rights Act of 1964 (42 U.S.C. Section 2000a et seq.),
 - (c) the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.), and
 - (d) the Rehabilitation Act of 1973 (29 U.S.C. Section 701 et seq.).
- 12) The Department staff reviewing the Application or its Governing Board may, in its sole and reasonable discretion, request additional information and/or documentation in its evaluation of this Application.
- 13) The making of an allocation or award by the Department does not constitute a finding or determination that the Development is deemed qualified to receive such allocation or award. Applicant agrees that the Department or any of its directors, officers, employees, and agents will not be held responsible or liable for any representations made to the undersigned or its investors relating to the Housing Tax Credit Program; therefore, Applicant assumes the risk of all damages, losses, costs, and expenses related thereto and agrees to indemnify and hold harmless the Department and any of its officers, employees, and agents against any and all claims, suits, losses, damages, costs, and expenses of any kind and of any nature that the Department may hereinafter suffer, incur, or pay arising out of its decisions and actions concerning this Application for Housing Tax Credits or the use of information concerning the Housing Tax Credit Program.
- 14) No issue of ineligibility for the Applicant, the Application or the Development exists or potentially exists pursuant to §49.4 of the 2011 QAP or described above except the following (disclosure of potential ineligibility below is subject to review and consideration by the Department including timely appeal reconsideration, before a final determination of ineligibility is made):
 - (a) _____
 - (b) _____
 - (c) _____
 - (d) _____
- 15) Applicant, Development Owner, Developer, Guarantor or other Related Party is not subject to any criminal proceedings and if any such proceeding or any other charges which would invalidate the certifications herein occur prior to Carryover, the Applicant will immediately notify the Department. Such notification must be presented to the Board for consideration at the next available Board meeting.

VOLUME 1, TAB 5**PART E. CERTIFICATION OF PRINCIPAL or DEVELOPMENT OWNER (cont.)**

Development Name: Dolphin's Landing Apartments Development City: Corpus Christi

16) Basic Amenities

At least the minimum point threshold for amenities as further described in §49.8(5)(A) of the 2011 QAP (Common Amenities) will

17) Unit Amenities

The Development will have all of the following Amenities as further described in §49.4(c)(14) of the 2011 QAP at no charge to the tenants.

- All New Construction Units must be wired with RG-6 COAX or better and CAT3 phone cable or better, wired to each bedroom, dining room, and living room
- Laundry Connections
- Blinds or window coverings for all windows
- Screens on all operable windows
- Disposal and Energy-Star rated dishwasher (not required for TRDO-USDA Developments; SRO Developments; Rehabilitation Developments exempt from dishwasher if one was not originally in the unit)
- Energy-Star rated Refrigerator (Not required for SRO Developments)
- Oven/Range
- Exhaust/vent fans (vented to the outside) in bathrooms
- Energy-Star rated ceiling fans in living areas and bedrooms
- Energy-Star rated lighting fixtures in all Units which may include compact florescent bulbs
- Plumbing fixtures (toilets and faucets) must meet design standards at 30 TAC §290.252
- All Units must be air-conditioned
- Fire sprinklers in all Units where required by local code

18) Minimum Unit Size

The Development will satisfy the minimum threshold for size of Units as further described in §49.8(5)(B) of the 2011 QAP.

19) Texas Property Code

The Development will adhere to the Texas Property Code as further described in §49.8(5)(C) of the 2011 QAP.

20) Compliance with State and Federal Laws

The Applicant is in compliance with state and federal laws as further described in §49.8(5)(D) of the 2011 QAP.

21) Attempting to Ensure Involvement of Minority Owned Businesses

The Applicant will attempt to ensure that at least 30% of the construction and management businesses with which the Applicant contracts in connection with the Development are Minority Owned Businesses as further described in §49.8(5)(E) of the 2011 QAP.

22) Accessibility

The Development will comply with the accessibility standards as further described in §49.8(5)(F) and §49.8(5)(G) of the 2011

23) Minimum Standard Energy Saving Devices

The Development will be equipped with energy saving devices as further described in §49.8(5)(H) of the 2011 QAP.

24) General Contractor Requirement (Not Applicable to HOME)

I (We) certify that the Development will be built by a General Contractor as further described in §49.8(5)(I) of the 2011 QAP.

25) Reserve Account

The Development Owner agrees to establish a reserve account as further described in §49.8(5)(J) of the 2011 QAP.

26) Neighborhood Organizations (Not Applicable to HOME)

The Applicant, Developer, or any employee or agent of the Applicant has not formed a Neighborhood Organization for purposes of §49.9(a)(2) of the 2011 QAP, as further described in §49.8(5)(K) of the 2011 QAP.

VOLUME 1000005
PART E. CERTIFICATION OF PRINCIPAL or DEVELOPMENT OWNER (cont.)

Development Name: Dolphin's Landing Apartments Development City: Corpus Christi

27) Cooperation with Local Housing Authorities

I (we) will operate in accordance with the requirements pertaining to rental assistance in §60 of the Texas Administrative Code as further described in §49.8(5)(L) of the 2011 QAP.

28) Criminal Background Checks

I (we) will contract with a Management Company through out the Compliance Period that will perform criminal background checks on all adult tenants, head and co-head of households as further described in §49.8(5)(M) of the 2011 QAP.

29) Marketing to Veterans

I (We) will affirmatively market to veterans as further described in §49.8(5)(N) of the 2011 QAP.

The individual whose name is subscribed hereto, in his or her individual capacity, on behalf of Applicant, and in all other related capacities described above, as applicable, expressly represents, warrants, and certifies that all information contained in this certification and in the Application, including any and all supplements, additions, clarifications, or other materials or information submitted to the Department in connection therewith as required or deemed necessary by the materials governing the Housing Tax Credit Program are true and correct and the Applicant has undergone sufficient investigation to affirm the validity of the statements made. Further, the Applicant hereby expressly represents, warrants, and certifies that the individual whose name is subscribed hereto has read and understands all the information contained in Part E, (this section) of the Application. By signing this document, the undersigned, in their individual capacity, on behalf of Applicant, 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.

Check all capacities in which you are signing:

- | | |
|--|---|
| <input type="checkbox"/> Applicant/Development Owner | <input type="checkbox"/> Principal of Developer |
| <input checked="" type="checkbox"/> Principal of Development Owner | <input type="checkbox"/> Principal of Guarantor |

Richard Whaloy
Signature

Richard Whaloy
Printed Name

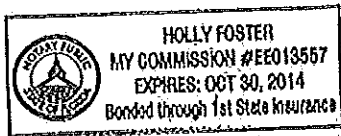
2-23-2011
Date

STATE OF: Florida
COUNTY OF: Orange

I, the undersigned, a Notary Public in and for said County and State, do hereby certify that Richard Whaloy, whose name is signed to the foregoing statement, and who is known to be one in the same, has acknowledged before me on this date, that being informed of the contents of this statement, executed the same voluntarily on the date same foregoing statement bears.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 23rd day of February, 2011.

(Seal)



Holly Foster
Notary Public Signature

Notary Public, State of Florida
County of Orange
My commission expires: 10/30/2014

Volume 3, Tab 8 (Not Applicable to HOME)

PART B. LIST OF THE NONPROFIT ORGANIZATION'S BOARD MEMBERS, DIRECTORS AND OFFICERS

Development Name: Dolphin's Landing Apartments **Development City:** Corpus Christi

Name:	<u>Daniel French</u>		Title:	<u>Chairman</u>	
Address:	<u>412 Timberline</u>	City:	<u>Keller</u>	State:	<u>TX</u> Zip: <u>78248</u>
Phone:	<u>8174107712</u>	Ext:	<u></u>	Fax:	<u></u> Occupation: <u>Chairman</u>
Does the individual :					
(1) serve as a private individual acting in a private capacity? ² <u></u>					
(2) have a relationship as Affiliate or otherwise, w/members of the Applicant or Development Team? ³ <u>Yes</u>					

Name:	<u>Michael Nguyen</u>		Title:	<u>President & CEO</u>	
Address:	<u>1310 N. White Chapel Blvd.</u>	City:	<u>Southlake</u>	State:	<u>TX</u> Zip: <u>76092</u>
Phone:	<u>8174107712</u>	Ext:	<u></u>	Fax:	<u>8144107712</u> Occupation: <u>CEO of AHF</u>
Does the individual :					
(1) serve as a private individual acting in a private capacity? ² <u></u>					
(2) have a relationship as Affiliate or otherwise, w/members of the Applicant or Development Team? ³ <u>Yes</u>					

Name:	<u>Richard Whaley</u>		Title:	<u>Member</u>	
Address:	<u>1105 Schrock Rd.</u>	City:	<u>Colombus</u>	State:	<u>TX</u> Zip: <u>43229</u>
Phone:	<u>6144310722</u>	Ext:	<u></u>	Fax:	<u></u> Occupation: <u>Principal, MAS Partment Co.</u>
Does the individual :					
(1) serve as a private individual acting in a private capacity? ² <u></u>					
(2) have a relationship as Affiliate or otherwise, w/members of the Applicant or Development Team? ³ <u>Yes</u>					

Name:	<u>Alton E. Jones</u>		Title:	<u>Senior Executive of Ginn Companies</u>	
Address:	<u>31 Lupi Court</u>	City:	<u>Palm Coast</u>	State:	<u>FL</u> Zip: <u></u>
Phone:	<u>7723707423</u>	Ext:	<u></u>	Fax:	<u></u> Occupation: <u>Executive, Ginn Companies</u>
Does the individual :					
(1) serve as a private individual acting in a private capacity? ² <u></u>					
(2) have a relationship as Affiliate or otherwise, w/members of the Applicant or Development Team? ³ <u>Yes</u>					

Name:	<u>Richard Allen</u>		Title:	<u>Member</u>	
Address:	<u>10 Palmetto Business Pkwy</u>	City:	<u>Hilton Head</u>	State:	<u>SC</u> Zip: <u>29928</u>
Phone:	<u>8437853311</u>	Ext:	<u></u>	Fax:	<u></u> Occupation: <u></u>
Does the individual :					
(1) serve as a private individual acting in a private capacity? ² <u></u>					
(2) have a relationship as Affiliate or otherwise, w/members of the Applicant or Development Team? ³ <u>Yes</u>					

Name:	<u>Keri Terrell</u>		Title:	<u>member</u>	
Address:	<u>12365 Old Paino Rd.</u>	City:	<u>Dallas</u>	State:	<u>TX</u> Zip: <u>75243</u>
Phone:	<u>9722316904</u>	Ext:	<u></u>	Fax:	<u></u> Occupation: <u>Student SMU</u>
Does the individual :					
(1) serve as a private individual acting in a private capacity? ² <u></u>					
(2) have a relationship as Affiliate or otherwise, w/members of the Applicant or Development Team? ³ <u>Yes</u>					

²An individual is considered to be acting in a private capacity if the individual is not an employee of a public body and is not being paid by a public body while performing functions in connection with the nonprofit organization. A public body is any state, city, county, town, township, village or other unit of general local government.

³If "Yes" attach explanation of such relationship to this form.

Exhibit C

Arlington Capital Corporation Documents

Report Printed: April 01, 2011

Live Report : ARLINGTON CAPITAL CORP


D-U-N-S® Number:

Endorsement/Billing Reference:

D&B Address	
Address	1105 Schrock Rd Ste 206 Columbus, OH - 43229
Phone	614 431-0722
Fax	
Location Type	Headquarters
Web	

Endorsement :

Company Summary

Currency: Shown in USD unless otherwise indicated 

Score Bar

PAYDEX®	
Commercial Credit Score Class	
Financial Stress Class	
Credit Limit - D&B Conservative	
D&B Rating	

Company News

Today: Friday, April 01, 2011

This company is not currently tracked for Company News.

Powered by FirstRain

Detailed Trade Risk Insight™

Days Beyond Terms Past 3 Months
There is not sufficient reporting trading activity to generate 3 months Days Beyond Terms (a minimum of 3 trade experiences from at least 2 suppliers)

Recent Derogatory Events

Placed for Collection	-	-	-
Bad Debt Written Off	-	-	-

Public Filings

The following data includes both open and closed filings found in D&B's database on this company.

Record Type	Number of Records	Most Recent Filing Date
Bankruptcies	0	-
Judgments	0	-
Liens	0	-
Suits	0	-
UCCs	0	-

The public record items contained herein may have been paid, terminated, vacated or released prior to today's date.

D&B Company Overview

This is a headquarters location

Branch(es) or Division(s) exist **Y**

Chief Executive	TOM D MC VAY, PRESIDENT
Year Started	1986
Employees	12 (2 Here)

SIC	6163 , 6552
Line of business	Loan agents, mortgage brokers & real estate consulting
NAICS	522310
History Status	CLEAR

RCVD Wednesday, June 15, 2011 11:40 AM

Predictive Scores

Currency: Shown in USD unless otherwise indicated 

Credit Capacity Summary

This credit rating was assigned because of D&Bs assessment of the companys creditworthiness. For more information, see the [D&B Rating Key](#)

D&B Rating :

Number of employees:
Composite credit appraisal:

The 1R and 2R ratings categories reflect company size based on the total number of employees for the business. They are assigned to business files that do not contain a current financial statement. In 1R and 2R Ratings, the 2, 3, or 4 creditworthiness indicator is based on analysis by D&B of public filings, trade payments, business age and other important factors. 2 is the highest Composite Credit Appraisal a company not supplying D&B with current financial information can receive.

Below is an overview of the companys rating history since 01-05-1991

Number of Employees Total: 12 (2 here)

D&B Rating	Date Applied
------------	--------------

Payment Activity:

Average High Credit:

Highest Credit:

Total Highest Credit:

D&B Credit Limit Recommendation

Conservative credit Limit

Aggressive credit Limit:

Risk category for this business :

This recommended Credit Limit is based on the company profile and on profiles of other companies with similarities in size, industry, and credit usage.

Risk is assessed using D&Bs scoring methodology and is one factor used to create the recommended limits. See Help for details.

Financial Stress Class Summary


The Financial Stress Score predicts the likelihood of a firm ceasing business without paying all creditors in full, or reorganization or obtaining relief from creditors under state/federal law over the next 12 months. Scores were calculated using a statistically valid model derived from D&Bs extensive data files.

A check of D&B's public records database indicates that no filings were found for ARLINGTON CAPITAL CORP at 1105 Schrock Rd Ste 206 , Columbus OH .

D&B's extensive database of public record information is updated daily to ensure timely reporting of changes and additions. It includes business-related suits, liens, judgments, bankruptcies, UCC financing statements and business registrations from every state and the District of Columbia, as well as select filing types from Puerto Rico and the U.S. Virgin Islands.

D&B collects public records through a combination of court reporters, third parties and direct electronic links with federal and local authorities. Its database of U.S. business-related filings is now the largest of its kind.

History & Operations

Currency: Shown in USD unless otherwise indicated 

Company Overview

Company Name:	ARLINGTON CAPITAL CORP
Street Address:	1105 Schrock Rd Ste 206 Columbus , OH 43229
Phone:	614 431-0722 Note: same phone number as MAS Properties
History	Is clear
Present management control	25 years

History

The following information was reported: **03/02/2011**

Officer(s): TOM D MC VAY, PRESIDENT

DIRECTOR(S) : THE OFFICER(S)

Business started Apr 1986 by Tom D Mc Vay and Richard J Whaley. 100% of capital stock is owned by Mc Vay and Whaley. TOM D MC VAY. Work history unknown.

Affiliates :

The following are related through common ownership and/or financial interest.

Tom Mc Vay & Company, Inc, Columbus, OH, started 1977. Operates as real estate mortgage brokers and appraisers. Intercompany relations :

Consist of shared facility.

M.A.S. One Ltd, Columbus, OH, started 1986. DUNS #

Operates as non residential building operator. Intercompany

relation :

Consist of shared facility.

Business Registration

CORPORATE AND BUSINESS REGISTRATIONS REPORTED BY THE SECRETARY OF STATE OR OTHER OFFICIAL SOURCE AS OF Mar 25 2011

Registered Name:	ARLINGTON CAPITAL CORP.
Business type:	CORPORATION
Corporation type:	PROFIT
Date incorporated:	Apr 14 1986
State of incorporation:	OHIO
Filing date:	Apr 14 1986
Registration ID:	675562
Status:	ACTIVE
Where filed:	SECRETARY OF STATE/CORPORATIONS DIVISION , COLUMBUS , OH
Registered agent:	TOM D MCVAY , 1105 SCHROCK RD SUITE 206 , COLUMBUS , OH , 432290000 Agent appointed: Apr 13 1998

Principals: TOM D MCVAY , INCORPORATOR**Common stock:**

Authorized shares: 500

Par value: \$NO PAR VALUE

Operations

03/02/2011

Loan agents, arranging commercial real estate loans, real estate development and joint venture of commercial properties, and real estate consulting (100%).

Description:

Operates on a fee and commission basis. Sells to commercial accounts. Territory : Local.

Nonseasonal.

Employees:

12 which includes officer(s). 2 employed here.

Facilities:

Rents 2,000 sq. ft. on second floor of an eight story brick building.

Branches:

Branches are located at: 600 Cleveland St Ste 900, Clearwater, FL DUNS:

SIC & NAICS**SIC:**

Based on information in our file, D&B has assigned this company an extended 8-digit SIC. D&B's use of 8-digit SICs enables us to be more specific about a company's operations than if we use the standard 4-digit code.

The 4-digit SIC numbers link to the description on the Occupational Safety & Health Administration (OSHA) Web site. Links open in a new browser window.

6163 9903 Loan agents

6163 9904 Mortgage brokers arranging for loans, using money of others

6552 9901 Land subdividers and developers, commercial

NAICS:

522310 Mortgage and Nonmortgage Loan Brokers


522310 Mortgage and Nonmortgage Loan Brokers

237210 Land Subdivision

Banking

09/10 Loans granted to medium 5 figures. Now owing nothing.

Financials

Currency: Shown in USD unless otherwise indicated 

Company Financials: D&B

D&B currently has no financial information on file for this company.

You can ask D&B to make a personalized request to this company on your behalf to obtain its latest financial information by clicking the Request Financial Statements button below.

Additional Financial Data

The name and address of this business have been confirmed by D & B using available sources.

RCV'D Wednesday, June 15, 2011 11:40 AM

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ARLINGTON CAPITAL CORP

Address:
1105 SCHROCK RD STE 206
Columbus, Ohio 43229
USA
Phone: (614) 431-0722
Website: No information provided.

Is this your business?

Classification:
Land Subdivision
Mortgage and Nonmortgage Loan Brokers

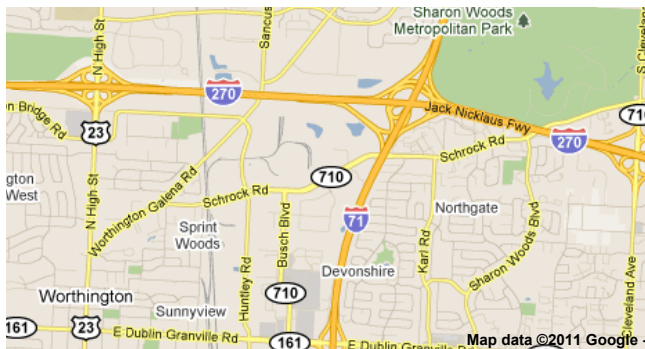
Contact: TOM D MC VAY, PRESIDENT
Contact 2: RICHARD J WHALEY
State of Incorporation: OH
Est. Total Employees: 12
Est. Employees Here: 2
Est. Years in Business: 25

[Send an email message to ARLINGTON CAPITAL CORP.](#)

ARLINGTON CAPITAL CORP is a Land Subdivision company located in Columbus, Ohio.



Are The Feds buying what you're selling?
[Click Here to find out.](#)




Map of ARLINGTON CAPITAL CORP

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- Get inquiries directly from prospects.
- Edit and enhance your profile.

CLAIM PROFILE

People interested in this business were also interested in:

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- APU OF OHIO LLC
- CENTRAL OHIO MORTGAGE
- GLOBAL SERVICES OF OHIO INC
- GLOBAL SERVICES
- AMERIBUCKS
- CASHLAND FINANCIAL SERVICES INC.
- RECASA FINANCIAL GROUP
- C N A C
- JD BYRIDER

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Apply Now & See Why!
www.lendio.com/start...

[Mortgage Lenders](#)
We Offer 10, 15, 20, 25, & 30 Year Loans. Call Today (877) 748-8668.
www.ihldirect.com

Exhibit C
MAS Properties Documents

Report Printed: June 03, 2011

Live Report : MAS APARTMENT CORPORATION

D-U-N-S® Number:

Trade Names: MAS PROPERTIES

Endorsement/Billing Reference:

D&B Address	
Address	1105 Schrock Rd Ste 206 Columbus, OH - 43229
Phone	614 431-0722
Fax	
Location Type	Headquarters
Web	

Endorsement :

Company Summary

Currency: Shown in USD unless otherwise indicated 

Score Bar

PAYDEX®

Commercial Credit Score Class

Financial Stress Class

Credit Limit - D&B Conservative

D&B Rating

Company News

Today: Friday, June 03, 2011

This company is not currently tracked for Company News.

Powered by FirstRain

Detailed Trade Risk Insight™

Days Beyond Terms Past 3 Months

There is not sufficient reporting trading activity to generate 3 months Days Beyond Terms (a minimum of 3 trade experiences from at least 2 suppliers)

Recent Derogatory Events

Placed for Collection

Bad Debt Written Off

Public Filings

The following data includes both open and closed filings found in D&B's database on this company.

Record Type	Number of Records	Most Recent Filing Date
Bankruptcies		
Judgments		
Liens		
Suits		
UCCs		

The public record items contained herein may have been paid, terminated, vacated or released prior to today's date.

D&B Company Overview

This is a headquarters location

Branch(es) or Division(s) exist Y

Chief Executive RICHARD WHALEY, PRES

Year Started 1986

Management Control	1992
Employees	13 (10 Here)
Financing	SECURED
SIC	6512 , 8742
Line of business	Nonresidential building operator, management consulting services
NAICS	531120
History Status	CLEAR

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Corporate Linkage

Branches (Domestic)

Company	City , State	D-U-N-S® NUMBER
MAS APARTMENT CORPORATION	CLEARWATER , Florida	
MAS APARTMENT CORPORATION	CLEARWATER , Florida	

Predictive Scores

Currency: Shown in USD unless otherwise indicated 

Credit Capacity Summary

This credit rating was assigned because of D&Bs assessment of the companys creditworthiness. For more information, see the [D&B Rating Key](#)

D&B Rating :

The 1R and 2R ratings categories reflect company size based on the total number of employees for the business. They are assigned to business files that do not contain a current financial statement. In 1R and 2R Ratings, the 2, 3, or 4 creditworthiness indicator is based on analysis by D&B of public filings, trade payments, business age and other important factors. 2 is the highest Composite Credit Appraisal a company not supplying D&B with current financial information can receive.

Below is an overview of the companys rating history since 01-01-1991

D&B Rating	Date Applied
------------	--------------

Sales:

**Number of Employees
Total:**

Payment Activity:

Average High Credit:

Highest Credit:

Total Highest Credit:

History & Operations

Currency: Shown in USD unless otherwise indicated 

Company Overview

Company Name:	MAS APARTMENT CORPORATION
Doing Business As :	MAS PROPERTIES
Street Address:	1105 Schrock Rd Ste 206 Columbus , OH 43229
Phone:	614 431-0722 Note: same phone number as Arlington Capital
History	Is clear
Present management control	19 years
Annual Sales	

History

The following information was reported: **08/30/2007**

Officer(s):	RICHARD WHALEY, PRES DENNIS E DEAN, V PRES
--------------------	---

DIRECTOR(S) :**THE OFFICER(S)**

Incorporated in Florida in 1992.
 Business started 1986 by Tom Mc Vay. 100% of capital stock is owned by the officers.
 RICHARD WHALEY born 1947. 1986-present active here.
 DENNIS E DEAN born 1947. 1986-present active here.

MIDLAND MUTUAL LIFE INSURANCE COMPANY, business started in 1905, it was incorporated in Ohio on Sep 30 1905. Operates as a mutual life insurance company. They are located 250 E Broad Street, Columbus, OH. There are no intercompany relations

M.A.S. ONE GENERALS, business started in 1986. Operates as a general partner in subject.

Affiliates :

The following are related through common ownership and/or financial interest.
 Tom Mc Vay and Company, Columbus, OH, started 1967. Real estate mortgage brokers and appraisers. Intercompany relations consist of shared facilities.

Arlington Capital Corp, Columbus, OH, started 1986. DUNS #- . Operates as a loan agent, mortgage broker and real estate consultant. Intercompany relations :
 Consist of shared facility.

Operations

08/30/2007

Operates nonresidential buildings (100%). Provides management consulting services, specializing in real estate.

Description: Terms are cash, check or credit card. Sells to general public. Territory : Local.

Nonseasonal.

Employees: 13 which includes officer(s) and 1 part-time. 10 employed here.

Facilities: Rents 2,500 sq. ft. on second floor of an eight story concrete block building.

Location: Suburban business section on well traveled street.

Branches: Maintains branch locations at ClearWater, FL.

SIC & NAICS

SIC:
 Based on information in our file, D&B has assigned this company an extended 8-digit SIC. D&B's use of 8-digit SICs enables us to be more specific about a company's operations than if we use the standard 4-digit code.
 The 4-digit SIC numbers link to the description on the Occupational Safety & Health Administration (OSHA) Web site. Links open in a new browser window.

6512 0000 Nonresidential building operators

8742 0406 Real estate consultant

NAICS:

531120 Lessors of Nonresidential Buildings (except Miniwarehouses)

541611 Administrative Management and General Management Consulting Services

Banking

05/11

Financials

Currency: Shown in USD unless otherwise indicated 

Company Financials: D&B

D&B currently has no financial information on file for this company.
You can ask D&B to make a personalized request to this company on your behalf to obtain its latest financial information by clicking the Request Financial Statements button below.

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Entity Name Search

No Events

No Name History

Detail by Entity Name

Florida Profit Corporation

MAS APARTMENT CORPORATION

Filing Information

Document Number**FEI/EIN Number****Date Filed** 10/23/1992**State** FL**Status** ACTIVE

Principal Address

1105 SCHROCK ROAD
SUITE 206
COLUMBUS OH 43229 US

Changed 05/01/2003

Mailing Address

1105 SCHROCK ROAD
SUITE 206
COLUMBUS OH 43229 US

Changed 04/24/2007

Registered Agent Name & Address

WINTERS, ELISE K
1006 DREW STREET
CLEARWATER FL 33755 US

Name Changed: 05/01/1995

Address Changed: 04/03/2006

Officer/Director Detail

Name & Address

Title VPAS

MCVAY, TOM D
601 CLEVELAND STREET STE 360
CLEARWATER FL 33755

Title VPS

DEAN, DENNIS E
601 CLEVELAND STREET SUITE 360
CLEARWATER FL 33755

Title PT

WHALEY, RICHARD J
1105 SCHROCK RD., #206
COLUMBUS OH 43229

Annual Reports

Report Year Filed Date

2009	04/07/2009
2010	04/23/2010
2011	04/19/2011

Document Images

- [04/19/2011 -- ANNUAL REPORT](#)
- [04/23/2010 -- ANNUAL REPORT](#)
- [04/07/2009 -- ANNUAL REPORT](#)
- [04/16/2008 -- ANNUAL REPORT](#)
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- [04/03/2006 -- ANNUAL REPORT](#)
- [04/22/2005 -- ANNUAL REPORT](#)
- [04/23/2004 -- ANNUAL REPORT](#)
- [05/01/2003 -- ANNUAL REPORT](#)
- [01/07/2003 -- Reg. Agent Change](#)
- [05/20/2002 -- ANNUAL REPORT](#)
- [05/04/2001 -- ANNUAL REPORT](#)
- [04/13/2000 -- ANNUAL REPORT](#)
- [04/19/1999 -- ANNUAL REPORT](#)
- [04/22/1998 -- ANNUAL REPORT](#)
- [04/14/1997 -- ANNUAL REPORT](#)
- [06/05/1996 -- ANNUAL REPORT](#)
- [05/09/1996 -- ANNUAL REPORT](#)
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2011 FOR PROFIT CORPORATION ANNUAL REPORT

RCV'D Wednesday, June 15, 2011 11:40 AM

FILED
Apr 19, 2011
Secretary of State

DOCUMENT# V74167

Entity Name: MAS APARTMENT CORPORATION

Current Principal Place of Business:

1105 SCHROCK ROAD
SUITE 206
COLUMBUS, OH 43229 US

New Principal Place of Business:

Current Mailing Address:

1105 SCHROCK ROAD
SUITE 206
COLUMBUS, OH 43229 US

New Mailing Address:

FEI Number: FEI Number Applied For () FEI Number Not Applicable () Certificate of Status Desired ()

Name and Address of Current Registered Agent:

WINTERS, ELISE K
1006 DREW STREET
CLEARWATER, FL 33755 US

Name and Address of New Registered Agent:

The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.

SIGNATURE: _____

Electronic Signature of Registered Agent

_____ Date

OFFICERS AND DIRECTORS:

Title: VPAS
Name: MCVAY, TOM D
Address: 601 CLEVELAND STREET STE 360
City-St-Zip: CLEARWATER, FL 33755

Title: VPS
Name: DEAN, DENNIS E
Address: 601 CLEVELAND STREET SUITE 360
City-St-Zip: CLEARWATER, FL 33755

Title: PT
Name: WHALEY, RICHARD J
Address: 1105 SCHROCK RD., #206
City-St-Zip: COLUMBUS, OH 43229

I hereby certify that the information indicated on this report or supplemental report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am an officer or director of the corporation or the receiver or trustee empowered to execute this report as required by Chapter 607, Florida Statutes; and that my name appears above, or on an attachment with all other like empowered.

SIGNATURE: RICHARD J WHALEY

P

04/19/2011

Electronic Signature of Signing Officer or Director

_____ Date

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Staff biographies

[Introduction](#)

[Projects](#)

[Experience](#)

[Bios](#)

[Clientele](#)

[Four Star
Construction
Co.](#)

[2008
Outstanding
Development
Award from
the NAIOP
Central
Florida
Chapter](#)



strong leadership

The experienced team at MAS Companies knows what it takes to turn a piece of property into a valuable and successful venture. The company's rigorous market research, analytical site selection and strong fiscal background have been the foundation for their developments. Quality construction, distinct architectural design, and extensive site planning have added to the company's reputation for results-oriented project involvement.



Richard J. Whaley
Chairman, CEO
MAS Companies

Mr. Whaley has more than 40 years experience developing or acquiring real estate throughout most regions of the United States . During his career, Mr. Whaley has successfully overseen as Chairman or General Partner more than 80 developments, totaling more than \$150 million of residential real estate in addition to office and industrial. His strong relationships with European investors have additionally led to success for the firm.

As Chairman of MAS Companies, Mr. Whaley's responsibilities include identifying and maintaining all equity relationships and spearheading new product development. With a strong focus on research integration and market trends, he devises corporate strategies and structure as well as allocates company resources.

Mr. Whaley has been or is currently involved in a number of professional and civic associations, including Founding Trustee, Dalhberg Center; Founding Member, [Ohio State Advocates](#); Former Director, [Affordable Housing Tax Credit Coalition](#), Former Board of Directors, [National Housing and Rehabilitation Association](#), Board of Trustee, [Nightingale Home Care, Inc.](#), member of the [NAIOP - National Association of Industrial and Office Properties Central Florida Chapter](#), member of [FIABCI - The International Real Estate Federation](#). As a Founding Trustee, Mr. Whaley also is passionately involved with [Atlantic Housing Foundation](#), holding an expanded role by assisting with the foundation's \$750 million refinance.



Tom D. McVay
Principal
**President, Arlington Capital
Corporation**

Mr. McVay has had an active role in owning, developing and financing real estate for over three decades in a broad spectrum of projects ranging from multi-family housing, industrial and commercial

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developments. During that time he has had experience financing through some of the nation's most prestigious financial institutions including Met Life, Prudential, Bank of America, US Bank and BB&T. He also has the privilege of working with highly respected international financial institutions including SwissRe.

As Chief Financial Officer of MAS Companies, Mr. McVay is responsible for overseeing all financial activity including the supervision of corporate lines of credit and the development of banking and lender relationships. During recent years Mr. McVay has been responsible for securing more than \$250 million of construction loans, has managed the financing for more than \$300 million in MAS real estate developments and has handled more than \$600 million in third party financing.

Mr. McVay is currently a member of [National Association of Review Appraisers and Mortgage Underwriters](#) and is a Registered Mortgage Underwriter (RMU) and a Certified Review Appraiser – Administrative (CRA).



Dennis E. Dean

Principal

**President, Four Star
Construction Co. - A MAS
Company**

Mr. Dean has been actively involved in the construction and development of residential and commercial real estate for more than 30 years. During his career, he has supervised more than 3 million square feet of real estate with a value totaling over \$1 billion.

Through detailed, hands-on supervision of the construction process, he upholds MAS's reputation for completing projects on time and on budget. During that process, Mr. Dean coordinates multi-disciplines of construction professionals including architects, engineers (civil, MEP, structural, Geo-tech), contractors and government building agencies (code, zoning, environmental).

Mr. Dean's diverse experience includes design work with U.S. Steel Corporation and construction supervision on facilities at Disney World, multi-family housing, industrial and mini-warehouses, tenant build-outs and Class-A office towers.

Mr. Dean is a licensed CPM, a licensed contractor and a registered engineer. He has long been recognized for his timeliness in delivery, construction efficiencies and high-quality products.



Robert W. McLaughlin

Executive Vice President, COO

MAS Companies

Mr. McLaughlin has 23 years of experience in real estate and banking. He has a broad background in finance and development in both the private as well as the public sectors. During his career Mr. McLaughlin has served as a Regional President for U.S. Bank, as Senior Vice President and Commercial Real Estate Lending Manager for Huntington National Bank, and as head of the Downtown Development Office for the City of Columbus, Ohio. He has also previously served as Senior Vice President of MAS Companies before joining the Mayor of Columbus in leading the city's downtown revitalization effort. Mr. McLaughlin's wealth of experience also includes service as a retired Commander in the United State Naval Reserve.

As Chief Operating Officer of MAS Companies, Mr. McLaughlin is responsible for the day-to-day operations and business affairs of the company. Mr. McLaughlin has been or is currently involved with a number of professional and civic organizations, including service on

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This is Google's cache of <http://www.bbb.org/centralohio/business-reviews/real-estate-developers/mas-apartment-corporation-in-columbus-oh-13000124>. It is a snapshot of the page as it appeared on Mar 13, 2011 04:04:17 GMT. The [current page](#) could have changed in the meantime. [Learn more](#)

These search terms are highlighted: **arlington capital** These terms only appear in links pointing to this page: **richard whaley** [Text-only version](#)

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BBB Rating for MAS Apartment Corporation

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Factors that *raised* this business' rating include:

- Length of time business has been operating.
- No complaints filed with BBB.
- BBB has sufficient background information on this business.

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Business Contact and Profile for MAS Apartment Corporation

Name: MAS Apartment Corporation

Phone: (614) 431-0722

Fax: (614) 431-1536

Address: 1105 Schrock Rd Ste 206

Columbus, OH 43229-1174

Website: www.mascompanies.com

Original Business
Start Date: April 1986

Principal: [Mr. Richard J. Whaley, Chairman](#)

Customer Contact: Mrs. Pamela Landolfo, Office Manager -
(614) 431-0722

Email Address: admin@mascompanies.com

Entity: Corporation

Incorporated: November 1992, FL

Type of Business: Real Estate Developers

BBB Accreditation: MAS Apartment Corporation is not a BBB
Accredited business.

Additional DBA: [Arlington Capital Corporation](#)

Names: MAS Properties Corporation
Four Star Construction Company
MAS Cumberland Corporation
MAS Development Corporation

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Products and Services of MAS Apartment Corporation

This company states that they buy and develop land

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Additional Locations and Phone Numbers

Additional Phone Numbers

Tel: (614) 431-0722

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Customer Complaint History for MAS Apartment Corporation

INDUSTRY COMPARISON

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Government Actions

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If you choose to do business with MAS Apartment Corporation, please let them know that you contacted BBB for a BBB Reliability **Report**.

ID: 13000124

Report as of March 12, 2011 21:04

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Cynthia L. Bast
Direct Telephone: 512-305-4707
Direct Fax: 512-391-4707
cbast@lockelord.com

June 24, 2011

Ms. Raquel Morales
Texas Department of Housing and Community Affairs
221 West 11th Street
Austin, Texas 78701

Re: Dolphin's Landing Apartments (Corpus Christi)
TDHCA No. 11227

Dear Raquel:

We represent VDC Corpus Christi Reserve I, LP (our "**Client**"), which is the Applicant for tax credits for the Dolphin's Landing Apartments in Corpus Christi (the "**Development**"), bearing application number 11227. Our Client is responding to a letter dated June 15, 2011 from a competitor, The Highland Companies, with respect to scoring of its Application (the "**Challenge**").

The Challenge alleges that the Development does not qualify for points for funding from a third party under Sections 49.9(a)(26) and (27) of the Qualified Allocation Plan (the "**QAP**")¹ based on the fact that there is a commonality between our Client and the party providing the financing.

Background

Atlantic Housing Foundation, a Texas non-profit corporation ("**AHF**"), is a member of the general partner of our Client and was actively involved in preparation of the Application. AHF has an eight-person board of directors. As is typical for a non-profit corporation, most of these directors are volunteers who do not actively participate in the day-to-day operations of AHF. They meet with the board at least semi-annually and advise the corporation on matters of policy and priority. Richard Whaley is one of those volunteer directors. Recently, Mr. Whaley has been absent from board meetings due to an illness in his family.

AHF is run by its Chairman, Dan French, and its President/CEO, Michael Nguyen. Both also serve on the board. Mr. French and Mr. Nguyen are responsible for the regular operations of AHF and were primarily responsible for AHF's input on the Application.

¹ Capitalized terms used but not defined in this letter will have the meanings given them in the QAP.

Ms. Raquel Morales
June 24, 2011
Page 2

In support of the Application, Mr. French pursued a source for funding under Sections 49.9(a)(26) and (27) of the QAP. Several offers for funding were received, including one from Oxford Enterprises, Inc., a copy of which is enclosed. However, Mr. French chose to accept funding from Arlington Capital Corporation ("**Arlington**") based on his 30-year relationship with Tom McVay, the president of Arlington. In its funding commitment, Mr. McVay certified that Arlington is not the Applicant, the Developer, a Consultant, a Related Party, or any individual or entity acting on behalf of the proposed Application.

As noted in the Challenge, Richard Whaley is an owner and secretary/treasurer of Arlington. Arlington's principal business of real estate investment is run by Mr. McVay, as president. The Challenge contends that Arlington's financing should be disqualified for points because Mr. Whaley's position with Arlington and his concurrent service as a board member of AHF create some sort of conflict.

However, the QAP clearly provides that the party providing the financing may not be the Applicant, the Developer, a Consultant, a Related Party, or any individual or entity acting on behalf of the proposed Application. Arlington does not fit into any of these categories, and the funding should be upheld, on the bases described below.

Reasoning

Arlington was truthful in its statement that it is not the Applicant, the Developer, a Consultant, a Related Party, or an entity acting on behalf of the proposed Application:

- *Applicant*. This is defined as any Person who files an Application or any Affiliate of that Person.
 - Our Client is the Applicant. Arlington did not file the Application, therefore it is not the Applicant.
 - The QAP states that all entities that share a Principal are considered Affiliates. To determine whether our Client and Arlington are Affiliates, you must determine whether Mr. Whaley is a Principal of both our Client and Arlington.
 - A Principal of Arlington is defined to include any officer or stockholder with an ownership interest of 10% or more. By definition, Mr. Whaley is a Principal of Arlington.
 - A Principal of our Client, which is a limited partnership, is defined as the general partner, a special limited partner, or a Principal with an ownership interest. Mr. Whaley is not the general partner. Nor does he Control the general partner as an officer or owner. Mr. Whaley is not a special limited partner. Nor is he a Principal with an ownership interest. He is merely a volunteer director, one of eight members of the board of trustees. By definition, Mr. Whaley is not a Principal of our Client.
 - Since our Client and Arlington do not share a common Principal, they are not Affiliates.
 - Arlington's statement that it is not the Applicant is truthful.

Ms. Raquel Morales
June 24, 2011
Page 3

- *Developer.* This is defined as the entity engaged by the Development Owner to perform development services and receive fees for those services, and any other Person who receives a portion of that development fee.
 - The Developer will be AHF Dolphin's Landing, LP. The Developer is Controlled by AHF. Arlington has no ownership position in or Control of the Developer. Arlington will not receive any portion of the development fee. (Nor will Mr. Whaley.)
 - Arlington's statement that it is not the Developer is truthful.
- *Consultant.* The Application does not contemplate a housing consultant.
 - Arlington's statement that it is not the Consultant is truthful.
- *Related Party.* Our Client is a limited partnership. Arlington is a corporation.
 - By definition, a partnership and a corporation are considered to be Related Parties if the same person owns 50% or more of the capital or profits interests in the partnership and 50% or more of the stock of the corporation.
 - Mr. Whaley does not own any capital or profits interests in the partnership that is our Client. Therefore, our Client and Arlington cannot be Related Parties.
 - Arlington's statement that it is not a Related Party to our Client is truthful.
- *An entity acting on behalf of the proposed Application.*
 - Arlington is not acting on behalf of the proposed Application in any way. Arlington's only involvement in the Application was to provide the funding commitment.

Additional Considerations

Beyond the plain language of the QAP, this situation also is consistent with the intent behind the restrictions. TDHCA intends that any funding provided under Sections 49.9(a)(26) or (27) of the QAP be from a legitimate third party. TDHCA does not want an Applicant to gain an advantage in the competitive process by essentially providing itself a loan. Nor does TDHCA want an Applicant to derive economic benefit from providing a loan on its own Development.

Even though Mr. Whaley is connected with both AHF and Arlington, TDHCA intent is met in this circumstance. Consider the following:

- Mr. Whaley signed a Certification of Principal or Development Owner (Volume 1, Tab 5) to facilitate the submission of the Application. At the time he signed that Certification, he had not reviewed the Application and had no idea that Arlington was proposed to provide funding for the Development.
- Mr. Whaley's lack of knowledge as to the detail of the Application is consistent with a volunteer director. He is not involved in the day-to-day operation of AHF

Ms. Raquel Morales
June 24, 2011
Page 4

and had no part in preparing or submitting the Application, other than to sign the Certification of Principal or Development Owner.

- As one board member of AHF, Mr. Whaley cannot Control AHF or the Applicant in any way.
- Mr. French chose to seek funding from Arlington because of a long-standing relationship with its president, Mr. McVay.
- Arlington and AHF have never done business together before, and neither party has an economic interest in the other.
- While Mr. French knew that Mr. Whaley had been involved with Arlington previously, he had a good faith belief that Mr. Whaley had retired from Arlington.
- Had Mr. French known that Mr. Whaley remained involved with Arlington, he might have utilized the funding offered by Oxford Enterprises, Inc. instead to avoid any perceived conflict.
- The Oxford Enterprises offer remains valid, and our Client would be happy to substitute that funding source if it would resolve any concerns, even though the Arlington commitment is completely valid.

Clearly, none of the parties involved were trying to subvert TDHCA rules or competitive process in any way. Nor were they trying to unduly benefit from a business relationship between the Applicant and Arlington. The Arlington funding commitment was negotiated on an arms-length basis. Under the definitions and rules of the QAP, Mr. Whaley's position as a board member of AHF and his concurrent position with Arlington do not make Arlington the Applicant, the Developer, a Consultant, a Related Party, or an entity acting on behalf of the proposed Application. The funding provided under Sections 49.9(a)(26) and (27) is eligible for points.

We trust that this response provides adequate information to show that the allegation in the Challenge is without merit and the points that have been awarded to the Application should remain. However, if you need additional information, please feel free to contact me or our Client.

Thank you very much.

Sincerely,



Cynthia L. Bast


cc: Michael Nguyen
Dan French

Enclosure

8411 Preston Road
Suite 711, LB 17
Dallas, Texas 75225
214-754-0577
214-890-1518-Fax
954-647-5999-Cell
swartz1801@msn.com

FROM:
() E.Q. FINANCIAL SERVICES
() OXFORD ENTERPRISES, INC.
() NORTH PARK CONDOMINIUMS LLC
(XX) TONY SWARTZ

FAX TRANSMISSION

TO: Dan French
FROM: Tony Swartz by Sally Canto 
FAX NUMBER: 817-416-4339
RE: Oxford Commitment Document

COMMENTS:

Please see attached document. Thank you.

PAGES TO FOLLOW: 2

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OXFORD ENTERPRISES, INC.
8411 Preston Road
Suite 711
Dallas, Texas 75225

214-754-0577

214-890-1518-Fax

Commitment to Lend
VDC Corpus Christi Reserve I, LP

Summary of Terms and Conditions
February 26, 2011

BORROWER: VDC CORPUS CHRISTI RESERVE I, LP

PRINCIPAL AMOUNT: Four Hundred Ninety Thousand (\$490,000) Dollars

LENDER: Oxford Enterprises, Inc.

PROJECT: Redevelopment of the Dolphins Landing Apartments, Corpus Christi, TX
The project is located outside of a Qualified Census Tract

TAX CREDITS: Development of the Project will be financed, in part, with the proceeds of low-income housing tax credits ("Tax Credits") authorized under Section 42 of the Internal Revenue Code of 1986, as amended. Borrower has applied for a commitment of Tax Credits from the Texas Department of Housing and Community Affairs pursuant to its 2011 Qualified Allocation Plan (10 T.A.C. Chapter 50) (the "QAP"). This Loan allows Borrower to qualify for certain points under its Tax Credit application (the "Application") and Borrower and Lender intend this Loan to comply with the QAP.

SOURCES: The funds used to make this Loan will not be (1) first provided to Lender by Borrower or by the Applicant, Developer, Consultant, Related Party or any individual or entity acting on behalf of the Application (as such terms are defined in the QAP). Lender is not the Applicant, Developer, Consultant, Related Party, or any individual or entity acting on behalf of the Application.

TERM: 15 years beginning with the date of execution of the promissory note (the "Note") evidencing the Loan (the "Maturity Date").

INTEREST RATE: The Note will bear interest at a rate of 12% per year

REPAYMENT: All principal and accrued interest will be due and payable at the Maturity Date with no penalty for earlier repayment.

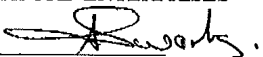
GUARANTOR: BORROWER

COLLATERAL: 3rd Deed of Trust

This Summary of Terms and Conditions constitutes the commitment of Lender to make a loan to Borrower on the terms and conditions described above. Such commitment is conditioned upon: (1) Lenders receipt and approval of final form loan documents, (2) establishment of collateral in a manner acceptable to Lender, (3) Borrowers receipt of low income housing tax credits for the development of the project, (4) no material adverse change in Borrower or the Project or the circumstances surrounding Borrowers development of the Project that would, in Lenders reasonable discretion, make the Loan unacceptable to Lender and, (5) final approval of the transaction by Lenders counsel.

Agreed as of the date first written above,

LENDER
OXFORD ENTERPRISES


By: Anthony Swartz, President

Borrower:
Authorized Representative
VDC Corpus Christi Reserve I, LP

By: Michael Nguyen

Housing and Community Services, Inc.



8610 North New Braunfels, Suite 500
San Antonio, Texas 78217-6397

Phone 210.821.4300
Fax 210.821.4303 • Toll Free 888.732.3394
Email: gilp@hcscorp.org

Gilbert M. Piette
*Executive Director
and CEO*

Board of Directors

John Longoria
President

Eugenie A. Blaskovitz
Vice President

George H. Rodriguez
Secretary

Marvin Melson
Treasurer

BJ Burns
Joan Cortinas
Perry Deckard
Gloria Flores
Carl Forinash
Diamantina Garcia
Nancy Hard
Adolph D. Jacobson
Lucy Martinez
Anthony Nanes
Rafael Torres
Ernestine Trujillo

June 14, 2011

Robbye Meyer
Director of Multifamily Finance
Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, Texas 78711-3941

Re: Low Income Housing Tax Credit Applications:
11227 Dolphin's Landing Apartments
11115 Castle Manor Apartments
11045 Lexington Vista
11050 Palm Gardens
Clarification QAP -- 49.9(a)(5) Commitment of Development Funding
by Units of General Local Government Clarification of economic
viability

Dear Ms. Meyer:

The purpose of this letter is to request clarification and justification for the points awarded to the above noted applications under 49.9(a)(5) and to inquire how these applications are economically viable without an award of Corpus Christi HOME funds. Region 10 of the 2011 Texas Qualified Allocation Plan incorporates the City of Corpus Christi where six of the project applications are located.

First and foremost, the City of Corpus Christi has not supported the above four referenced applications with any funds. On February 22, 2011 the City Council of Corpus Christi passed a resolution supporting tax credit application 11166, The Palms at Leopard (see Exhibit 1). Further emphasizing this project as a priority for the City, on April 26, 2011 the Corpus Christi City Council awarded all of its 2011 funding for housing (HOME funds) to tax credit application 11166, The Palms at Leopard as it meets multiple housing priorities for the City (see Exhibit 2), including but not limited to, building a new project in an area targeted for redevelopment, transferring residents from an obsolete property which in turn will be torn down, and transferring the project based

section 8 subsidy to the new location. Consequently, none of the above four referenced applications have local funding nor are they a priority for the City.

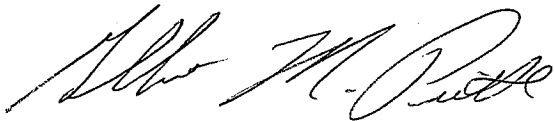
Second, none of the four referenced applications have obtained consent from the applicable Unit of General Local Government as evidenced by an executed Inter-local Agreement. The City of Corpus has not executed an Inter-local Agreement and does not intend to execute one that would allow another application to circumvent the 2011 top priority established by the Corpus Christi City Council at its meeting on February 22, 2011.

In addition, please verify the financial feasibility of applications 11227, 11045 and 11050 each of which included funding from the City of Corpus Christi as part of their financial feasibility. It appears that without funding from the City of Corpus Christi these applications are not financially feasible.

We respectfully request that you deduct the 18 points for the commitment of development funding by units of general local government as the local Governing Body (City of Corpus Christi) where the four referenced projects are located has not provided 2011 general local government support. If these points are deducted from these applications then tax credit application 11166 The Palms at Leopard, which the City of Corpus Christi has designated as its highest priority, would be the top application in Region 10 and would qualify for tax credit funding.

Your earliest consideration of this matter would be greatly appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Gilbert M. Piette". The signature is fluid and cursive, with the first name being the most prominent.

Gilbert M. Piette
Executive Director

Attachments: Exhibits 1 and 2

EXHIBIT 1

**City of Corpus Christi
Council Resolution**

RESOLUTION

DECLARING THE CITY OF CORPUS CHRISTI'S SUPPORT OF THE DEVELOPMENT OF THE PALMS AT LEOPARD STREET

WHEREAS, The Palms at Leopard Street, Ltd. Has proposed a development for affordable rental housing on a tract of land on Palm Avenue between Lipan Street and Leopard Street named The Palms at Leopard Street in the City of Corpus Christi, Texas; and,

WHEREAS, The Palms at Leopard Street, Ltd. Intends to submit an application to the Texas Department of Housing and Community Affairs (TDHCA) for 2011 Housing Tax Credits funds; and,

WHEREAS, The Palms at Leopard Street is intended to serve as a replacement site for the units at the existing Northside Manor Apartments which is in dire need of demolition and relocation of families due to substandard living conditions and deterioration of the neighborhood; and,

WHEREAS, the development of The Palms at Leopard Street will bring much needed reinvestment to a major Urban Core area of the City marked by a medium and high density residential and commercial uses;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CORPUS CHRISTI, TEXAS THAT:

Section 1. The City of Corpus Christi supports the development of The Palms at Leopard Street as its first priority application in the Region 10-Urban area designated by the State of Texas that includes the City.

DULY adopted at a regular meeting of the City Council of the City on the 22nd day of February, 2011.

ATTEST:

CITY OF CORPUS CHRISTI

By: Armando Chapa
Armando Chapa
City Secretary

By: Joe Adame
Joe Adame, Mayor

028973

APPROVED AS TO LEGAL FORM:

FEBRUARY 17, 2011

By:

Carlos Valdez

Carlos Valdez, City Attorney

Corpus Christi, Texas

22nd day of February, 2011

The above Resolution was passed by the following vote:

Joe Adame	<u>Aye</u>
Chris N. Adler	<u>Aye</u>
Larry R. Elizondo, Sr.	<u>Aye</u>
Kevin Kieschnick	<u>Aye</u>
Priscilla Leal	<u>Aye</u>
John E. Marez	<u>Aye</u>
Nelda Martinez	<u>Aye</u>
Mark Scott	<u>Absent</u>
Linda Strong	<u>Aye</u>

028973

EXHIBIT 2

Excerpts from Corpus Christi City Council Meeting – 4/26/2011 Award of HOME Funds to The Palms at Leopard

MINUTES

CITY OF CORPUS CHRISTI, TEXAS
Regular Council Meeting
April 26, 2011 - 12:00 p.m.

PRESENT

Mayor Joe Adame
Mayor Pro Tem Nelda Martinez

Council Members:

Chris Adler
Larry Elizondo, Sr.**
Kevin Kieschnick
John Marez
Mark Scott
Linda Strong*

City Staff:

Interim City Manager Margie C. Rose
City Attorney Carlos Valdez
City Secretary Armando Chapa

ABSENT

Priscilla Leal

*Arrived at 12:32 p.m.

**Arrived at 1:38 p.m.

Mayor Adame called the meeting to order in the Council Chambers of City Hall.

The invocation was delivered by Council Member Martinez and the Pledge of Allegiance to the United States flag was led by Council Member Marez.

City Secretary Chapa called the roll and verified that the necessary quorum of the Council and the required charter officers were present to conduct the meeting.

Mayor Adame called for approval of the minutes of the Workshop meeting of April 12, 2011 and the regular Council meeting of April 19, 2011. A motion was made and passed to approve the minutes as presented.

Mayor Adame called for consideration of the consent agenda (Items 2 - 18). There were no comments from the public. Council members requested that Items 4, 5, 7, 8, 12 and 15 be pulled for individual consideration. City Secretary Chapa polled the Council for their votes as follows:

2. MOTION NO. 2011-096

Motion approving a supply agreement with Ferguson Enterprises, Corpus Christi, Texas for approximately 3,755 non-shear flexible couplings ranging in size from 3" to 10", in accordance with Bid Invitation No. BI-0030-11, based on low bid, for an estimated annual expenditure of \$76,069.52 of which \$19,017.38 is budgeted for FY10-11. The term of the contract is for twelve months with options to extend for up to two additional twelve-month periods, subject to the approval of the contractor and the City Manager, or designee. These items are purchased into the Warehouse Inventory and charged out to the Wastewater Department.

The foregoing motion was passed and approved with the following vote: Adame, Adler, Kieschnick, Marez, Martinez, and Scott, voting "Aye"; Elizondo, Leal, and Strong were absent.

Minutes – Regular Council Meeting
April 26, 2011 – Page 11

owners were not informed by the City that there were problems with the property at 1414 Leopard and so the property owners concentrated their efforts to demolish the property at 1420 Leopard.

The following topics pertaining to this item were discussed: the date of the last inspection; the anticipated costs to restructure the property; whether the owner has received bids that include a structural analysis; the proposed use for the property; when the property owner would begin improvements to the property if an appeal is granted; concern with the deterioration of the property; and notification to the property owner for 1414 Leopard.

Mayor Adame called for comments from the audience. Abel Alonzo, 1701 Thames, stated that it is not easy to demolish someone's property however based on the presentation by staff the City has no choice but to deny the appeal.

Mr. Kieschnick made a motion to deny the appeal. The motion was seconded by Ms. Martinez. City Secretary Chapa polled the Council for their votes as follows:

23. MOTION NO. 2011-104

Motion to deny an appeal by Mr. Manuel N. Cantu, Jr., of the Building Standards Board's decision to require demolition of a structure(s) located at Lot 4, Block 1, West End, commonly known as 1414 Leopard Street.

The foregoing motion was passed and approved with the following vote: Adame, Adler, Elizondo, Kieschnick, Marez, Martinez, Scott, and Strong, voting "Aye"; Leal was absent.

Mayor Adame opened discussion on Item 25 regarding the Downtown Street (Chaparral) project. Director of Engineering Services Pete Anaya introduced the presentation team including Raymond Gignac with Gignac & Associates and Carl Crull with HDR Engineering. Mr. Anaya explained that this item is for the design of the project and allows the City to go out for bids on Chaparral Street. Mr. Anaya reported that the project would be bid two ways including a complete closure and a partial closure. Mr. Anaya also stated that the City is going to resubmit the U.S. Department Economic Development Administration (EDA) grant in the amount of \$3.7 million. Mr. Gignac referred to a powerpoint presentation including the proposed design for the crosswalks, intersections parking and travel lanes; sidewalk paving; an aerial view; a realistic view of intersection; example of catenary lighting; and the proposed schedule.

The following topics pertaining to this item were discussed: the EDA grant funding; status of the kiosks at the Bayfront Park; start of construction date; and landscaping.

Council Member Martinez requested a future agenda item on the kiosks at the Bayfront Park. There were no comments from the audience. City Secretary Chapa polled the Council for their votes as follows:

25. MOTION NO. 2011-103

Motion authorizing the City Manager or designee to execute Amendment No. 2 to the Contract for Professional Services with Gignac Architects of Corpus Christi, Texas, in the amount of \$407,503, for a total re-stated fee of \$757,883 for the Downtown Street (Chaparral) project. (BOND ISSUE 2008)

The foregoing motion was passed and approved with the following vote: Adame, Adler, Elizondo, Kieschnick, Marez, Martinez, Scott, and Strong, voting "Aye"; Leal was absent.

Minutes – Regular Council Meeting
April 26, 2011 – Page 12

Mayor Adame opened discussion on Item 24 regarding the adoption of the FY2011-2012 Consolidated Annual Action Plan. Director of Neighborhood Services Eddie Ortega reported that the City has received the further estimates from the U.S. Department of Housing and Urban Development with a reduction of 16 ½ % and highlighted the following changes: an additional reduction for CDBG- Program Administration in the amount of \$30,315 for a total funding level of \$401,309; a reduction of CDBG-Code Enforcement Program in the amount of \$25,000; a reduction of \$25,000 for the CDBG- Comprehensive Planning Assistance Program; funding of \$100,000 for the CDBG-Ethel Eyerly Senior Center by eliminating funding from the CDBG-Neighborhood Initiative Program & Model Block Revitalization Program in the amount of \$100,000 (working on the assumption that have available funding from previous years to support this year); reduction of \$25,000 for CDBG-Rehabilitation Services; funding for CDBG-Amistad Community Health Center in the amount of \$31,024; reduction from CDBG-Coastal Bend Alcohol & Drug Rehabilitation Center d/b/a Charlie's Place in the amount of \$31,024; and a reduction of \$5,766 to all of the agencies recommended for funding with the exception of CDBG-Boys and Girls Club which was reduced in the amount of \$5,756.

Mr. Ortega announced that the Emergency Shelter Grant (ESG) program received an additional \$56,424 and each ESG program received an additional \$5,936 with the exception of the ESG-Administrative Costs which received an additional \$2,811. Mr. Ortega announced that the HOME program received an additional \$4,174 and highlighted the following changes: HOME Administration/Technical Assistance receiving an additional \$7,745 for a total of \$156,662; HOME-Major Rehabilitation program receiving a total of \$764,965; HOME-Nueces County Community Action Agency receiving a total of \$300,000; and The Palms at Leopard will be recommended for funding in the amount of \$865,000. Mr. Ortega reported that after the last meeting, staff recommended funding Dolphin's Landing and The Palms at Leopard equally, however, after checking with the Texas Department of Housing and Community Affairs, it was determined that the City essentially needs to support one project so that the project can receive the 16 points for tax credits.

Mayor Adame called for comments from the audience. Abel Alonzo, 1701 Thames, stated that MHMR is extremely grateful for the funding that was provided. Eric Martinez, Association Coordinator for the World Changers Projects, thanked Mr. Ortega and Neighborhood Services employees Diana Garza and Tony Recio for their support of the World Changers Project and the CDBG-Neighborhood Initiative Program & Model Block Revitalization Project. Mr. Martinez asked the Council to continue to support the use of anticipated funds available for the Model Block Program. Therese Perez, Corpus Christi Hope House, expressed gratitude for the funding provided for the shelter. Michael Wynn, Atlantic Housing, spoke on behalf of Dolphin's Landing and thanked the Council for listening to concerns during the April 12th meeting. Council Member Martinez reiterated that staff was not supporting funding for Dolphin's Landing. Jaime Nodarse, Amistad Community Health Center, thanked the Council for their reconsideration for funding CDBG-Amistad Community Health Center. Mark Lechner, Lexington Vista and Palm Gardens, stated that it was hard to argue with staff's recommendation for their support to one HOME project to receive tax credits. Mr. Lechner provided information on both proposed projects and requested that Council consider a mechanism to transfer HOME funds to the project that gets awarded by TDHCA. Jose Mascorro, Housing and Community Services, spoke regarding The Palms at Leopard Project and thanked staff for their hard work on this project and the importance of the City supporting the project 100% to ensure tax funding does come to the City of Corpus Christi.

Mr. Scott made a motion to amend the Consolidated Annual Action Plan to include changes as recommended by staff in today's handout. The motion was seconded by Mr. Elizondo.

Minutes – Regular Council Meeting
April 26, 2011 – Page 13

The foregoing motion was passed and approved with the following vote: Adame, Adler, Elizondo, Kieschnick, Marez, Martinez, Scott, and Strong, voting "Aye"; Leal was absent.

City Secretary Chapa polled the Council for their votes as follows:

24. RESOLUTION NO. 029047

Resolution adopting the Fiscal Year 2011-12 Consolidated Annual Action Plan ("CAAP") which includes the Community Development Block Grant (CDBG), Emergency Shelter Grant (ESG), and Home Programs (HOME); authorizing the City Manager or designee to submit the Fiscal Year 2011-12 CAAP to the U. S. Department of Housing and Urban Development ("HUD"); and authorizing the City Manager or designee to execute all necessary documents to make changes in the Fiscal Year 2011-12 CAAP if required by HUD.

The foregoing resolution was passed and approved as amended with the following vote: Adame, Adler, Elizondo, Kieschnick, Marez, Martinez, Scott, and Strong, voting "Aye"; Leal was absent.

Mayor Adame returned to discussion on Item 8 regarding the acceptance of an anonymous donation for the decorative lighting of the Harbor Bridge project. City Secretary Chapa polled the Council for their votes as follows:

8.a. RESOLUTION NO. 029036

Resolution authorizing the City Manager or designee to accept an anonymous donation in the amount of \$300,000 for support of the decorative lighting of the Harbor Bridge project.

The foregoing resolution was passed and approved with the following vote: Adame, Adler, Elizondo, Marez, Martinez, Scott, and Strong, voting "Aye"; Kieschnick voting "No"; Leal was absent.

8.b. ORDINANCE NO. 029037

Ordinance appropriating \$300,000 from an anonymous donation into the No. 1020 General Fund for support of the decorative lighting of the Harbor Bridge project; changing the FY 2010-2011 Operating Budget adopted by Ordinance No. 028683 to increase revenues and appropriations by \$300,000 each.

An emergency was declared, and the foregoing ordinance was passed and approved with the following vote: Adame, Adler, Elizondo, Marez, Martinez, Scott, and Strong, voting "Aye"; Kieschnick voting "No"; Leal was absent.

Mayor Adame opened discussion on Item 12 regarding the Memorial Coliseum Demolition Project. Director of Engineering Services Pete Anaya provided a project budget showing the construction liquidated damages in the amount of \$70,000 and the \$28,000 for Amendment No. 1 to the contract with R.H. Shackelford, Inc. In response to Council Member Scott, the net savings on the project is approximately \$42,000. City Secretary Chapa polled the Council for their votes as follows:



Atlantic Housing Foundation, Inc.

A Not For Profit Affordable Housing Corporation

Liz Cline
Multifamily Finance Housing Specialist
Texas Department of Housing and Community Affairs
221 E. 11th Street Austin, TX 78701

June 23, 2011

Re: Application #11227 Dolphin's Landing Challenge #2

Dear Ms. Cline,

Housing and Community Services, Inc. ("HCS"), representative of The Palms at Leopard tax credit application, has submitted a challenge against the Dolphin's Landing Apartments (TDHCA No. 11227) with regard to points for evidence of funding from a Governmental Instrumentality (the "Local Funding Points") under Section 49.9(a)(5) of the Qualified Allocation Plan. The request by HCS for TDHCA to deny Dolphin's Landing the Local Funding Points is premature and speculative. At this time, the applicant for Dolphin's Landing has done and submitted everything required under the Qualified Allocation Plan to receive these points.

To qualify for the Local Funding Points, an applicant is required to submit a letter from the funding entity indicating that the award of funds will be made by August 1, 2011, along with a statement from the applicant as to the amount of funding to be requested and the proposed terms of that funding. The applicant for Dolphin's Landing has submitted both of those things. The applicant is not required to submit any further documentation with regard to its eligibility for the Local Funding Points until the time a tax credit commitment notice is issued and must be returned.

HCS alleges that the City of Corpus Christi only has enough funds to support one tax credit development project, and the City has chosen to support The Palms at Leopard. That may be true at this time, but intervening events could change anything. For instance, if The Palms at Leopard does not receive a tax credit commitment, the City of Corpus Christi may want to change its position. Moreover, the Qualified Allocation Plan specifically permits an applicant to change out its sources of funding from a Governmental Instrumentality, so long as the change is completed by the time the tax credit commitment notice is signed. HCS alleges that the City of Corpus Christi will not sign an interlocal agreement to allow another Governmental Instrumentality to provide funding within its jurisdiction, but that, again, is speculative.



Atlantic Housing Foundation, Inc.

A Not For Profit Affordable Housing Corporation

Liz Cline
Multifamily Finance Housing Specialist
Texas Department of Housing and Community Affairs
221 E. 11th Street Austin, TX 78701

June 23, 2011

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To qualify for the Local Funding Points, an applicant is required to submit a letter from the funding entity indicating that the award of funds will be made by August 1, 2011, along with a statement from the applicant as to the amount of funding to be requested and the proposed terms of that funding. The applicant for Dolphin's Landing has submitted both of those things. The applicant is not required to submit any further documentation with regard to its eligibility for the Local Funding Points until the time a tax credit commitment notice is issued and must be returned.

HCS alleges that the City of Corpus Christi only has enough funds to support one tax credit development project, and the City has chosen to support The Palms at Leopard. That may be true at this time, but intervening events could change anything. For instance, if The Palms at Leopard does not receive a tax credit commitment, the City of Corpus Christi may want to change its position. Moreover, the Qualified Allocation Plan specifically permits an applicant to change out its sources of funding from a Governmental Instrumentality, so long as the change is completed by the time the tax credit commitment notice is signed. HCS alleges that the City of Corpus Christi will not sign an interlocal agreement to allow another Governmental Instrumentality to provide funding within its jurisdiction, but that, again, is speculative.



MF RCVD Friday, June 03, 2011 5:35 PM

The City of
San Angelo, Texas
Community & Housing Support Division • 622 S. Oakes, Suite G, 76903

June 3, 2011

Ms Robbye Meyer, Director of Multifamily Finance
Texas Department of Housing and Community Affairs
221 East 11th
Austin, Texas 78711
Robbye.meyer@tdhca.state.tx.us

Dear Ms Meyer,

This letter is to challenge the claim by the proposed Summer Crest Senior Development (application 11237) located on Summer Crest Drive, San Angelo, Texas which is competing for Low Income Housing Tax Credits in 2011. Our understanding is that the developer is requesting points for the project being located in a community revitalization zone designated by the city. The project is not located in such a zone. In fact, the project will be located in one of the more affluent areas of the city.

I've attached a map of our neighborhoods targeted for revitalization as approved by the City of San Angelo City Council. Please direct questions to myself at 325-657-4274.

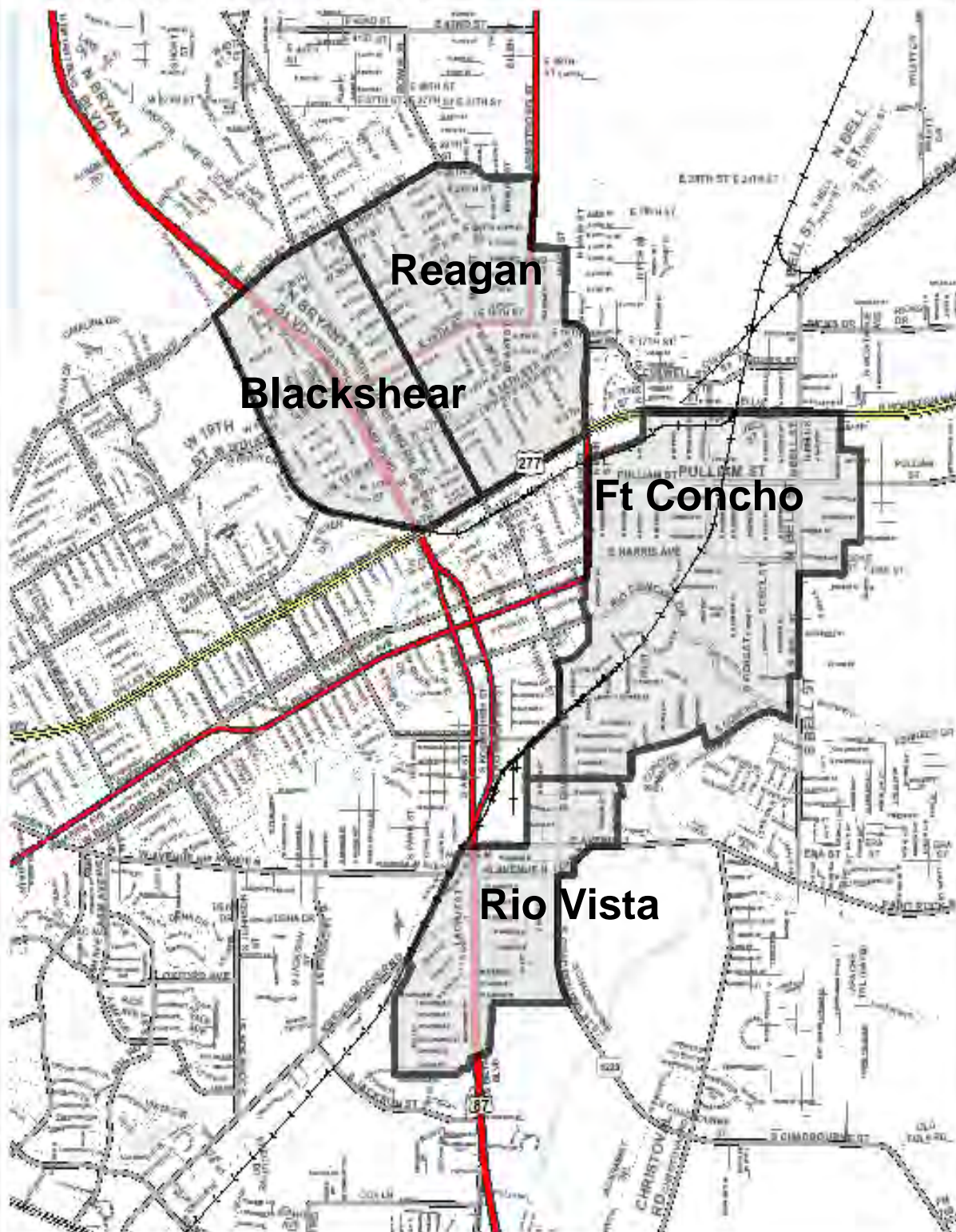
Sincerely,

Robert Salas
Director
Neighborhood and Family Services Department

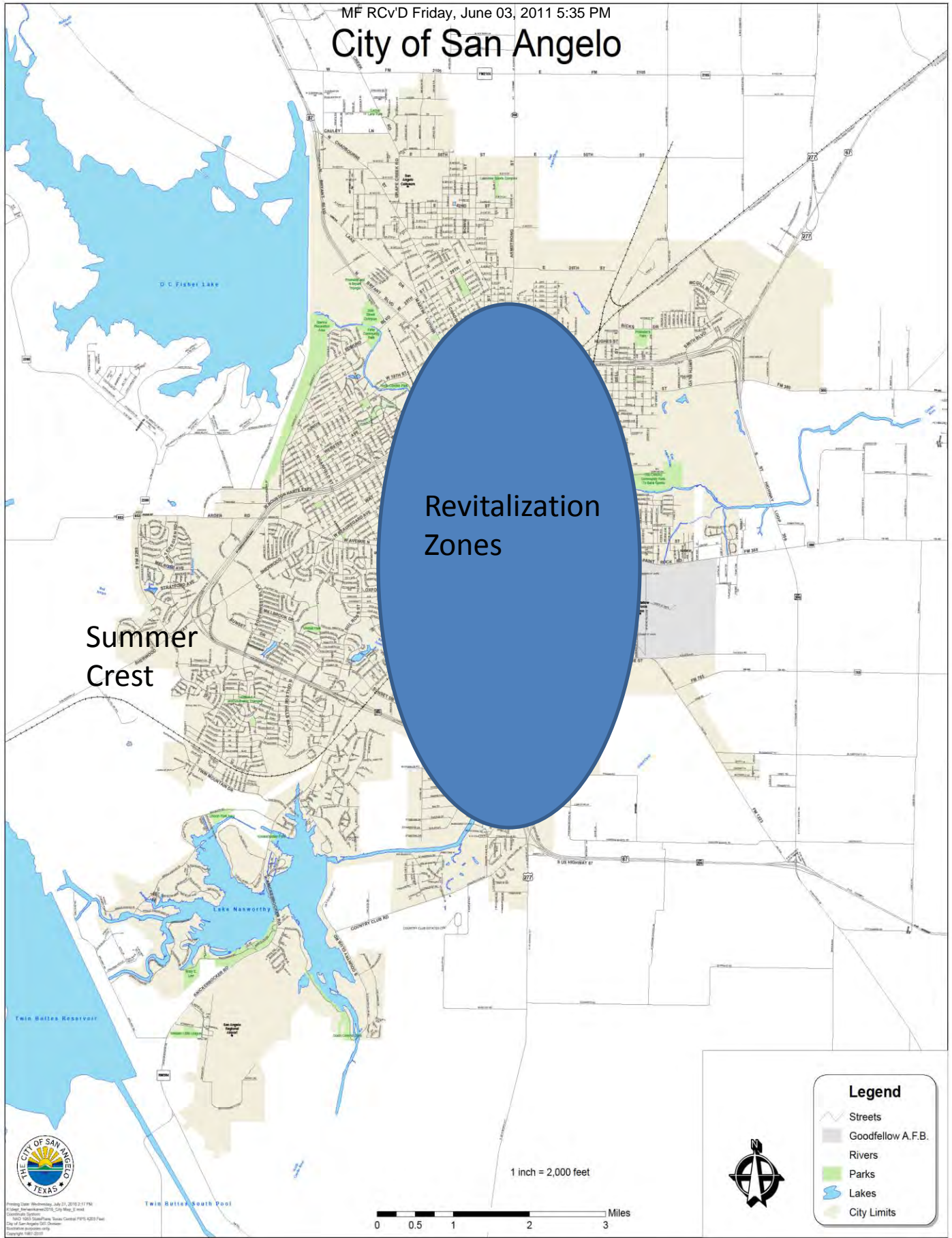


Community Development
Target Area Map

1 inch equals 3,600 feet







City of San Angelo



Revitalization Zones

Summer Crest

Legend

-  Streets
-  Goodfellow A.F.B.
-  Rivers
-  Parks
-  Lakes
-  City Limits



1 inch = 2,000 feet



SUMMER CREST SENIORS, LP
5307 East Mockingbird Lane, Suite 1010
Dallas, Texas 75206
817.742.1851

June 10, 2011

Ms. Robbye Meyer
Director, Multifamily Finance Production Division
Texas Department of Housing and Community Affairs
PO Box 13941
Austin, TX 78711

RE: Response to Challenge to 11237 Summer Crest Senior Development

Dear Ms. Meyer:

This letter is in response to the challenge presented by Mr. Robert Salas with the City of San Angelo regarding the 3 points awarded to application 11237 Summer Crest Senior Development for "The Development is New Construction and is proposed to be located in an area that is part of a Community Revitalization Plan."

Mr. Salas claims that the Summer Crest Development is not located within the City of San Angelo's targeted revitalization area. This is correct. However, points for this scoring item do not state that the development must be located within the targeted revitalization area—the scoring item states that the development is "proposed to be located in an area that is part of a Community Revitalization Plan." This is not the same thing.

First, we believe that the City of San Angelo Consolidated Plan meets the definition of "Community Revitalization Plan" because (a) the plan was approved by the governing body and (b) the plan targets specific geographic areas for revitalization and the development of residential developments. Documentation regarding both of these points was provided to TDHCA.

Second, the scoring item states that the development is "proposed to be located in an area that is part of a Community Revitalization Plan." The City of San Angelo Consolidated Plan meets the definition of Community Revitalization Plan. The Plan covers the revitalization target areas as well as all areas within the city limits. Because the plan covers all of the city limits and the Summer Crest development is located within the city limits, we believe that it complies with the language of the QAP that says "located in an area that is part of a Community Revitalization Plan." The QAP language does not say that the site needs to be within a "target area," only that the site is within "an area that is part of" the plan. Because the development is located within the city limits of San Angelo and that area is part of the Plan, we believe that this application is eligible for points under this scoring item.

It is important to note that language regarding specific target areas was found in the 2010 QAP and was removed in the 2011 QAP; therefore, we believe that our interpretation of the QAP is consistent with the Department's intent regarding this matter. The 2011 QAP specifically changed with regard to Community Revitalization Plans and removed previous requirements that the development be in a target area. See language from the 2010 QAP below.

2010 QAP Language

Evidence of the Community Revitalization Plan (such evidence must include an ordinance, resolution, or otherwise recorded documentation of a vote taken by the local elected Governing Body specifically adopting the Community Revitalization Plan) and a letter from the chief executive officer or other local official with appropriate jurisdiction of the local Governing Body stating that the Development Site is located within the targeted development areas outlined in the Community Revitalization Plan must be submitted

TDHCA staff contacted us about this scoring item during the supervisory scoring review. These emails are attached. Staff also agreed with our interpretation during the supervisory scoring review and points for this scoring item were awarded in the final scoring notice. In summary, based on the language of the QAP, we believe that this application is eligible for points under this scoring item.

Thank you for your attention to this matter. Please contact me with any questions.

Sincerely,

A handwritten signature in black ink that reads "Chuck Hammonds". The signature is written in a cursive, slightly slanted style.

Chuck Hammonds

From: Raquel Morales [mailto:raquel.morales@tdhca.state.tx.us]
Sent: Tuesday, May 24, 2011 9:29 AM
To: Christina Schwartz
Subject: RE: 11237, Summercrest Senior Development

Thanks Christina, I think after I read and reviewed the consolidated plan in more detail I got to the points. Just for future reference with this particular item, what we look for in determining whether any published document, such as a consolidated plan, qualifies for these points is that it meet our definition of Community Revitalization Plan. The Consolidated Plan for San Angelo does have specific target areas which you confirm in your email below the proposed development is not a part of. However, given that the City's Plan includes several objectives that is targeted to the entire City versus in the targeted areas, I got comfortable with awarding these points on that basis.

Thanks for the response.

Raquel Morales

9% Housing Tax Credit Administrator

Texas Department of Housing and Community Affairs

221 E. 11th Street | Austin, TX 78701

Office: [512.475.1676](tel:512.475.1676)

Fax: [512.475.0764](tel:512.475.0764)

From: Christina Schwartz [mailto:CSchwartz@integratedreg.com]
Sent: Tuesday, May 24, 2011 9:15 AM
To: 'Raquel Morales'
Subject: RE: 11237, Summercrest Senior Development

Hello Raquel,

The property is not located on the map that you attached. I have attached another map from the Consolidated Plan that has the site identified. The map shows that the site is located within the city limits of San Angelo. The Consolidated Plan covers all areas within the city limits of San Angelo, not just the "target areas" on the map that you originally attached. The language from the QAP says that

"The Development is New Construction and is proposed to be located in an area that is part of a Community Revitalization Plan."

Because the Community Revitalization Plan covers both the target areas and all areas within the city limits, we believe that it complies with the language of the QAP that says "**located in an area that is part of a Community Revitalization Plan.**" The QAP language does not say that the site needs to be within a "target area," only that the site is within "an area that is part of" the plan. Because the development is located within the city limits of San Angelo and that area is part of the Plan, we believe that this application is eligible for points under this scoring item.

It is important to note that language regarding specific target areas was removed in the 2011 QAP and we believe that our interpretation of the QAP is consistent with the Department's intent regarding this matter. As you can see, the 2011 QAP specifically changed with regard to Community Revitalization Plans and removed previous requirements that the development be in a target area. See language from the 2010 QAP below.

2010 QAP Language

Evidence of the Community Revitalization Plan (such evidence must include an ordinance, resolution, or otherwise recorded documentation of a vote taken by the local elected Governing Body specifically adopting the Community Revitalization Plan) and a letter from the chief executive officer or other local official with appropriate jurisdiction of the local Governing Body stating that the Development Site is located within the targeted development areas outlined in the Community Revitalization Plan must be submitted

Please confirm receipt and let me know if you have any additional questions.

Best regards,

Christina Schwartz

Development Assistant

3110 West Southlake Boulevard, Suite 120

Southlake, Texas 76092

[817.742.1851](tel:817.742.1851) x 15

[817.742.1852](tel:817.742.1852) fax

From: Raquel Morales [mailto:raquel.morales@tdhca.state.tx.us]
Sent: Thursday, May 19, 2011 4:48 PM
To: chammon@southbayltd.com
Cc: Christina Schwartz
Subject: 11237, Summercrest Senior Development
Importance: High

Mr. Hammonds,

I'm performing a supervisory review of your application and have a question regarding your point selection made under V4,T13 – Community Revitalization for the above referenced development. I've reviewed the consolidated plan for the City of San Angelo provided within the application and would appreciate your clarification on where exactly the development is located in relation to the targeted areas referenced in the plan. Can you please identify the location of the proposed development on the attached map that I was able to locate on the City of San Angelo's website and return to me at your earliest convenience?

Thank you for your help and if you have any questions please feel free to give me a call.

Raquel Morales

9% Housing Tax Credit Administrator

Texas Department of Housing and Community Affairs

221 E. 11th Street | Austin, TX 78701

Office: [512.475.1676](tel:512.475.1676)

Fax: [512.475.0764](tel:512.475.0764)



100 Congress, Suite 300
Austin, TX 78701
Telephone: 512-305-4700
Fax: 512-305-4800
www.lockelord.com

Cynthia L. Bast
Direct Telephone: 512-305-4707
Direct Fax: 512-391-4707
cbast@lockelord.com

June 14, 2011

VIA EMAIL

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

Re: Park Hudson, TDHCA No. 11241 (the "Application")

Dear Raquel:

We represent the housing tax credit applicant for Merritt Bryan Station Senior Village, TDHCA No. 11169 in Urban Region 8 (the "Client"). Contact information for the Client is as follows:

Colby Denison
3701 North Lamar
Suite 206
Austin, TX 78705
(512) 732-1276 (fax)
colby@denisondevelopment.com

On behalf of the Client, and in accordance with Section 49.10(e) of the Qualified Allocation Plan, we present the following questions or concerns about the scoring for Quantifiable Community Participation in the Application referenced above. Capitalized terms used but not defined in this letter will have the meanings given them in the Qualified Allocation Plan.

Maximum points were awarded for a letter of support from the Park Hudson Property Owners Association, Inc. (the "Association"). Our Client questions that award, given the following:

1. Inconsistent Information as to the Boundaries of the Association. The Bylaws for the Association refer to a 50.25 acre tract and "such additional lands that subsequently become subject to the Park Hudson Protective Covenants." The Bylaws refer to an Exhibit A attachment that would provide a legal description of the 50.25 acres. However, that attachment is not provided in the Applicant's submission. Moreover, the Park Hudson Protective Covenants (the "Covenants") refer to a 48.37 acre tract. The copy of the Covenants provided by the Applicant

Ms. Raquel Morales
June 14, 2011
Page 2

is missing page 9 and one of more pages following page 10, including the signature page. Taken together, it is clear that the Association relates to only that land restricted by the Covenants.

Yet, the Association claims its boundaries encompass almost 352 acres. There is no documentation that the Covenants were expanded to include the additional acreage. Such documentation should be filed in the real property records. If the land was properly added, did the addition occur prior to applicable TDHCA deadlines? Were all required notices given to the land owners of the additional acres?

In order to establish that the Development site is within the boundaries of the Association, the Association needs to submit either: (i) evidence that the site is in the 48.37 acre tract described in the Covenants or (ii) evidence that the Covenants were expanded to include the additional acreage prior to applicable TDHCA deadlines. That is the only way the Association can include the proposed Development.

2. Single Family Use is Inconsistent with the Park Hudson Restrictive Covenants. The Covenants indicate an intent for the restricted property to be a "first-class, multi-use commercial development." To this end, single family residences are not permitted in the uses described in Section 2 of the Covenants. It is acknowledged that the master developer, acting as the Administrator of the Covenants, can expressly approve another use. However, there is no evidence that the master developer has done so. It is simply inconsistent that the Association would be classified as a Neighborhood Organization when single family residences are not included as a permitted use in the fundamental legal documentation.

3. Association is not a Neighborhood Organization. Presumably, the Association was formed under the authority of the Covenants in Section 14. Note that the Covenants say that the Association may be formed "for the sole purpose of enforcing and administering these Protective Covenants" (emphasis added). If the purpose of the Association is only to enforce the Covenants, does it really qualify as a Neighborhood Organization? A Neighborhood Organization is defined as:

an organization of persons living near one another within the organization's defined boundaries that contain the proposed Development Site and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood.

How is the Association working for the welfare of the neighborhood when its sole authorized purpose is to enforce the Covenants?

4. No Ability to Participate. The QAP provides that "a Neighborhood Organization must take reasonable measures to provide notice to persons eligible to join or participate in the affairs of the organization of that right." According to the Bylaws of the Association, anyone who owns land subject to the Covenants is a member of the Association. However, these members have no rights to participate in the Association. The business of the Association is conducted by its board of directors, but the members currently have no right to elect those directors. The board of directors is elected solely by the master developer that is serving as the Administrator under the Covenants. Because the board of directors has all operational authority, only the

Ms. Raquel Morales
June 14, 2011
Page 3

master developer has a voice at this time. The members will not have a voice until the master developer sells off all of its ownership of the land restricted by the Covenants.

The Association asserts that the owners of single family residences within the 352 acres are also members of the Park Meadow Homeowners Association or the Park Village Homeowners Association and that these two homeowners associations are members of the Association. Since membership in the Association is limited to owners of real property, do the homeowners associations own property that qualifies them to be members of the Association? It seems the single family homeowners would have their primary voice through these two homeowners associations. Yet, there is no mechanism evident in the organizational documents for the Association whereby the homeowners associations can coordinate with the Association or otherwise represent the will of the homeowners.

Finally, the Association did not notify its members of the intent to support the Park Hudson Development until after the master developer had submitted the letter of support and after the Association received a notice of deficiency from TDHCA that inquired about resident participation. The letter to members, dated March 14, indicates that the Association is informing the members of the support for the Development and seeking any input for the first time. The QAP provides:

While not required, the organization is encouraged to hold a meeting to which all the members of the organization are invited to consider whether the organization should support, oppose, or be neutral on the proposed Development, and to have the membership vote on whether the organization should support, oppose, or be neutral on the proposed Development.

and

A Neighborhood Organization must take reasonable measures to provide notice to persons eligible to join or participate in the affairs of the organization of that right. Examples of reasonable measure would be giving notice in a newsletter distributed where residents will likely see them; posting notice (in compliance with local signage requirements); or distribution flyers.


The Association's failure to seek advance input from the homeowners reiterates the point that the Association is not a Neighborhood Organization, created for the benefit of the neighbors within a neighborhood. Rather, it is organized for the purpose of commercial development and controlled by one party, the master developer.

In conclusion, it seems the Association is trying to take what is a master association for commercial development and turn it into a Neighborhood Organization to benefit the Park Hudson Application. While our Client appreciates that the master developer and surrounding commercial property owners may very well want to support this Development, the Association does not have the qualities of a Neighborhood Organization to qualify for these particular points in the Application Round.

Ms. Raquel Morales
June 14, 2011
Page 4

We appreciate the opportunity to present this information and trust that TDHCA will consider it as appropriate in the allocation process.

Sincerely,

A handwritten signature in cursive script that reads "Cynthia L. Bast".

Cynthia L. Bast

cc: Robbye Meyer
Colby Denison

June 22, 2011

RE: Park Hudson, TDHCA No. 11241
Response to complaint regarding the Park Hudson Property Owners Association

Ms. Cline,

Please understand that I have never been involved with the State of Texas Tax Credit Housing Program before, so I have very little knowledge as to how this program works.

With that said, the Park Hudson Subdivision, Bryan, Texas, that is in question, is a mixed use development that is planned for both commercial & residential properties. There have been some ±17 amendments over time affecting the property owners association documents, all recorded in the official records of the county clerk office at the Brazos county courthouse that should satisfy any concerns your complainant has. The complaint only referenced one document filed approximately eleven years ago.

It appears that the complaint is from a very sophisticated law firm that very likely understands how large mixed use development is done and how association documents are amended as the development process continues. For whatever reason, they failed to provide you with all the facts and information.

So in conclusion, I stand by you, your review and approval conclusions and ask that before you give any further consideration to this complaint, to please make it incumbent upon the complainant to provide you with fair, honest and complete findings.

RESPONSE:

1. Inconsistent information as to the Boundaries of the Association.

The Park Hudson Subdivision is a mixed use development. There have been some ±17 amendments affecting the original filed documents of record.

The documents affecting the property in question are recorded in Volume 8826, page 220 of the official records of Brazos County, Texas on October 3, 2008.

2. Single Family Use is Inconsistent with the Park Hudson Restrictive Covenants.

Again, Park Hudson is a master planned, mixed use development including commercial, residential and parkland. There are 2 major residential neighborhoods that are a large component of the Park Hudson Subdivision; Park Meadow & Park Village. Both of these were provided in the narrative in response to your "Deficiency Letter".

The covenants were amended for Park Meadow according to volume 3972, page 263 of the official records for Brazos County Texas on October 31, 2000 and Park Village according to volume 7047 page 219 of the official records for Brazos County, Texas on November 16, 2005.

3. Association is not a Neighborhood Organization.

The Park Hudson Property Owners Association's main purpose is the same as every property owners or homeowners association. That purpose is to protect, preserve and enhance the value of all property owners and to enforce covenants and provide for common area maintenance. Through this, we maintain the general welfare of the neighborhood. Every property owner in the Park Hudson Subdivision pays assessments to the PHPOA for the purposes stated.

4. No Ability to Participate.

- a) In every amendment to the association documents it is clearly stated and made a part of the official records of Brazos County that any property (whether single family, multifamily, or commercial) within the Park Hudson Subdivision is a member of the PHPOA. Purchasers of land within the association's boundaries are notified of such.
- b) There are two homeowners associations within PHPOA, Park Meadow Homeowners Association and Park Village Homeowners Association. The HOAs inform the residents about the PHPOA and then they work with the PHPOA. Properties not within the HOAs work with the PHPOA directly. Each property pays dues to the PHPOA and has knowledge of the PHPOA.
- c) As stated in the complaint there was a letter sent out to every property owner and homeowners association on March 14, 2011. It should be noted that this letter was a **follow up** notification to the decision made by the POA Board regarding supporting the new multifamily development. This was a very extensive document of which a copy was forwarded to you. This letter included a contact for the association, the developer and the TDHCA. Any property owner, homeowner or interested Citizen was given multiple contacts to if they were interested in seeking further information from the developer or the Department

As noted by the complainant, there are no specific requirements that there be a public hearing for the organization to come to a decision. But there were several forums in which the POA and its members were able to hear more about the proposed development. Specifically:

- a) There was a City of Bryan Workshop Council meeting held on March 8th in a **public forum**, with public participation, to discuss all tax credit applications within the City of Bryan.
- b) There was a Special Called City of Bryan Council Meeting called on March 24, 2011 with **public participation**. The sole agenda item to discuss, in a **public forum**, was pending tax credit applications within the City of Bryan. The City of Bryan reviewed all applications and endorsed 2 projects by ordinance. The Park Hudson, TDHCA No. 11241, received an endorsement by the City Council of Bryan.

We are a legitimate property owners association that has been in existence for many years. We answered the TDHCA's questions and received a notice that points were awarded for our letter of support. We believe we met the requirements of the Tax Credit Housing Program. Please let me know if you have other questions.


Bill Lero

ANSON PARK III LIMITED PARTNERSHIP

8455 Lyndon Lane
Austin, TX 78729
Office (512) 249-6240 Fax (512) 249-6660

June 14, 2011

Mr. Tom Gouris, Deputy
Executive Director
Texas Department of Housing and
Community Affairs
221 East 11th Street
Austin, TX 78701

RECEIVED

June 15, 2011

DEPUTY ED.

Re: Challenge of Applications #11245, 11246 and 11248

Dear Mr. Gouris:

We hereby challenge the determination that applications #11245, 11246 and 11248 are not subject as a group to the \$2,000,000 credit limitation under Section 49.5(b) of the 2011 QAP. Further, we contend that all three applications should be terminated under Section 49.4(b)(1) of the 2011 QAP.

In support of our challenge, enclosed please find the following:

1. A cover memo detailing the facts and documentation that supports our challenge.
2. A filing with the Florida Secretary of State filed 3/25/11 detailing the managers of Pinnacle Housing Group, LLC.
3. A filing with the Florida Secretary of State filed 2/22/10 detailing the managers of Pinnacle Housing Group, LLC.
4. A copy from a Florida tax credit application that shows the Officers/Managers/Members Of Pinnacle Housing Group, LLC.
5. Pertinent pages from application #11245.
6. Pertinent pages from application #11246.
7. Pertinent pages from application #11248.
8. Pertinent pages from application #11246 QCP submission.
9. Pertinent pages from application #11248 QCP submission.
10. Pertinent pages from the records of the Florida Secretary of State showing that the names of the managing GPs for each application were changed in February 2011 to remove any references to PHG (Pinnacle Housing Group).

Based upon the facts in this challenge, we respectfully request that applications #11245, 11246 and 11248 be terminated.

Thank you for your consideration. If you have any questions, please contact us.

Sincerely,


Jay Collins
General Partner

05-15-11P12:41 RCVD

06-15-11 P12:41 RCVD

Questions

1. Did Pinnacle Housing Group, LLC attempt to violate the \$2 Million credit limit in QAP Section 49.5(b)? See pages 11 and 12 of 2011 QAP.
2. Should all of the applications filed by principals of Pinnacle Housing Group, LLC be terminated under QAP Section 49.4(b)(1) for the provision of negligent material misrepresentation? See page 8 of 2011 QAP.

Facts

1. Pinnacle Housing Group, LLC (PHG) is a Developer of affordable housing based in Miami, Florida. Per the attached annual reports filed with the State of Florida on 2/22/10 and 3/25/11, the members of PHG are Louis Wolfson III, Michael D. Wohl, Mitchell M. Friedman and David O. Deutch. All four are also officers of PHG per the attached exhibit from an application filed by PHG with the Florida Housing Finance Corporation.
2. Per application #11245, Michael D. Wohl filed an application with TDHCA as a separate owner of an LLC and as a developer separate and apart from PHG. In particular, the Applicant Credit Limit Documentation and Certification does not show any of the other members of PHG as Related Parties and/or Affiliates. The application has many instances where it references PHG, such as the email address for Michael Wohl, the fact that the managing member of the GP of the Applicant is David O. Deutch, and the GP's official mailing address is the offices of PHG. Also, in their application to CAHFC for local government contribution, it categorically states that Michael Wohl is a partner in PHG.
3. Per application #11246, Louis Wolfson III filed an application with TDHCA as a separate owner of an LLC and as a developer separate and apart from PHG. In particular, the Applicant Credit Limit Documentation and Certification does not show any of the other members of PHG as Related Parties and/or Affiliates. The application has many instances where it references PHG, such as the email address for Louis Wolfson III, the fact that the managing member of the GP of the Applicant is David O. Deutch, and the GP's official mailing address is the offices of PHG. Also, in their application to CAHFC for local government contribution, it categorically states that Louis Wolfson III is a partner in PHG.
4. Per application #11248, Mitchell Friedman filed an application with TDHCA as a separate owner of an LLC and as a developer separate and apart from PHG. In particular, the Applicant Credit Limit Documentation and Certification does not show any of the other members of PHG as Related Parties and/or Affiliates. The application has many instances where it references PHG, such as the email address for Mitchell Friedman, the fact that the managing member of the GP of the Applicant is David O. Deutch, and the GP's official mailing address is the offices of PHG.
5. Please note the following in the pertinent pages attached from QCP submission #11246: on the sign-in sheet, Lisa Stephens is identified by her email as being part of PHG; the meeting minutes identify Lisa Stephens as being with Tylor Grand Development, the "separate" developer of the property that is the subject of the application; and the minutes document that the principal of Tylor Grand was involved with one application in 2010 that was awarded funding (Pinnacle at North Chase, which was owned and developed by PHG).

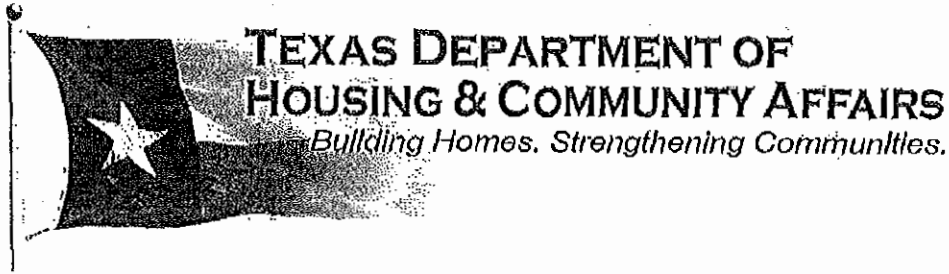
6. Please note the following in the pertinent pages attached from QCP submission #11248: on the sign-in sheet, Lisa Stephens is identified by her email as being part of PHG; she is signed-in as "Pinnacle and Singing Oak"; and the meeting minutes identify Lisa Stephens as being with Singing Oaks Development, the "separate" developer of the property that is the subject of the application.

Discussion

1. Section 49.5(b) of the QAP states that "The Department shall not allocate more than \$2 million of tax credits to any Applicant, Developer, Related Party, Affiliate, or Guarantor...". It also states that "All entities that share a Principal are Affiliates."
2. Principals are defined by TDHCA as "In the case of:...limited liability companies, Principals include...any officer authorized to act on behalf of the limited liability company."
3. Related Party is defined by TDHCA as "(B) Nothing in this definition is intended to constitute the Department's determination as to what relationship might cause entities to be considered "related" for various purposes...". Therefore, TDHCA has great latitude in determining if two parties are related based upon the facts and circumstances.
4. By their filing for PHG on 3/25/11, Wohl, Wolfson and Friedman have attested that they operate together as one development company. They are trying to say that they are separate in Texas, yet they are co-owners and co-developers of a property that won HTC in Texas in 2010.
5. By their changing of the names on the managing GP of each Applicant in February 2011 it appears that this was a planned action on the part of Wohl, Wolfson and Friedman. Please note that the original names of the managing GPs all made reference to PHG.

Conclusions

1. All of Michael Wohl, Louis Wolfson III and Mitchell Friedman are Principals of PHG under the definitions promulgated by TDHCA. Therefore, they are all Affiliates and are collectively subject to the \$2 million limitation and that should have been disclosed in applications 11245, 11246 and 11248.
2. The facts and circumstances dictate that Wohl, Wolfson and Friedman operate as one development company and that they are Related Parties. Therefore, they are collectively subject to the \$2 million limitation and that should have been disclosed in applications 11245, 11246 and 11248.
3. All three took positive steps to disguise their Affiliation and that they were Related Parties by using different mailing addresses in their Applications and by changing the names of the managing GPs to remove any reference to PHG. That at least rises to the level of negligent material misrepresentation, and all three applications should be terminated.



2011 Multifamily Uniform Application Certification
 Mailing Address: P.O. Box 13941, Austin, TX 78711-3941
 Physical Address: 221 East 11th Street, Austin, TX 78701

Development Name: Bar T Apartments Development City: Longview

The undersigned hereby makes an Application to Texas Department of Housing and Community Affairs. The Applicant affirms that they have read and understand the 2011 Qualified Allocation Plan, and in particular understands the requirements under §49.12(a), Adherence to Obligations, as well as IRC Section 42. By signing this document, Applicant is affirming that all statements and representations made in this document, including all supporting materials, are true and correct 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).

By: [Signature] Signature of Applicant Michael Wohl Printed Name 2/22/11 Date

STATE OF: Florida
 COUNTY OF: Miami-Dade

I, the undersigned, a Notary Public in and for said County and State, do hereby certify that Michael Wohl whose name is signed to the foregoing statement, and who is known to be one in the same, has acknowledged before me on this date, that being informed of the contents of this statement, executed the same voluntarily on the date same foregoing statement bears.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 22 day of February, 2011

(Seal)

[Signature] Notary Public Signature

NOTARY PUBLIC, STATE OF FLORIDA
 Lisa M. Gonzalvo
 Commission # EE040668
 Expires: NOV. 08, 2014
 BONDED THRU ATLANTIC BONDING CO., INC.

Notary Public, State of Florida
 County of Miami-Dade
 My commission expires: 11/8/14

06-15-11P12:41 RCVD

PART A. ACTIVITY OVERVIEW

1. Multifamily Rental Development Name and Location

Development Name: Bar T Apartments Region: 4
 Address: NW Quadrant of Bill Owens and Heather
 City: Longview County: Gregg ZIP: 75604
 If a Pre-Application was submitted, enter TDHCA assigned Development number: 11245

2. Target Population (Select by Placing a "x"):

General Supportive Housing
 Elderly

3. Construction Type (Select Only One by Placing a "x"):

New Construction Adaptive Reuse
 Rehabilitation Single Room Occupancy
 Reconstruction

PART B. APPLICANT INFORMATION

Provide the contact information for the Applicant's staff person who is responsible for Application and contract administration. This primary contact will not be the consultant or the end service provider.

1. Applicant Contact Information

Applicant Legal Name: Bar T Apartments, LLC
 Applicant Contact Name: Michael Wohl
 Mailing Address: 1921 Abbey Road
 City: West Palm Beach State: FL Zip: 33415-0000
 Phone: (561) 627-2820 Fax: (561) 627-3285 Email: mwohl@pinnaclehousing.com

If Applicant's "Physical Address" is different from the "Mailing Address," provide physical address below:

Physical Address: N/A
 City: _____ State: _____ Zip: _____
 2nd Contact Name: Alyssa Carpenter
 Phone: (512) 789-1295 Fax: (512) 233-2269 Email: ajcarpen@gmail.com

2. Applicant Legal Description

Is Applicant Legally formed? No
 Legal form of Applicant is/will be a (select only one): Limited Liability Company
 Other Designation (select all that apply): N/A
N/A
 Applicant is in good standing with the Secretary of State? Yes State Filing #: to be formed

3. Application Technical Assistance and Capacity Building

Has the Applicant or its Principals received technical assistance or capacity building training for their organization in completing this Application or for the activity for which this Application is being made? yes

If "Yes" it was sponsored by: TDHCA
 If "Other Sponsor" provide name here: NA
 The activity was: Workshop
 If "Other" describe activity here: NA

Was a Consultant or Administering Agent used to complete the Applicant? Yes
 If "Yes" provide Consultant/Agent Name here: S2A Development Consulting, LLC
 Phone: (512) 698-3369 Fax: (512) 233-2269 Email: sarah@s2adevelopment.com

Volume 1 Tab 4 Part B
FINANCING PLAN
Bar T Apartments

Construction Loan

The partnership will obtain a loan in the amount of \$2,085,823 through Wells Fargo for the construction of the improvements. The interest rate was calculated at 7.5%. The construction lender will have first lien on the land and the improvements. The letter confirming this is combined with the permanent lending letter and is included in the application.

Equity

Equity will be advanced from Wells Fargo in the estimated amount of \$11,027,567 with 80% of this amount projected to be disbursed during the construction phase. The exact amount may be adjusted based on adjusters to be defined in the partnership agreement. The syndication proceeds are to be based on \$0.79 per dollar of tax credits and a projected tax credit allocation of \$1,396,034. This letter of intent has been received and is enclosed in the application.

Permanent Loan

A permanent mortgage loan will be obtained through Wells Fargo. The amount of the loan will be \$2,341,588. The interest rate is 7.5%. This rate will not be locked until closing. Payments are based on a 30-year amortization and a term of 18 years. The developer has received conditional approval for this loan and the letter is enclosed in the application.

Other

The developer has applied to Capital Area Housing Finance Corporation for a loan in the amount of \$525,000. The terms are to be determined but will conform to all TDHCA standards, per the QAP. These funds are intended as interim financing. A letter of commitment is attached to this application and also included in Volume 4.

Adam Rubin will provide an interim loan in the amount of \$320,000 or 2% of the development costs. These funds will be used for pre development expenses and are intended to qualify as 2% of the total development cost. Terms are to be determined if an award of Tax Credits is received but they will confirm to all TDHCA guidelines per the QAP.

Finally, in the event that sources will not be adequate to cover all anticipated costs, the developer has committed to defer a portion of the developer fee. These funds will be structured as a cash-flow loan to the project, at the Applicable Federal Rate. Currently, this amount is projected at \$62,602 and can be paid back from cash flow within the first fifteen years of the project.

Wells Fargo Community Lending and Investment
301 South College Street
Charlotte, NC 28268-5040
704.374.3488



**WELLS FARGO
PRELIMINARY LOAN COMMITMENT AGREEMENT
FOR CONSTRUCTION AND PERMANENT FINANCING**

February 22, 2011

Mr. Michael D. Wohl
Bar T Apartments, LLC
1921 Abbey Road.
West Palm Beach, FL 33415

*Re: Bar T Apartments—116 units
Longview, Gregg County, Texas*

Dear Mr. Wohl:

We are pleased to advise you that, on or before the date set forth above, we have preliminarily approved a construction and permanent loan for the above referenced development. This preliminary commitment is made based upon the financial information and projections provided to us in support of your loan application, and under the following terms and conditions:

Borrower: Bar T. Apartments, LLC, a Florida limited liability company.

Guaranty: The unconditional joint and several guaranty of payment and performance of the construction loan and permanent loan (described below) by Michael D. Wohl, Bar T Region 4 Holding, LLC and any such other entity/individual deemed appropriate following Wells Fargo due diligence review. The permanent loan (described below) is non-recourse.

Loan Amount: Construction - \$2,085,823
Permanent - \$2,341,588

February 22, 2011
Page 2 of 4

Interest Rate: Construction - LIBOR plus 500 basis points with a floor of 7.50% and a rate fixed at closing.
Permanent - 10-year treasury plus 150 basis points with a floor of 7.50% and a rate fixed at closing.

The construction debt was underwritten at 7.50% interest. The permanent debt was underwritten at 7.50% interest. Actual rate may be negotiated by the payment of additional points set at closing.

Repayable: Construction - Interest only payable monthly.
Permanent - Principal and interest payable monthly

Term: Construction - 24 months
Permanent - 18 years
Amortization - 30 years

Commitment Fee: 1.0% of the Construction loan payable at closing.
1.0% of the Permanent loan payable at closing.

Security: Construction and Permanent - A first mortgage lien on the above proposed development.

Conditions to Funding Construction Loans:

Successful award and allocation of annual low income housing tax credits from the TDHCA.

Complete plans and specifications.

Firm cost estimates with Wells Fargo's independent analysis.

Appraisal acceptable to Wells Fargo

Soils analysis and environmental report acceptable to Wells Fargo

The general contractor and the construction contract shall be subject to approval by Wells Fargo.

Such other conditions which are customary and reasonable for a loan of this nature and amount

February 22, 2011
Page 3 of 4

Conditions to Funding Permanent Loan:

Construction of the project is 100% complete.

Property has reached stabilized occupancy for at least 90 days.

All certificates of occupancy have been issued and remain in effect.

A final allocation of low-income housing tax credits has been received.

Such other conditions which are customary and reasonable for a loan of this nature and amount

All third-party beneficiary rights are expressly negated. No person who is not a party to this preliminary commitment shall have or enjoy any rights under this letter. No change, amendment or modification of this preliminary commitment shall be valid unless made in writing, addressed to the Borrower and signed by a duly authorized officer of Wells Fargo.

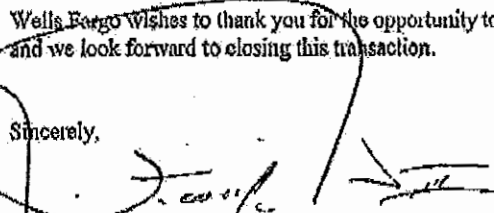
Each development financed by Bank must have an appropriate amount of financial liquidity and net worth, in the Bank's opinion, to cure potential deficiencies and/or short falls. The Bank has reviewed the Applicant's financial position and credit worthiness. Bank has determined that based on information provided by the Applicant, the Applicant has a net worth of at least \$1,000,000 which meets the applicable net worth standards that the Bank would require in connection with the proposed Development.

By executing this letter, the Applicant agrees (a) to indemnify and hold harmless Bank and its affiliates and their respective officers, directors, employees, advisors, and agents from and against any and all losses, claims, damages and liabilities to which any such indemnified person may become subject arising out of or in connection with its issuance of this letter, and to reimburse each indemnified person upon demand for any legal or other expenses incurred in connection with investigating or defending any of the foregoing.

This commitment will expire on December 31, 2011 if not extended by Wells Fargo.

Wells Fargo wishes to thank you for the opportunity to provide financing for the development, and we look forward to closing this transaction.

Sincerely,


J. Frederick Davis, III
Managing Director

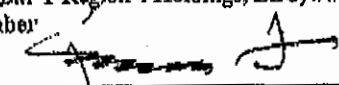
Signatures continued on following page.

February 22, 2011
Page 4 of 4

Agreed and Accepted this Day:

By: Bar T Apartments, LLC

By: Bar-T Region 4 Holdings, LLC, a Florida limited liability company as its Managing Member

By: 
Name: Michael D. Wohl
Title: Member

Date: 2 / 26 / 2011

Division of Corporations

L10000130349

Florida Department of State
Division of Corporations
Electronic Filing Cover Sheet

Note: Please print this page and use it as a cover sheet. Type the fax audit number (shown below) on the top and bottom of all pages of the document.

((H10000273241 3)))



H1000027324134BCU

Note: DO NOT hit the REFRESH/RELOAD button on your browser from this page. Doing so will generate another cover sheet.

L. SELLERS

DEC 22 2010

EXAMINER

To: Division of Corporations
Fax Number : (850) 617-6383

From: Account Name : STEARNS WEAVER MILLER WEISSLER ALHADEFF & SUTTONSON
Account Number : 120060000135
Phone : (305) 789-3200
Fax Number : (305) 789-3395

Enter the email address for this business entity to be used for future annual report mailings. Enter only one email address please.

Email Address: _____

FLORIDA LIMITED LIABILITY CO.
PHG TX REGION 4, LLC

Certificate of Status	1
Certified Copy	1
Page Count	02
Estimated Charge	\$160.00

RECEIVED

10 DEC 21 AM 10:44

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Electronic Filing Menu Corporate Filing Menu Help

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

19 DEC 21 AM 11:06

FILED

**ARTICLES OF ORGANIZATION OF
PHG TX REGION 4, LLC**

The undersigned, for the purpose of forming a limited liability company under the Florida Limited Liability Company Act, Florida Statutes Chapter 608, as amended, hereby makes, acknowledges and files the following Articles of Organization.

ARTICLE I - NAME

The name of the limited liability company is PHG TX Region 4, LLC (the "Company").

ARTICLE II - ADDRESS

The mailing address and street address of the principal office of the Company is 9400 S. Dadeland Boulevard, Suite 100, Miami, Florida 33156.

ARTICLE III - DURATION

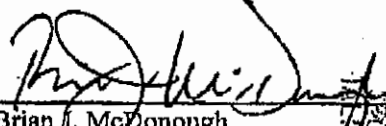
The period of duration for the Company shall be perpetual.

ARTICLE IV - REGISTERED OFFICE AND AGENT AND ADDRESS

The name and street address of the registered agent of the Company in the State of Florida are:

<u>Name</u>	<u>Address</u>
Brian J. McDonough	2200 Museum Tower 150 West Flagler Street Miami, Florida 33130

IN WITNESS WHEREOF, the undersigned has made and subscribed these Articles of Organization for the foregoing uses and purposes this 21 day of December 2010.

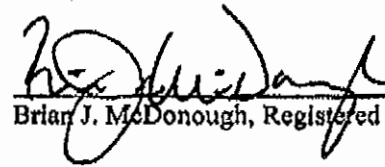

 Brian J. McDonough
 Authorized Representative

19 DEC 21 AM 11:06
 FILED
 STATE OF FLORIDA

REGISTERED AGENT'S ACCEPTANCE

Having been named as registered agent and to accept service of process for PHG TX Region 4, LLC at the place designated in this certificate, the undersigned hereby accepts the appointment as registered agent and agrees to act in this capacity. The undersigned further agrees to comply with the provisions of all statutes relating to the proper and complete performance of his duties, and is familiar with and accepts the obligations of his position as registered agent as provided for in Chapter 608, Florida Statutes.

Dated: December 21, 2010



Brian J. McDonough, Registered Agent

L10000130349

Florida Department of State
Division of Corporations
Electronic Filing Cover Sheet

Note: Please print this page and use it as a cover sheet. Type the fax audit number (shown below) on the top and bottom of all pages of the document.

((H11000040344 3)))



H11000040344ABCR

Note: DO NOT hit the REFRESH/RELOAD button on your browser from this page. Doing so will generate another cover sheet.

To: Division of Corporations
Fax Number : (850) 617-6383

From: Account Name : STEARNS WEAVER MILLER WEISSLER ALHADEFF & SJTTERSON
Account Number : I20060000135
Phone : (305) 789-3200
Fax Number : (305) 789-3395

Enter the email address for this business entity to be used for future annual report mailings. Enter only one email address please.

Email Address: _____

LLC AMND/RESTATE/CORRECT OR M/MG RESIGN
PHG TX REGION 4, LLC

Certificate of Status	0
Certified Copy	1
Page Count	01
Estimated Charge	\$55.00

RECEIVED
11 FEB 15 PM 12:36
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

FILED
11 FEB 15 AM 9:00
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Electronic Filing Menu Corporate Filing Menu Help

**ARTICLES OF AMENDMENT
TO
ARTICLES OF ORGANIZATION
OF
PHG TX REGION 4, LLC**

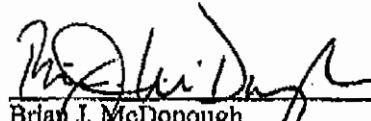
1. The Articles of Organization of PHG TX Region 4, LLC, a Florida limited liability company, were filed on December 21, 2010 and assigned document number L10000130349.

2. This amendment is submitted to amend the following:

ARTICLE I - NAME

The name of the limited liability company is Bar T Region 4 Holding, LLC.

IN WITNESS WHEREOF, the undersigned has executed these Articles of Amendment as of the 15 day of February 2011.



Brian J. McDonough
Authorized Representative

FILED
11 FEB 15 AM 9:00
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

2011 LIMITED LIABILITY COMPANY ANNUAL REPORT

DOCUMENT# L10000130349

**FILED
Apr 29, 2011
Secretary of State**

Entity Name: BAR T REGION 4 HOLDING, LLC

Current Principal Place of Business:

9400 S. DADELAND BLVD., STE. 100
MIAMI, FL 33156

New Principal Place of Business:

Current Mailing Address:

9400 S. DADELAND BLVD., STE. 100
MIAMI, FL 33156

New Mailing Address:

FEI Number:

FEI Number Applied For (X)

FEI Number Not Applicable ()

Certificate of Status Desired (X)

Name and Address of Current Registered Agent:

MCDONOUGH, BRIAN J
2200 MUSEUM TOWER
150 W. FLAGLER STREET
MIAMI, FL 33130 US

Name and Address of New Registered Agent:

The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.

SIGNATURE: _____

Electronic Signature of Registered Agent

_____ Date

MANAGING MEMBERS/MANAGERS:

Title: VP
Name: DEUTCH, DAVID O
Address: 9400 S. DADELAND BLVD., STE. 100
City-St-Zip: MIAMI, FL 33156

I hereby certify that the information indicated on this report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am a managing member or manager of the limited liability company or the receiver or trustee empowered to execute this report as required by Chapter 608, Florida Statutes.

SIGNATURE: DAVID O. DEUTCH

VP

04/29/2011

Electronic Signature of Signing Managing Member, Manager, or Authorized Representative / Date

Wells Fargo Community Lending and Investment
301 South College Street
Charlotte, NC 28288-5640
704.374.3468



**WELLS FARGO BANK
EQUITY LETTER OF INTENT**

February 22, 2011

Mr. Michael D. Wohl
Bar T Apartments, LLC
1921 Abbey Road,
West Palm Beach, FL 33415

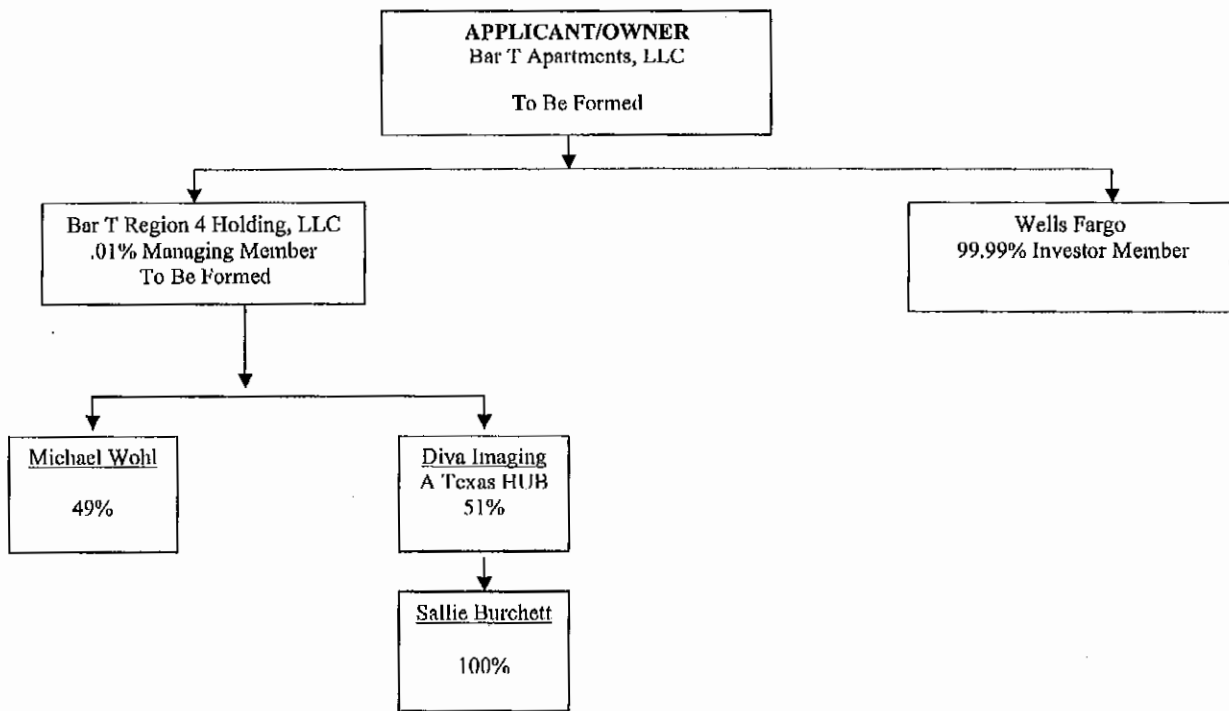
**Re: Bar T Apartments— 116 units
Longview, Gregg County, Texas**

Dear Mr. Wohl:

We are pleased to advise you that we have preliminarily approved an equity investment in Bar T Apartments, LLC, a Texas Limited Liability Company, which will own and operate a 116-unit affordable housing community to be known as Bar T Apartments, located in Longview, Gregg County, Texas. This preliminary commitment is made based upon the financial information provided to us in support of your request, and under the following terms and conditions:

Investment Entity:	Bar T Apartments, LLC, a Texas Limited Liability Company (the "Company"), with Bar T Region 4 Holding, LLC as Managing Member and Wells Fargo Bank ("Wells Fargo") as Investor Member with a 99.99% ownership interest in the Partnership.
Annual Housing Credit Allocation:	\$1,396,034*
Housing Credits Purchased:	\$13,958,946 (\$13,960,342 x 99.99 %)*
Syndication Rate:	\$0.79*
Net Capital Contribution:	\$11,027,567* * All numbers are rounded.
Equity Proceeds Paid Prior to Construction Completion:	\$8,822,054* (80%) * All numbers are rounded to the nearest dollar.

ORGANIZATIONAL CHART FOR APPLICANT/OWNER



PART C. APPLICANT CREDIT LIMIT DOCUMENTATION AND CERTIFICATION (HTC 9% ONLY)

Pursuant to §49.5(b) of the 2011 QAP, the Department shall not allocate more than \$2 million of tax credits from the 2011 Application Round to any Applicant, Developer, Related Party, Affiliate or Guarantor (unless the Guarantor is also the General Contractor, and is not a Principal of the Applicant, Developer, Related Party or Affiliate of the Development Owner). Applicants are eligible to submit multiple tax credit Applications for which the aggregate requested credits exceed \$2 million; however, all Applications must be identified herein to ensure that the Department is advised of all Applications, Applicants, Affiliates, Developers, General Partners, Related Parties or Guarantors involved to avoid any statutory violation of Texas Government Code, §2306.6711.

Instructions:

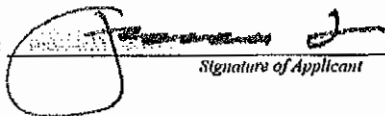
Complete Part I of this form. For each person or entity identified in Part I, a Part II form must be submitted (i.e. if 4 persons/entities are listed in Part I, then 4 separate Part II forms must be provided).

Part I. Applicant Credit Limit Documentation

- A. Development Name: Bar T Apartments
- B. Applicant Name: Bar T Apartments, LLC
- C. Applicant, Developers, Related Parties, Affiliates and Guarantors- List below all entities or Persons meeting the definition of Applicant, Affiliate, Developer, Related Party, or Guarantor.

1. Bar T Apartments, LLC
2. Bar T Region 4 Holding, LLC
3. Diva Imaging
4. Sallie Durheim
5. Michael Wohl
6. Bar T Development, LLC
7. _____
8. _____
9. _____
10. _____
11. _____
12. _____
13. _____
14. _____
15. _____

Individually, or as the general partner(s) or officer(s) of the Applicant entity, I (we) certify that we are submitting behind this tab one signed Credit Limit Certification form for each person and entity that meet the definition of Applicant, Developer, Related Party, Affiliate or Guarantor.

By:  _____ Its: Michael Wohl

Signature of Applicant

2/20/11
Date

Part II. Credit Limit Certification

Instructions:

Each Person or Entity indicated on the Development Owner's and Developer's organizational charts must complete this form, including the Applicant, Developer, Related Party, Affiliate or Guarantor, nonprofit entities, public housing authorities, publicly traded corporations, individual board members, and executive directors.

Application Development Name: Bar T Apartments

Applicant Name: Bar T Apartments, LLC

Name and role of Person or Entity Completing this form (must match Part I): Bar T Apartments, LLC

- which is:
- the Applicant (Entity that generally manages or controls the "Applicant", i.e. General Partner, Managing Partner, etc..)
 - a Special Limited Partner or Class B Limited Partner or equivalent of the Applicant
 - a Developer for the Applicant for this specific Application
 - a Related Party to the Applicant
 - an Affiliate to the Applicant
 - a Guarantor on the Application

Address: 1921 Abney Road City: West Palm Beach State: FL Zip: 33415

The Rules of the Texas Department of Housing and Community Affairs (the "Department") provide in §49.5(b) of the QAP that the Department shall not allocate more than \$2 million of tax credits from the 2011 Application Round to any Applicant, Developer, Related Party, Affiliate or Guarantor. The undersigned represents to the Department that the following is a list of all developments for which the Applicant, the Developer, Related Party, Affiliate or Guarantor, has applied for an allocation of 2011 tax credit authority from the Department in the 2011 Application Round.

Development Name	City	% Ownership	% of Dev. Fee	Joint Venture?
<u>Bar T Apartments</u>	<u>Longview</u>	<u>100%</u>		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No

I acknowledge that Michael Wohl is the person with the authority to withdraw or terminate the Application in the event of a conflict in accordance with §49.5(b) of the Qualified Allocation Plan and Rules.

I hereby certify that the foregoing is a complete list of Developments with respect to which I am seeking an allocation of 2011 tax credit authority from the Department. I certify that, if the Department makes a recommendation to the Board or issues a commitment which may cause Applications for which I am the Applicant, the Developer, Related Party, Affiliate or Guarantor, to receive credits in excess of \$2 million, I will notify the Department in writing within three business days of the recommendation or issuance of the commitment.

I acknowledge that if the Department determines that an Applicant, Developer, Related Party, Affiliate or Guarantor, has received (in the aggregate) allocations in the 2011 Application Round from the Department exceeding \$2 million, the Department must refuse to issue one or more Commitment Notices or Carryover Allocations, or must terminate one or more Commitment Notices or Carryover Allocations.

Under penalty of perjury, I certify that this information and these statements are true, complete and accurate:

By:  Michael Wohl 2/22/11
Signature of Applicant, Developer, Related Party, Affiliate or Guarantor (as appropriate) Printed Name Date

Part II. Credit Limit Certification

Instructions:

Each Person or Entity indicated on the Development Owner's and Developer's organizational charts must complete this form, including the Applicant, Developer, Related Party, Affiliate or Guarantor, nonprofit entities, public housing authorities, publicly traded corporations, individual board members, and executive directors.

Application Development Name: Bar T Apartments

Applicant Name: Bar T Apartments, LLC

Name and role of Person or Entity Completing this form (must match Part I): Bar T Region 4 Holding, LLC

- which is: the Applicant (Entity that generally manages or controls the "Applicant", i.e. General Partner, Managing Partner, etc.)
- a Special Limited Partner or Class B Limited Partner or equivalent of the Applicant
- a Developer for the Applicant for this specific Application
- a Related Party to the Applicant
- an Affiliate to the Applicant
- a Guarantor on the Application

Address: 1921 Abbey Road City: West Palm Beach State: FL Zip: 33415

The Rules of the Texas Department of Housing and Community Affairs (the "Department") provide in §49.5(b) of the QAP that the Department shall not allocate more than \$2 million of tax credits from the 2011 Application Round to any Applicant, Developer, Related Party, Affiliate or Guarantor. The undersigned represents to the Department that the following is a list of all developments for which the Applicant, the Developer, Related Party, Affiliate or Guarantor, has applied for an allocation of 2011 tax credit authority from the Department in the 2011 Application Round.

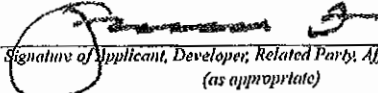
Development Name:	City:	% Ownership:	% of Dev. Fee:	Joint Venture?
<u>Bar T Apartments</u>	<u>Longview</u>	<u>100%</u>		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
				<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
				<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
				<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
				<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
				<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

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I hereby certify that the foregoing is a complete list of Developments with respect to which I am seeking an allocation of 2011 tax credit authority from the Department. I certify that, if the Department makes a recommendation to the Board or issues a commitment which may cause Applications for which I am the Applicant, the Developer, Related Party, Affiliate or Guarantor, to receive credits in excess of \$2 million, I will notify the Department in writing within three business days of the recommendation or issuance of the commitment.

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Under penalty of perjury, I certify that this information and these statements are true, complete and accurate:

By:  Michael Wohl 2/22/11
(as appropriate) Printed Name Date

Part II. Credit Limit Certification

Instructions:

Each Person or Entity indicated on the Development Owner's and Developer's organizational charts must complete this form, including the Applicant, Developer, Related Party, Affiliate or Guarantor, nonprofit entities, public housing authorities, publicly traded corporations, individual board members, and executive directors.

Application Development Name: Bar T Apartments

Applicant Name: Bar T Apartments, LLC

Name and role of Person or Entity Completing this form (must match Part I): Michael Wohl

- which is:
- the Applicant (Entity that generally manages or controls the "Applicant", i.e. General Partner, Managing Partner, etc..)
 - a Special Limited Partner or Class B Limited Partner or equivalent of the Applicant
 - a Developer for the Applicant for this specific Application
 - a Related Party to the Applicant
 - an Affiliate to the Applicant
 - a Guarantor on the Application

Address: 1921 Abbey Road City: West Palm Beach State: TX Zip: 33415

The Rules of the Texas Department of Housing and Community Affairs (the "Department") provide in §49.5(b) of the QAP that the Department shall not allocate more than \$2 million of tax credits from the 2011 Application Round to any Applicant, Developer, Related Party, Affiliate or Guarantor. The undersigned represents to the Department that the following is a list of all developments for which the Applicant, the Developer, Related Party, Affiliate or Guarantor, has applied for an allocation of 2011 tax credit authority from the Department in the 2011 Application Round.


Development Name:	City:	% Ownership:	% of Dev. Fee:	Joint Venture?
<u>Bar T Apartments</u>	<u>Longview</u>	<u>100%</u>	<u>100%</u>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
_____	_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No

I acknowledge that Michael Wohl is the person with the authority to withdraw or terminate the Application in the event of a conflict in accordance with §49.5(b) of the Qualified Allocation Plan and Rules.

I hereby certify that the foregoing is a complete list of Developments with respect to which I am seeking an allocation of 2011 tax credit authority from the Department. I certify that, if the Department makes a recommendation to the Board or issues a commitment which may cause Applications for which I am the Applicant, the Developer, Related Party, Affiliate or Guarantor, to receive credits in excess of \$2 million, I will notify the Department in writing within three business days of the recommendation or issuance of the commitment.

I acknowledge that if the Department determines that an Applicant, Developer, Related Party, Affiliate or Guarantor, has received (in the aggregate) allocations in the 2011 Application Round from the Department exceeding \$2 million, the Department must refuse to issue one or more Commitment Notices or Carryover Allocations, or must terminate one or more Commitment Notices or Carryover Allocations.

Under penalty of perjury, I certify that this information and these statements are true, complete and accurate:

By:  Michael Wohl 2/20/11
(as appropriate) Printed Name Date



Office of the Secretary of State

**CERTIFICATE OF RESERVATION OF
ENTITY NAME
OF**

Bar T Apartments, LLC

The undersigned, as Secretary of State of Texas, hereby certifies that the above entity name has been reserved in this office pursuant to the provisions of Section 5.101 of the Texas Business Organizations Code for the exclusive use of

Bar T Apartments, LLC
9400 S. Dadeland Blvd., Ste. 100, Miami, FL 33156

for a period of one hundred twenty days after the date hereof.

This name reservation does not authorize the use of a name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: 02/07/2011



A handwritten signature in black ink, appearing to read "Hope Andrade".

Hope Andrade
Secretary of State



Office of the Secretary of State

CERTIFICATE OF RESERVATION OF ENTITY NAME OF

Bar T Region 4 Holding, LLC

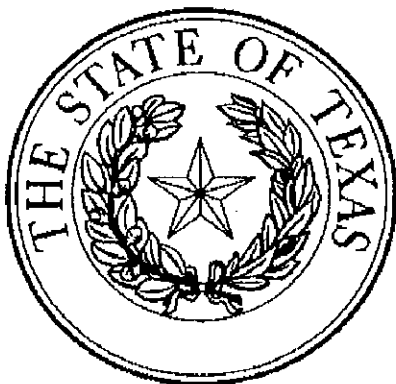
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Bar T Region 4 Holding, LLC
9400 S. Dadeland Blvd., Ste. 100, Miami, FL 33156

for a period of one hundred twenty days after the date hereof.

This name reservation does not authorize the use of a name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: 02/10/2011



A handwritten signature in black ink, appearing to read "Hope Andrade".

Hope Andrade
Secretary of State



Office of the Secretary of State

**CERTIFICATE OF RESERVATION OF
ENTITY NAME
OF**

Bar T Development, LLC

The undersigned, as Secretary of State of Texas, hereby certifies that the above entity name has been reserved in this office pursuant to the provisions of Section 5.101 of the Texas Business Organizations Code for the exclusive use of

Bar T Development, LLC
9400 S. Dadeland Blvd., Ste. 100, Miami, FL 33156

for a period of one hundred twenty days after the date hereof.

This name reservation does not authorize the use of a name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: 02/07/2011



A handwritten signature in black ink, appearing to read "Hope Andrade".

Hope Andrade
Secretary of State

See Attachment 3 for firm brochures and resumes.

8. Summarize prior development, ownership and management experience of the Applicant or its principals, indicating date of project, type of project, location of project and method of financing.

Lisa Stephens

Lisa Stephens, Vice President for Tylor Region Holding, LLC is responsible for oversight of the development of Bar T. With more than 12 years of progressive experience in multi-family real estate development and construction, Ms. Stephens brings these qualities to bear in each and every opportunity she undertakes. She is responsible for carrying out strategic corporate goals of product and location diversification through the ongoing development, acquisition and construction of multi-family housing. A 1996 graduate of the University of Florida's prestigious Fisher School of Accounting, Ms. Stephens's educational background provides her the skills set necessary to manage and best utilize diverse financial resources available to the affordable housing industry. During her tenure in the affordable housing industry, Ms. Stephens has secured and closed in excess of \$125M of federal, state and local competitive funds across the southeastern United States. She has structured creative financing strategies to create recurring long term income and negotiated complex sales transactions involving nearly 100 developments in multiple states. Her fortitude and ability to successfully adapt to an ever changing environment have been the hallmark of her career. In 2009, Ms. Stephens was named by Affordable Housing Finance as one of twelve Young Leaders nationwide. This magazine, an influential trade publication serving the affordable housing industry, annually honors 12 individuals under the age of 40 who have been nominated by their peers and colleagues as the next generation of affordable housing and community development leaders. They represent for-profit and nonprofit developers, financial providers and policy makers within the affordable housing community. A resume for Ms. Stephens is attached as Attachment 4.

Michael Wohl

Mr. Michael Wohl is the member of Bar T Region 4 Holding, LLC, the managing member of Bar T Apartments, L.L.C. A partner in Pinnacle Housing Group, Mr. Wohl has participated in the development and construction of more than 5,000 affordable multi-family housing units. Mr. Wohl's abilities are enhanced by his in-depth familiarity with real estate and law. He is a second-generation real estate developer, carrying on his family's successful tradition of quality development first started in New York and carried down to South Florida with Mr. Wohl's relocation in 1975.

Mr. Wohl is well versed in project financing and leasing. He is a recognized industry leader in devising approaches to developing affordable housing in an urban environment. Mr. Wohl is chairman of the distinguished Urban Land Institute's Center for Workforce Housing, which continually works to solve the persistent affordable housing problems. He earned both his B.A. and J.D. Degrees at Syracuse University and is a Licensed Real Estate Broker and Mortgage Broker. A resume for Mr. Wohl is attached as Attachment 5.

2010 LIMITED LIABILITY COMPANY ANNUAL REPORT

DOCUMENT# L01000017798

FILED
Feb 22, 2010
Secretary of State

Entity Name: PINNACLE HOUSING GROUP, LLC

Current Principal Place of Business:

9400 SOUTH DADELAND BLVD., STE. 100
MIAMI, FL 33156

New Principal Place of Business:

Current Mailing Address:

9400 SOUTH DADELAND BLVD., STE. 100
MIAMI, FL 33156

New Mailing Address:

FEI Number: 85-1149801 **FEI Number Applied For ()** **FEI Number Not Applicable ()** **Certificate of Status Desired ()**

Name and Address of Current Registered Agent:

MCDONOUGH, BRIAN J
2200 MUSEUM TOWER
150 WEST FLAGLER ST.
MIAMI, FL 33130 US

Name and Address of New Registered Agent:

The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.

SIGNATURE: _____

Electronic Signature of Registered Agent

_____ Date

MANAGING MEMBERS/MANAGERS:

Title: MGR
Name: WOLFSON, LOUIS III
Address: 9400 SOUTH DADELAND BLVD., STE. 100
City-St-Zip: MIAMI, FL 33156

Title: MGR
Name: WOHL, MICHAEL D
Address: 9400 SOUTH DADELAND BLVD., STE. 100
City-St-Zip: MIAMI, FL 33156

Title: MGR
Name: DEUTCH, DAVID O
Address: 9400 SOUTH DADELAND BLVD., STE. 100
City-St-Zip: MIAMI, FL 33156

Title: MGR
Name: FRIEDMAN, MITCHELL M
Address: 9400 SOUTH DADELAND BLVD., STE. 100
City-St-Zip: MIAMI, FL 33156

I hereby certify that the information indicated on this report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am a managing member or manager of the limited liability company or the receiver or trustee empowered to execute this report as required by Chapter 608, Florida Statutes.

SIGNATURE: DAVID O DEUTCH

MGR

02/22/2010

Electronic Signature of Signing Managing Member, Manager, or Authorized Representative / Date

2011 LIMITED LIABILITY COMPANY ANNUAL REPORT

DOCUMENT# L01000017798

FILED
Mar 25, 2011
Secretary of State

Entity Name: PINNACLE HOUSING GROUP, LLC

Current Principal Place of Business:

9400 SOUTH DADELAND BLVD., STE. 100
MIAMI, FL 33156

New Principal Place of Business:

Current Mailing Address:

9400 SOUTH DADELAND BLVD., STE. 100
MIAMI, FL 33156

New Mailing Address:

FEI Number: 28-2099515 FEI Number Applied For () FEI Number Not Applicable () Certificate of Status Desired (X)

Name and Address of Current Registered Agent:

MCDONOUGH, BRIAN J
2200 MUSEUM TOWER
150 WEST FLAGLER ST.
MIAMI, FL 33130 US

Name and Address of New Registered Agent:

The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.

SIGNATURE: _____

Electronic Signature of Registered Agent

_____ Date

MANAGING MEMBERS/MANAGERS:

Title: MGR
Name: WOLFSON, LOUIS III
Address: 9400 SOUTH DADELAND BLVD., STE. 100
City-St-Zip: MIAMI, FL 33156

Title: MGR
Name: WOHL, MICHAEL D
Address: 9400 SOUTH DADELAND BLVD., STE. 100
City-St-Zip: MIAMI, FL 33156

Title: MGR
Name: DEUTCH, DAVID O
Address: 9400 SOUTH DADELAND BLVD., STE. 100
City-St-Zip: MIAMI, FL 33156

Title: MGR
Name: FRIEDMAN, MITCHELL M
Address: 9400 SOUTH DADELAND BLVD., STE. 100
City-St-Zip: MIAMI, FL 33156

I hereby certify that the information indicated on this report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am a managing member or manager of the limited liability company or the receiver or trustee empowered to execute this report as required by Chapter 608, Florida Statutes.

SIGNATURE: DAVID O. DEUTCH

VP

03/25/2011

Electronic Signature of Signing Managing Member, Manager, or Authorized Representative / Date

L10006130105

Florida Department of State
Division of Corporations
Electronic Filing Cover Sheet

Note: Please print this page and use it as a cover sheet. Type the fax audit number (shown below) on the top and bottom of all pages of the document.

((H11000040340 3)))



H110000403403ABCN

Note: DO NOT hit the REFRESH/RELOAD button on your browser from this page. Doing so will generate another cover sheet.

To: Division of Corporations
Fax Number : (850) 617-6383

From: Account Name : STEARNS WEAVER MILLER WEISSLER ALHADEFF & SITTERSON
Account Number : I20060000135
Phone : (305) 789-3200
Fax Number : (305) 789-3395

Enter the email address for this business entity to be used for future annual report mailings. Enter only one email address please.

Email Address: _____

LLC AMND/RESTATE/CORRECT OR M/MG RESIGN
PHG TX REGION 2, LLC

Certificate of Status	0
Certified Copy	1
Page Count	01
Estimated Charge	\$55.00

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11 FEB 15 PM 12:36
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
11 FEB 15 AM 8:17

Electronic Filing Menu Corporate Filing Menu

T. HAMPTON

FEB 10 2011

EXAMINER

ARTICLES OF AMENDMENT
TO
ARTICLES OF ORGANIZATION
OF
PHG TX REGION 2, LLC

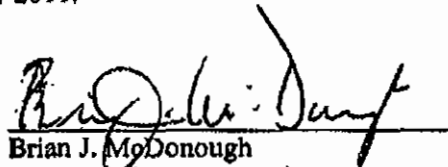
1. The Articles of Organization of PHG TX Region 2, LLC, a Florida limited liability company, were filed on December 21, 2010 and assigned document number L10000130105.

2. This amendment is submitted to amend the following:

ARTICLE I - NAME

The name of the limited liability company is Tylor Region 2 Holding, LLC.

IN WITNESS WHEREOF, the undersigned has executed these Articles of Amendment as of the 14 day of February 2011.



Brian J. McDonough
Authorized Representative

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
11 FEB 15 AM 8:11

L10000130349

Florida Department of State
Division of Corporations
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((H11000040344 3))



H110000403443ABCR

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To: Division of Corporations
Fax Number : (850) 617-6383

From: Account Name : STEARNS WEAVER MILLER WEISSLER ALHADEFF & SITTERSON
Account Number : I20060000135
Phone : (305) 789-3200
Fax Number : (305) 789-3395

Enter the email address for this business entity to be used for future annual report mailings. Enter only one email address please.

Email Address: _____

LLC AMND/RESTATE/CORRECT OR M/MG RESIGN
PHG TX REGION 4, LLC

Certificate of Status	0
Certified Copy	1
Page Count	01
Estimated Charge	\$55.00

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11 FEB 15 PM 12:36
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SECRETARY OF STATE
TALLAHASSEE, FLORIDA

11 FEB 15 AM 9:00

FILED

Electronic Filing Menu Corporate Filing Menu Help

ARTICLES OF AMENDMENT
TO
ARTICLES OF ORGANIZATION
OF
PHG TX REGION 4, LLC

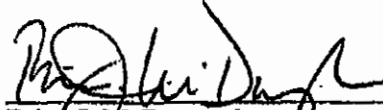
1. The Articles of Organization of PHG TX Region 4, LLC, a Florida limited liability company, were filed on December 21, 2010 and assigned document number L10000130349.

2. This amendment is submitted to amend the following:

ARTICLE I - NAME

The name of the limited liability company is Bar T Region 4 Holding, LLC.

IN WITNESS WHEREOF, the undersigned has executed these Articles of Amendment as of the 15 day of February 2011.



Brian J. McDonough
Authorized Representative

11 FEB 15 AM 9:00
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

FILED

#L 10000/30348

02/16/2011 12:19 FAX

STEARNS WEAVER MILLER

000000002

Division of Corporations

Page 1 of 1

Florida Department of State
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((H11000040347 3)))



H110000403473ABCU

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11 FEB 15 AM 8:20
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

To: Division of Corporations
Fax Number : (850) 617-6383

From: Account Name : STEARNS WEAVER MILLER WEISSLER ALHADEFF & SITTERSON
Account Number : I20060000135
Phone : (305) 789-3200
Fax Number : (305) 789-3395

Enter the email address for this business entity to be used for future annual report mailings. Enter only one email address please.

Email Address: _____

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PHG TX REGION 3, LLC

Certificate of Status	0
Certified Copy	1
Page Count	01
Estimated Charge	\$55.00

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11 FEB 15 PM 12:37
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

K. SALLY
EXAMINER
FEB 16 2011

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11 FEB 15 AM 8:20

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

**ARTICLES OF AMENDMENT
TO
ARTICLES OF ORGANIZATION
OF
PHG TX REGION 3, LLC**

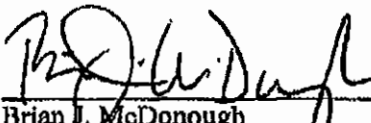
1. The Articles of Organization of PHG TX Region 3, LLC, a Florida limited liability company, were filed on December 21, 2010 and assigned document number L10000130348.

2. This amendment is submitted to amend the following:

ARTICLE I - NAME

The name of the limited liability company is Singing Oaks Region 3 Holding, LLC.

IN WITNESS WHEREOF, the undersigned has executed these Articles of Amendment as of the 15 day of February 2011.



Brian J. McDonough
Authorized Representative

L10000130105

Florida Department of State
Division of Corporations
Electronic Filing Cover Sheet

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(((H10000273238 3)))



H10000273238ABC-

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To: Division of Corporations
Fax Number : (850) 617-6383

From: Account Name : STEARNS WEAVER MILLER WEISSLER ALHADEFF & SITTERSON
Account Number : I20060000135
Phone : (305) 789-3200
Fax Number : (305) 789-3395

Enter the email address for this business entity to be used for future annual report mailings. Enter only one email address please.

Email Address: _____

FLORIDA LIMITED LIABILITY CO.
PHG TX REGION 2, LLC

Certificate of Status	1
Certified Copy	1
Page Count	02
Estimated Charge	\$160.00

FILED
10 DEC 21 AM 11:06
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

RECEIVED
10 DEC 21 AM 10:44
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

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G. MCLEOD

DEC 22 2010

EXAMINER

**ARTICLES OF ORGANIZATION OF
PHG TX REGION 2, LLC**

The undersigned, for the purpose of forming a limited liability company under the Florida Limited Liability Company Act, Florida Statutes Chapter 608, as amended, hereby makes, acknowledges and files the following Articles of Organization.

ARTICLE I - NAME

The name of the limited liability company is PHG TX Region 2, LLC (the "Company").

ARTICLE II - ADDRESS

The mailing address and street address of the principal office of the Company is 9400 S. Dadeland Boulevard, Suite 100, Miami, Florida 33156.

ARTICLE III - DURATION

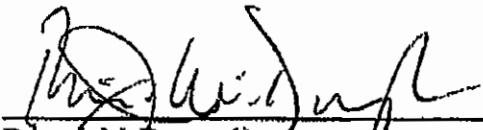
The period of duration for the Company shall be perpetual.

ARTICLE IV - REGISTERED OFFICE AND AGENT AND ADDRESS

The name and street address of the registered agent of the Company in the State of Florida are:

<u>Name</u>	<u>Address</u>
Brian J. McDonough	2200 Museum Tower 150 West Flagler Street Miami, Florida 33130

IN WITNESS WHEREOF, the undersigned has made and subscribed these Articles of Organization for the foregoing uses and purposes this 21 day of December 2010.



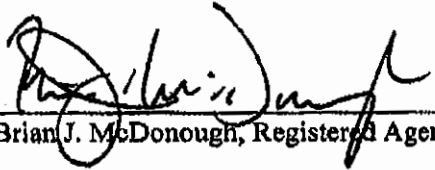
Brian J. McDonough
Authorized Representative

FILED
10 DEC 21 AM 11:06
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

REGISTERED AGENT'S ACCEPTANCE

Having been named as registered agent and to accept service of process for PHG TX Region 2, LLC at the place designated in this certificate, the undersigned hereby accepts the appointment as registered agent and agrees to act in this capacity. The undersigned further agrees to comply with the provisions of all statutes relating to the proper and complete performance of his duties, and is familiar with and accepts the obligations of his position as registered agent as provided for in Chapter 608, Florida Statutes.

Dated: December 21, 2010



Brian J. McDonough, Registered Agent

L10060130348

Florida Department of State
Division of Corporations
Electronic Filing Cover Sheet

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((H10000273239 3))



H10000273239ABC

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L. SELLERS

DEC 22 2010

To: Division of Corporations
Fax Number : (850) 617-6383

From: Account Name : STEARNS WEAVER MILLER WESLEY L. ANDERSON
Account Number : I20060000135
Phone : (305) 789-3200
Fax Number : (305) 789-3395

EXAMINER

Enter the email address for this business entity to be used for future annual report mailings. Enter only one email address please.

Email Address: _____

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10 DEC 21 AM 10:44
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

FLORIDA LIMITED LIABILITY CO.
PHG TX REGION 3, LLC

Certificate of Status	1
Certified Copy	1
Page Count	02
Estimated Charge	\$160.00

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SECRETARY OF STATE
TALLAHASSEE, FLORIDA
10 DEC 21 AM 11:04

FILED

**ARTICLES OF ORGANIZATION OF
PHG TX REGION 3, LLC**

The undersigned, for the purpose of forming a limited liability company under the Florida Limited Liability Company Act, Florida Statutes Chapter 608, as amended, hereby makes, acknowledges and files the following Articles of Organization.

ARTICLE I - NAME

The name of the limited liability company is PHG TX Region 3, LLC (the "Company").

ARTICLE II - ADDRESS

The mailing address and street address of the principal office of the Company is 9400 S. Dadeland Boulevard, Suite 100, Miami, Florida 33156.

ARTICLE III - DURATION


The period of duration for the Company shall be perpetual.

ARTICLE IV - REGISTERED OFFICE AND AGENT AND ADDRESS

The name and street address of the registered agent of the Company in the State of Florida are:

<u>Name</u>	<u>Address</u>
Brian J. McDonough	2200 Museum Tower 150 West Flagler Street Miami, Florida 33130

IN WITNESS WHEREOF, the undersigned has made and subscribed these Articles of Organization for the foregoing uses and purposes this 21 day of December 2010.




Brian J. McDonough
Authorized Representative

SECRETARY OF STATE
TALLAHASSEE, FLORIDA
19 DEC 21 AM 11:04
FILED

REGISTERED AGENT'S ACCEPTANCE

Having been named as registered agent and to accept service of process for PHG TX Region 3, LLC at the place designated in this certificate, the undersigned hereby accepts the appointment as registered agent and agrees to act in this capacity. The undersigned further agrees to comply with the provisions of all statutes relating to the proper and complete performance of his duties, and is familiar with and accepts the obligations of his position as registered agent as provided for in Chapter 608, Florida Statutes.

Dated: December 21, 2010



Brian J. McDonough, Registered Agent

12/21/2010 11:11 AM

STEARNS WEAVER MILLER

0001/0003

Division of Corporations

L10000130349

Florida Department of State
Division of Corporations
Electronic Filing Cover Sheet

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((H10000273241 3))



H100002732413A5CU

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L. SELLERS
DEC 22 2010
EXAMINER

To: Division of Corporations
Fax Number : (850) 617-6383

From: Account Name : STEARNS WEAVER MILLER WEISSLER ALHADEFF & SITTERSON
Account Number : I20060000135
Phone : (305) 789-3200
Fax Number : (305) 789-3395

Enter the email address for this business entity to be used for future annual report mailings. Enter only one email address please.

Email Address: _____

FLORIDA LIMITED LIABILITY CO.
PHG TX REGION 4, LLC

Certificate of Status	1
Certified Copy	1
Page Count	02
Estimated Charge	\$160.00

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10 DEC 21 AM 10:44

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

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FILED
SECRETARY OF STATE
TALLAHASSEE, FLORIDA
19 DEC 21 AM 11:06

**ARTICLES OF ORGANIZATION OF
PHG TX REGION 4, LLC**

The undersigned, for the purpose of forming a limited liability company under the Florida Limited Liability Company Act, Florida Statutes Chapter 608, as amended, hereby makes, acknowledges and files the following Articles of Organization.

ARTICLE I - NAME

The name of the limited liability company is PHG TX Region 4, LLC (the "Company").

ARTICLE II - ADDRESS

The mailing address and street address of the principal office of the Company is 9400 S. Dadeland Boulevard, Suite 100, Miami, Florida 33156.

ARTICLE III - DURATION

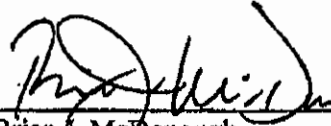
The period of duration for the Company shall be perpetual.

ARTICLE IV - REGISTERED OFFICE AND AGENT AND ADDRESS

The name and street address of the registered agent of the Company in the State of Florida are:

<u>Name</u>	<u>Address</u>
Brian J. McDonough	2200 Museum Tower 150 West Flagler Street Miami, Florida 33130

IN WITNESS WHEREOF, the undersigned has made and subscribed these Articles of Organization for the foregoing uses and purposes this 21 day of December 2010.

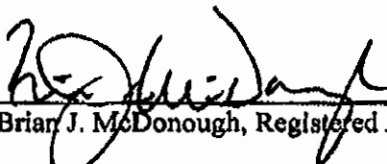

 Brian J. McDonough
 Authorized Representative

FILED
 10 DEC 21 AM 11:06
 SECRETARY OF STATE
 FLORIDA

REGISTERED AGENT'S ACCEPTANCE

Having been named as registered agent and to accept service of process for PHG TX Region 4, LLC at the place designated in this certificate, the undersigned hereby accepts the appointment as registered agent and agrees to act in this capacity. The undersigned further agrees to comply with the provisions of all statutes relating to the proper and complete performance of his duties, and is familiar with and accepts the obligations of his position as registered agent as provided for in Chapter 608, Florida Statutes.

Dated: December 21, 2010



Brian J. McDonough, Registered Agent

2011 LIMITED LIABILITY COMPANY ANNUAL REPORT

DOCUMENT# L10000130105

FILED
Apr 29, 2011
Secretary of State

Entity Name: TYLOR REGION 2 HOLDING, LLC

Current Principal Place of Business:

9400 S DADELAND BLVD STE 100
MIAMI, FL 33156

New Principal Place of Business:

Current Mailing Address:

9400 S DADELAND BLVD STE 100
MIAMI, FL 33156

New Mailing Address:

FEI Number: **FEI Number Applied For (X)** **FEI Number Not Applicable ()** **Certificate of Status Desired (X)**

Name and Address of Current Registered Agent:

MCDONOUGH, BRIAN J
2200 MUSEUM TOWER
150 WEST FLAGLER STREET
MIAMI, FL 33130 US

Name and Address of New Registered Agent:

The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.

SIGNATURE: _____

Electronic Signature of Registered Agent

_____ Date

MANAGING MEMBERS/MANAGERS:

Title: VP
Name: DEUTCH, DAVID O
Address: 9400 S. DADELAND BLVD., STE. 100
City-St-Zip: MIAMI, FL 33156

I hereby certify that the information indicated on this report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am a managing member or manager of the limited liability company or the receiver or trustee empowered to execute this report as required by Chapter 608, Florida Statutes.

SIGNATURE: DAVID O. DEUTCH

VP

04/29/2011

Electronic Signature of Signing Managing Member, Manager, or Authorized Representative / Date

2011 LIMITED LIABILITY COMPANY ANNUAL REPORT

**FILED
Apr 29, 2011
Secretary of State**

DOCUMENT# L10000130349

Entity Name: BAR T REGION 4 HOLDING, LLC

Current Principal Place of Business:

9400 S. DADELAND BLVD., STE. 100
MIAMI, FL 33156

New Principal Place of Business:

Current Mailing Address:

9400 S. DADELAND BLVD., STE. 100
MIAMI, FL 33156

New Mailing Address:

FEI Number: **FEI Number Applied For (X)** **FEI Number Not Applicable ()** **Certificate of Status Desired (X)**

Name and Address of Current Registered Agent:

MCDONOUGH, BRIAN J
2200 MUSEUM TOWER
150 W. FLAGLER STREET
MIAMI, FL 33130 US

Name and Address of New Registered Agent:

The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.

SIGNATURE: _____

Electronic Signature of Registered Agent

_____ Date

MANAGING MEMBERS/MANAGERS:

Title: VP
Name: DEUTCH, DAVID O
Address: 9400 S. DADELAND BLVD., STE. 100
City-St-Zip: MIAMI, FL 33156

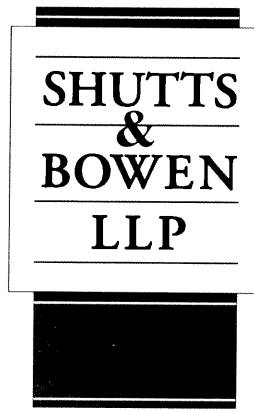
I hereby certify that the information indicated on this report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am a managing member or manager of the limited liability company or the receiver or trustee empowered to execute this report as required by Chapter 608, Florida Statutes.

SIGNATURE: DAVID O. DEUTCH

VP

04/29/2011

Electronic Signature of Signing Managing Member, Manager, or Authorized Representative / Date



GARY J. COHEN
Member Florida Bar
(305) 347-7308 Direct Telephone
(305) 347-7808 Direct Facsimile

E-MAIL ADDRESS:
gcohen@shutts.com

June 23, 2011

Mr. Tom Gouris
Deputy Executive Director
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701

Re: Application #11245/Bar T Apartments

Dear Mr. Gouris:

I write as counsel for Bar T Apartments, LLC (the "Applicant"), Bar T Region 4 Holdings, LLC (the "Managing Member"), Bar T Development, LLC (the "Developer") and Mr. Michael Wohl (the "Principal/Guarantor") in connection with the Applicant's submission (the "Application") to the Texas Department of Housing and Community Affairs ("TDHCA") for an allocation of federal low income housing tax credits and, in particular, in response to a challenge to the Application filed with TDHCA and received by the Applicant (the "Challenge").

The Challenge alleges that Applicant and its Application attempted to circumvent the \$2,000,000 credit limitation rule set forth in Section 49.5(b) of the 2011 TDHCA Qualified Allocation Plan (the "QAP"). The Challenge asserts that the Application is somehow "related" to Application #11248 (Singing Oaks, the principal/guarantor of which is Mr. Mitchell Friedman) and Application #11246 (Tylor Grand, the principal/guarantor of which is Mr. Louis Wolfson III).

For the reasons set forth below, neither the Applicant, the Managing Member, the Developer or the Principal/Guarantor of the Bar T Apartments application/development is a "Related Party", "Affiliate" or "Principal" of the other two applications referenced above (Singing Oaks and Tylor Grand), and there is no connection or affiliation between the Bar T Apartments application and those submitted by the other two applicants referenced above. As such, none of the three applications referenced above are in any way connected to each other, and the \$2,000,000 credit limit should be applied separately to each such application and not to

Mr. Tom Gouris
June 23, 2011
Page 2 of 4

the three applications as a group, given the lack of any relationship between those three applications.

The primary arguments (as I understand them) set forth in the Challenge, and our responses to each, are as follows:

1. The applications are connected due to the relationship of Messrs. Friedman, Wolfson and Wohl in Pinnacle Housing Group, LLC ("Pinnacle").

Pinnacle has no connection to any of the three applications submitted to TDHCA. Pinnacle is not acting as an applicant, developer or guarantor under any of the three applications. Pinnacle does not in any way "control", and is not under common control with, any of entities referenced in any of the three applications referenced herein. Pinnacle has no ownership or fee interest in any of the three applications, and will not be performing any services or otherwise be involved in any way in any of the three proposed developments. The fact that Messrs. Friedman, Wohl and Wolfson have undertaken prior transactions under the Pinnacle entity is irrelevant to the three applications submitted in this year's TDHCA funding cycle; Each of the three persons referenced above (Friedman, Wohl and Wolfson) has determined to "go it alone" and form their own applicant, managing member and developer entities and provide their sole individual guarantees, without involvement of any of the other two persons or Pinnacle Housing Group, LLC, in this year's Texas funding cycle. The fact that they may choose to do business together in other states and/or other funding cycles is simply not relevant here. Obviously, developers are free to do business in whatever form of entity they see fit, so long as such entities do not run afoul of applicable rules.

As is evidenced by the equity commitment provided by Wells Fargo to each of the three applications discussed herein, Wells Fargo is looking to the guaranty of the applicant, managing member and principal/guarantor of each free standing transaction, and is not looking for the guaranty of any other person (for example, in Bar T Apartments, Mr. Wohl is the sole individual guarantor).

The fact that Messrs. Friedman, Wohl and Wolfson may be doing business together in Pinnacle Housing Group, LLC does not mean, under the applicable Texas rules, that they (or the three applications submitted by them in this year's Texas funding cycle) are in any way "related" or "affiliated". None of the three persons referenced above is a "principal", "related party" or "affiliate" of any application other than the one directly submitted by it. None of the three persons "controls" in any way any applicant, managing member, or developer other than the applicant/managing member/developer entity referenced in the application directly submitted by it.

Mr. Wohl has no relationship to any of the entities referenced in the Tylor Grand and Singing Oaks applications. Mr. Friedman has no relationship to any of the entities referenced in the Tylor Grand and Bar T Apartments applications. Mr. Wolfson has no relationship to any of the entities referenced in the Singing Oaks and Bar T Apartments applications.

Mr. Tom Gouris
June 23, 2011
Page 3 of 4

2. Name change of managing member of each applicant shows "negligent material misrepresentation" which should result in disqualification of each application.

Prior to the submission of its Application, the Managing Member filed an amendment to its Articles of Organization with the Florida Secretary of State, changing its name from PHG TX Region 4, LLC to Bar T Region 4 Holding, LLC. This was done in response from the Texas Secretary of State that the original name of the Managing Member could not be reserved in Texas due to its similarity to another Texas entity. Hence, Mr. Wohl changed the name with the Florida Secretary of State on February 15, 2011 to Bar T Region 4 Holding LLC. There is no intent to deceive or misrepresent in any way; Mr. Wohl was merely responding to the instruction of the Texas Secretary of State. Please see the attached documentation to this effect. Pinnacle Housing Group, LLC does not have (and has never had) any affiliation or involvement in any way with this entity. The fact that the phrase "PHG" appeared in the original name of the Managing Member entity means nothing; names of entities do not in any way connote ownership or affiliation.

3. Email addresses and mailing addresses show "affiliation" or "related party" status.

Obviously, there is no rule requiring Messrs. Friedman, Wohl and Wolfson to physically separate their Miami offices or adopt new email addresses with different (non-Pinnacle suffixes) in order to transact business entirely separately from each other in Texas.

4. Annual Report filings for Managing Member entities.

The Challenge notes that Mr. Deutch is, in the Annual Report filed with Florida for each of the three managing member entities for each of the three applications referenced above, the "managing member of the GP of the applicant". This is wrong on several levels. Mr. Deutch was erroneously listed on each of the three annual reports (filed on Florida on April 29, 2011) as the vice-president of the managing member for each of the three applicants discussed herein; on June 21, 2011, the annual reports were refiled and corrected reflecting that, with respect to each managing member of each applicant discussed herein, the sole officer/managing member of each such entity is the individual whose is the principal/guarantor of such application. See attached documentation. In other words, Mr. Friedman is the sole managing member of Singing Oaks Region 3 Holding, and Mr. Deutch has no affiliation therewith. Similarly, Mr. Wolfson is the sole managing member of Tylor Region 2 Holding, LLC, and Mr. Deutch has no affiliation therewith. Finally, Mr. Wohl is the sole managing member of Bar T Region 4 Holding, LLC, and Mr. Deutch has no affiliation therewith.

Mr. Tom Gouris
June 23, 2011
Page 4 of 4

5. Other "affiliations" alleged.

The Challenge also makes reference to Ms. Lisa Stephens as being an "affiliate" of the three applications discussed herein. In fact, Ms. Stephens is not affiliated with any of the three transactions discussed herein, other than in her capacity as a "Development Consultant" to each of those transactions, which is expressly excluded from the definition of Affiliate under Section 49.5(b)(4) of the QAP. Ms. Stephens has no other relationship with any of the three applications discussed herein other than as set forth immediately above.

6. Rule Interpretation.

At a meeting with members of the TAAHP Board and Tim Irvine (then General Counsel and currently Acting Executive Director) and Tom Gouris (Deputy Executive Director for Housing Programs) regarding the QAP on August 9, 2010, the Texas based consultants on staff for Singing Oaks had a specific discussion regarding TDHCA's interpretation of the \$2 million cap. At that time, it was brought to TDHCA's attention that their interpretation of this clause was causing principals from existing strong development partnerships to form new separate entities and do developments on their own. Department staff acknowledged that they knew this was a common occurrence, and that while the individuals may not be as financially sound as the development partnerships, as long as they were completely independent for those particular deals, they would meet the requirements of the QAP.

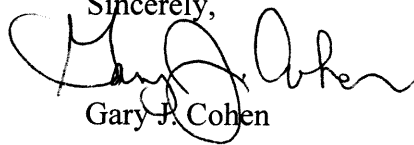
7. Staff Determinations.

TDHCA reviewed the experience of each of Messrs. Friedman, Wohl and Wolfson each individually and determined that each has sufficient experience and wherewithal to develop these properties without any reliance on Pinnacle Housing Group or other persons as evidenced by the experience certificates issued to each by TDHCA (see attached documentation).

TDHCA staff has completed their underwriting reports for Tylor Grand and Singing Oaks and has specifically determined that no related party status or identity of interest exists among the applicants, their managing members and developers regardless of their other involvements with Pinnacle Housing Group.

Please do not hesitate to contact me if you have any questions concerning this matter. Thank you for the opportunity to be of assistance.

Sincerely,



Gary J. Cohen

GJC/mar
Attachment

MIADOCS 5468479 1

**OPERATING AGREEMENT
PHG TX REGION 4, LLC
(a Florida Limited Liability Company)**

THIS OPERATING AGREEMENT (the "Operating Agreement") is entered into by the undersigned (the "Member"), effective as of the 1 day of December, 2010.

RECITAL

The Member desires to form PHG TX Region 4, LLC, a limited liability company (the "Company"), under the Florida Limited Liability Company Act (the "Act") for the purposes set forth herein, and, accordingly, desires to enter into this Operating Agreement in order to set forth the terms and conditions of the business and affairs of the Company and to determine the rights and obligations of its Member.

NOW, THEREFORE, the Member, intending to be legally bound by this Operating Agreement, hereby agrees that the limited liability company operating agreement of the Company shall be as follows:

1. Organization. The Member hereby organizes the Company as a single-member Florida limited liability company pursuant to the provisions of the Act.

2. Purpose; Powers. The purpose of the Company shall be to engage in any lawful business that may be engaged in by a limited liability company organized under the Act, as such business activities may be determined by the Member from time to time. The Company shall have the authority to do all things necessary or convenient to accomplish its purpose and operate its business as described in this Section 2. The Company shall have all powers of a limited liability company under the Act and the power to do all things necessary or convenient to accomplish its purpose and operate its business as described in this Section 2.

3. Officers. The Member may elect a President, a Secretary, a Treasurer and one or more Vice-Presidents and such other officers and assistant officers and agents of the Company as may be deemed desirable by the Member. Any two or more offices may be held by the same person. All officers shall serve until their respective successors are elected and qualify.

a. Duties.

(1) President. The President shall preside at all meetings of the Member and shall have general and active management of the business and affairs of the Company. The President shall execute on behalf of the Company, all instruments requiring such execution except to the extent the signing and execution thereof may be expressly delegated by the Member to some other officer or agent of the Company.

(2) Vice-President. In case of the office of the President becoming vacant by death, resignation, or otherwise, or in case of the absence of the President, or his or her disability to discharge the duties of his office, such duties shall, for the time being, devolve upon the Vice-President, first in order of election, who shall do and perform such other acts as the Member or the President may, from time to time, authorize him or her to do.

(3) Secretary. The Secretary shall act under the direction of the President. The Secretary shall take the minutes of all meetings of the Member and may sign, execute and deliver such documents and instruments as may be appropriately signed and executed in the name of the Company by a Secretary. The Secretary shall give, or cause to be given, notice of all meetings of the Member, and shall perform such other duties as may be prescribed by the President or the Member.

(4) Treasurer. The Treasurer shall act under the direction of the President. Subject to the direction of the President, the Treasurer shall have custody of the Company's funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Company and shall deposit all moneys and other valuable effects in the name and to the credit of the Company in such depositories as may be designated by the Member. The Treasurer shall disburse the funds of the Company as may be ordered by the President or the Member, taking proper vouchers for such disbursements, and shall render to the President and the Member, at its regular meetings, or when the Member so requires, an account of all transactions as Treasurer and of the financial condition of the Company.

b. Vacancies. Any vacancy occurring among the officers of the Company may be filled by the Member. A person elected to fill a vacancy shall hold office only until the next annual meeting of the Member and until his or her successor shall have been duly elected and qualified.

c. Removal. Any officer of the Company may be removed, with or without cause, by the Member at a meeting of the Member called expressly for that purpose.

d. Resignation. Any officer of the Company may resign upon written notice being made to the Member. The resignation is effective upon receipt of the written notice by the Member.

4. Capital. The name, address and value of the initial Capital Contribution of the Member shall be set forth on Schedule A attached hereto. The Member shall have no obligation to

make any additional capital contributions to the Company. The Member may make additional contributions of capital to the Company as the Member determines are necessary, appropriate or desirable.

5. Rights, Power and Authority of the Member. The Member shall have the full and exclusive right, power and authority to manage the affairs of the Company, to make all decisions with respect thereto and to do or cause to be done any and all acts or things deemed by the Member to be necessary, appropriate or desirable to carry out or further the business of the Company.

6. Liability of the Member. Except as otherwise provided by the Act, the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Company, and the Member shall not be obligated personally for any such debt, obligation or liability of the Company solely by reason of being a member.

7. Indemnification. The Company shall indemnify the Member and any of the Member's agents, affiliates, successors or assigns (individually, an "Indemnified Party") against any and all judgments, costs, losses, liabilities and damages (including attorneys' fees and expenses) paid or incurred by the Indemnified Party in connection with the activities of the Company or in dealing with third parties on behalf of the Company, to the fullest extent provided or allowed by law.

8. Dissolution and Winding-up of the Company. The Company shall be dissolved upon the first to occur of (a) the written consent of the Member or (b) the entry of a decree of judicial dissolution under the Act.

IN WITNESS WHEREOF, this Operating Agreement has been made and executed by the Member effective as of the date first written above.

MEMBER:

By: 

Michael Wohl

SCHEDULE A

**NAME, ADDRESS AND INITIAL
CAPITAL CONTRIBUTION OF THE MEMBER**

<u>Name of Member</u>	<u>Address of Member</u>	<u>Value of Initial Capital Contribution of Member</u>
Michael Wohl	1921 Abbey Road West Palm Beach, FL 33415	\$10.00

**WRITTEN CONSENT
OF THE SOLE MEMBER OF
PHG TX REGION 4, LLC
IN LIEU OF A MEETING
AS OF December 1, 2010**

The undersigned sole Member of PHG TX Region 4, LLC, a Florida limited liability company (the "Company"), does hereby adopt the following resolutions by written consent in lieu of a meeting effective as of the date first written above:

RESOLVED, that a certified copy of the Articles of Organization of the Company (the "Articles of Organization") which were filed with the Florida Department of State on December 21, 2010 is ordered to be inserted in the Company's Minute Book as part of the permanent records of the Company;

FURTHER RESOLVED, that a copy of the Company's Operating Agreement, effective as of December 1, 2010, is ordered to be inserted in the Company's Minute Book as part of the permanent records of the Company;

FURTHER RESOLVED, that the designation of Brian J. McDonough as Registered Agent of the Company made at the time of filing the Articles of Organization is hereby approved, adopted, ratified and confirmed;

FURTHER RESOLVED, that the fiscal year of the Company shall end on the last day of December in each year;

FURTHER RESOLVED, that the Member is authorized, empowered and directed to open an account with a bank or banks of his choice and to deposit therein all funds of the Company. All drafts, checks and notes of the Company, payable on said account, shall be made in the name of the Company, signed by the parties designated in the corporate banking resolution;

FURTHER RESOLVED, that any resolution required by the bank to effect the foregoing is hereby adopted as the action of the sole Member of the Company, and the Member is hereby directed to append a copy of such resolution to a copy of these resolutions in the Company's Minute Book;

FURTHER RESOLVED, that the Member is authorized to pay on behalf of the Company all fees and expenses incident to and necessary for the organization of the Company;

FURTHER RESOLVED, that the Member or any appropriate officer of the Company be, and each of them hereby is, authorized and directed on behalf of and in the name of the Company, to take such action, execute such documents and incur and pay such expenses as may be necessary or appropriate to carry out the foregoing resolutions and to effectuate the transactions and other matters authorized thereby.

IN WITNESS WHEREOF, the undersigned sole Member of the Company has adopted and approved the foregoing resolutions effective as of the date first above written.

SOLE MEMBER:

By: _____

Michael Wohl

MF RCV'D Fri 6/24/2011 1:46 PM



February 16, 2011

FLORIDA DEPARTMENT OF STATE
Division of CorporationsBAR T REGION 4 HOLDING, LLC
9400 S. DADELAND BLVD., STE. 100
MIAMI, FL 33156

Re: Document Number L10000130349

The Articles of Amendment to the Articles of Organization for PHG TX REGION 4, LLC which changed its name to BAR T REGION 4 HOLDING, LLC; a Florida limited liability company, were filed on February 15, 2011.

The certification you requested is enclosed. To be official, the certification for a certified copy must be attached to the original document that was electronically submitted and filed under FAX audit number H11000040344.

Should you have any questions regarding this matter, please telephone (850) 245-6051, the Registration Section.

Barbara Bostick
Regulatory Specialist II
Division of Corporations

Letter Number: 111A00003968

P.O BOX 6327 - Tallahassee, Florida 32314

MF RCV'D Fri 6/24/2011 1:46 PM

State of Florida



Department of State

I certify the attached is a true and correct copy of Articles of Amendment, filed on February 15, 2011, to the Articles of Organization for PHG TX REGION 4, LLC which changed its name to BAR T REGION 4 HOLDING, LLC, a Florida limited liability company, as shown by the records of this office.

I further certify the document was electronically received under FAX audit number H11000040344. This certificate is issued in accordance with section 15.16, Florida Statutes, and authenticated by the code noted below.

The document number of this limited liability company is L10000130349.

Authentication Code: 111A00003968-021611-L10000130349-1/1

Department of State

I certify the attached is a true and correct copy of Articles of Amendment, filed on February 15, 2011, to the Articles of Organization for PHG TX REGION 4, LLC which changed its name to BAR T REGION 4 HOLDING, LLC, a Florida limited liability company, as shown by the records of this office.

I further certify the document was electronically received under FAX audit number H11000040344. This certificate is issued in accordance with section 15.16, Florida Statutes, and authenticated by the code noted below.

Given under my hand and the Great Seal of the State of Florida, at Tallahassee, the Capital, this the Sixteenth day of February, 2011



Kurt S. Browning
Secretary of State

**ARTICLES OF AMENDMENT
TO
ARTICLES OF ORGANIZATION
OF
PHG TX REGION 4, LLC**

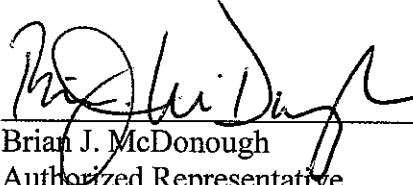
1. The Articles of Organization of PHG TX Region 4, LLC, a Florida limited liability company, were filed on December 21, 2010 and assigned document number L10000130349.

2. This amendment is submitted to amend the following:

ARTICLE I - NAME

The name of the limited liability company is Bar T Region 4 Holding, LLC.

IN WITNESS WHEREOF, the undersigned has executed these Articles of Amendment as of the 15 day of February 2011.



Brian J. McDonough
Authorized Representative



Office of the Secretary of State

February 07, 2011

Attn: Lisa Stephens
Lisa Stephens
9400 S. Dadeland Blvd., Ste. 100
Miami, FL 33156 USA

Batch Number: 35302545

Document Number: 353025450011

Re: PHG TX Region 4, LLC
Application for Name Reservation

This office has received and reviewed the above referenced document. The review reveals the following objections to the filing of the document. The document and any checks submitted in payment of statutory fees are returned to you for correction and resubmission. If payment of fees were to be charged to a credit card, LegalEase®, or a SOS client account, the account has not been charged.

1. The entity name is not available because it is similar to that of an existing entity. The name may be used only if written consent to use the name is obtained from the entity named below. Form 509 can be used to give written consent. For a preliminary check on name availability you may call (512) 463-5555 or e-mail corpinfo@sos.state.tx.us

Filing Number	Entity Name	RA Name	RA Address
800757145	PHG Tx. Management Corp.	Brian McCabe	400 W. 15th St, Ste 200, Austin, TX, 78701

2. An electronic web filing that has been rejected cannot be "re-submitted" or re-transmitted. In order to proceed with the filing, a new session must be initiated and a new web document meeting the statutory requirements must be created and transmitted. The filing fee for the document has not been deducted from your client account or charged to your credit card.

Sincerely,

Lisa Sartin

Come visit us on the internet at <http://www.sos.state.tx.us/>

Phone: (512) 463-5555
Prepared by: LSARTIN

Fax: (512) 463-5709
TID: 10004

Dial: 7-1-1 for Relay Services
Document: 353025450011

Corporations Section
P.O. Box 13697
Austin, Texas 78711-3697



Hope Andrade
Secretary of State

Office of the Secretary of State

Corporations Section
Business & Public Filings Division
512-463-5583

Come visit us on the internet at <http://www.sos.state.tx.us/>

Phone: (512) 463-5555
Prepared by: LSARTIN

Fax: (512) 463-5709
TID: 10004

Dial: 7-1-1 for Relay Services
Document: 353025450011

STEARNS WEAVER MILLER
WEISSLER ALHADEFF & SITTERSON, P.A.

Museum Tower
150 West Flagler Street, Suite 2200
Miami, FL 33130
(305) 789-3200
stearnsweaver.com

June 23, 2011

Mr. Tom Gouris
Deputy Executive Director
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701

RE: Singing Oaks Region 3 Holding, LLC
Tylor Region 2 Holding, LLC
Bar T Region 4 Holding, LLC

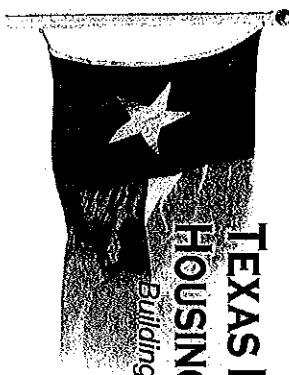
Dear Mr. Gouris:

The above referenced entities were formed by this office on December 21, 2010 as single-member Florida limited liability companies (the "Companies"). Pursuant to our records, David O. Deutch has not been a member of the Companies. The annual reports that were filed on April 29, 2011 with the Florida Department of State on behalf of the Companies erroneously indicated that David O. Deutch was Vice President. Amended annual reports were filed with the Florida Department of State on June 21, 2011 to reflect the correct members of the Companies.

Sincerely,



Brian J. McDonough



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

CERTIFICATE OF EXPERIENCE

Michael Wohl

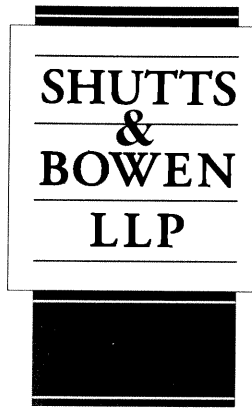
Has a Record of Successfully Constructing or Developing
200 or more New Construction Multifamily units,
In Accordance with the Requirements of the
2011 Housing Tax Credit Program
Qualified Action Plan

Robb G. Meyer

Robb G. Meyer
Director of Multifamily Finance

February 25, 2011

Date



GARY J. COHEN
Member Florida Bar
(305) 347-7308 Direct Telephone
(305) 347-7808 Direct Facsimile

E-MAIL ADDRESS:
gcohen@shutts.com

June 23, 2011

Mr. Tom Gouris
Deputy Executive Director
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701

Re: Application #11246/Tylor Grand

Dear Mr. Gouris:

I write as counsel for Tylor Grand, LLC (the "Applicant"), Tylor Region 2 Holdings, LLC (the "Managing Member"), Tylor Grand Development, LLC (the "Developer") and Mr. Louis Wolfson III (the "Principal/Guarantor") in connection with the Applicant's submission (the "Application") to the Texas Department of Housing and Community Affairs ("TDHCA") for an allocation of federal low income housing tax credits and, in particular, in response to a challenge to the Application filed with TDHCA and received by the Applicant (the "Challenge").

The Challenge alleges that Applicant and its Application attempted to circumvent the \$2,000,000 credit limitation rule set forth in Section 49.5(b) of the 2011 TDHCA Qualified Allocation Plan (the "QAP"). The Challenge asserts that the Application is somehow "related" to Application #11245 (Bar T Apartments, the principal/guarantor of which is Mr. Michael Wohl) and Application #11248 (Singing Oaks, the principal/guarantor of which is Mr. Mitchell Friedman).

For the reasons set forth below, neither the Applicant, the Managing Member, the Developer or the Principal/Guarantor of the Tylor Grand application/development is a "Related Party", "Affiliate" or "Principal" of the other two applications referenced above (Bar T Apartments and Singing Oaks), and there is no connection or affiliation between the Tylor Grand application and those submitted by the other two applicants referenced above. As such, none of the three applications referenced above are in any way connected to each other, and the \$2,000,000 credit limit should be applied separately to each such application and not to the three applications as a group, given the lack of any relationship between those three applications.

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Mr. Tom Gouris
June 23, 2011
Page 2 of 4

The primary arguments (as I understand them) set forth in the Challenge, and our responses to each, are as follows:

1. The applications are connected due to the relationship of Messrs. Friedman, Wolfson and Wohl in Pinnacle Housing Group, LLC ("Pinnacle").

Pinnacle has no connection to any of the three applications submitted to TDHCA. Pinnacle is not acting as an applicant, developer or guarantor under any of the three applications. Pinnacle does not in any way "control", and is not under common control with, any of entities referenced in any of the three applications referenced herein. Pinnacle has no ownership or fee interest in any of the three applications, and will not be performing any services or otherwise be involved in any way in any of the three proposed developments. The fact that Messrs. Friedman, Wohl and Wolfson have undertaken prior transactions under the Pinnacle entity is irrelevant to the three applications submitted in this year's TDHCA funding cycle; Each of the three persons referenced above (Friedman, Wohl and Wolfson) has determined to "go it alone" and form their own applicant, managing member and developer entities and provide their sole individual guarantees, without involvement of any of the other two persons or Pinnacle Housing Group, LLC, in this year's Texas funding cycle. The fact that they may choose to do business together in other states and/or other funding cycles is simply not relevant here. Obviously, developers are free to do business in whatever form of entity they see fit, so long as such entities do not run afoul of applicable rules.

As is evidenced by the equity commitment provided by Wells Fargo to each of the three applications discussed herein, Wells Fargo is looking to the guaranty of the applicant, managing member and principal/guarantor of each free standing transaction, and is not looking for the guaranty of any other person (for example, in Tylor Grand, Mr. Wolfson is the sole individual guarantor).

The fact that Messrs. Friedman, Wohl and Wolfson may be doing business together in Pinnacle Housing Group, LLC does not mean, under the applicable Texas rules, that they (or the three applications submitted by them in this year's Texas funding cycle) are in any way "related" or "affiliated". None of the three persons referenced above is a "principal", "related party" or "affiliate" of any application other than the one directly submitted by it. None of the three persons "controls" in any way any applicant, managing member, or developer other than the applicant/managing member/developer entity referenced in the application directly submitted by it.

Mr. Wolfson has no relationship to any of the entities referenced in the Singing Oaks and Bar T Apartments applications. Mr. Wohl has no relationship to any of the entities referenced in the Tylor Grand and Singing Oaks applications. Mr. Friedman has no relationship to any of the entities referenced in the Tylor Grand and Bar T Apartments applications.

2. Name change of managing member of each applicant shows "negligent material misrepresentation" which should result in disqualification of each application.

Mr. Tom Gouris
June 23, 2011
Page 3 of 4

Prior to the submission of its Application, the Managing Member filed an amendment to its Articles of Organization with the Florida Secretary of State, changing its name from PHG TX Region 2, LLC to Tylor Region 2 Holding, LLC. This was done in response from the Texas Secretary of State that the original name of the Managing Member could not be reserved in Texas due to its similarity to another Texas entity. Hence, Mr. Wolfson changed the name with the Florida Secretary of State on February 15, 2011 to Tylor Region 2 Holding LLC. There is no intent to deceive or misrepresent in any way; Mr. Wolfson was merely responding to the instruction of the Texas Secretary of State. Please see the attached documentation to this effect. Pinnacle Housing Group, LLC does not have (and has never had) any affiliation or involvement in any way with this entity. The fact that the phrase "PHG" appeared in the original name of the Managing Member entity means nothing; names of entities do not in any way connote ownership or affiliation.

3. Email addresses and mailing addresses show "affiliation" or "related party" status.

Obviously, there is no rule requiring Messrs. Friedman, Wohl and Wolfson to physically separate their Miami offices or adopt new email addresses with different (non-Pinnacle suffixes) in order to transact business entirely separately from each other in Texas.

4. Annual Report filings for Managing Member entities.

The Challenge notes that Mr. Deutch is, in the Annual Report filed with Florida for each of the three managing member entities for each of the three applications referenced above, the "managing member of the GP of the applicant". This is wrong on several levels. Mr. Deutch was erroneously listed on each of the three annual reports (filed on Florida on April 29, 2011) as the vice-president of the managing member for each of the three applicants discussed herein; on June 21, 2011, the annual reports were refiled and corrected reflecting that, with respect to each managing member of each applicant discussed herein, the sole officer/managing member of each such entity is the individual whose is the principal/guarantor of such application. See attached documentation. In other words, Mr. Friedman is the sole managing member of Singing Oaks Region 3 Holding, and Mr. Deutch has no affiliation therewith. Similarly, Mr. Wolfson is the sole managing member of Tylor Region 2 Holding, LLC, and Mr. Deutch has no affiliation therewith. Finally, Mr. Wohl is the sole managing member of Bar T Region 4 Holding, LLC, and Mr. Deutch has no affiliation therewith.

Mr. Tom Gouris
June 23, 2011
Page 4 of 4

5. Other "affiliations" alleged.

The Challenge also makes reference to Ms. Lisa Stephens as being an "affiliate" of the three applications discussed herein. In fact, Ms. Stephens is not affiliated with any of the three transactions discussed herein, other than in her capacity as a "Development Consultant" to each of those transactions, which is expressly excluded from the definition of Affiliate under Section 49.5(b)(4) of the QAP. Ms. Stephens has no other relationship with any of the three applications discussed herein other than as set forth immediately above.

6. Rule Interpretation.

At a meeting with members of the TAAHP Board and Tim Irvine (then General Counsel and currently Acting Executive Director) and Tom Gouris (Deputy Executive Director for Housing Programs) regarding the QAP on August 9, 2010, the Texas based consultants on staff for Singing Oaks had a specific discussion regarding TDHCA's interpretation of the \$2 million cap. At that time, it was brought to TDHCA's attention that their interpretation of this clause was causing principals from existing strong development partnerships to form new separate entities and do developments on their own. Department staff acknowledged that they knew this was a common occurrence, and that while the individuals may not be as financially sound as the development partnerships, as long as they were completely independent for those particular deals, they would meet the requirements of the QAP.

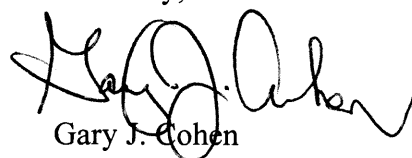
7. Staff Determinations.

TDHCA reviewed the experience of each of Messrs. Friedman, Wohl and Wolfson each individually and determined that each has sufficient experience and wherewithal to develop these properties without any reliance on Pinnacle Housing Group or other persons as evidenced by the experience certificates issued to each by TDHCA (see attached documentation).

TDHCA staff has completed their underwriting reports for Tylor Grand and Singing Oaks and has specifically determined that no related party status or identity of interest exists among the applicants, their managing members and developers regardless of their other involvements with Pinnacle Housing Group.

Please do not hesitate to contact me if you have any questions concerning this matter. Thank you for the opportunity to be of assistance.

Sincerely,



Gary J. Cohen

GJC/mar
Attachment

MIADOCS 5468417 2

1500 Miami Center • 201 South Biscayne Boulevard, Miami, Florida 33131 • ph 305.358.6300 • fx 305.381.9982 • www.shutts.com

**OPERATING AGREEMENT
PHG TX REGION 2, LLC
(a Florida Limited Liability Company)**

THIS OPERATING AGREEMENT (the "Operating Agreement") is entered into by the undersigned (the "Member"), effective as of the 1 day of December, 2010.

RECITAL

The Member desires to form PHG TX Region 2, LLC, a limited liability company (the "Company"), under the Florida Limited Liability Company Act (the "Act") for the purposes set forth herein, and, accordingly, desires to enter into this Operating Agreement in order to set forth the terms and conditions of the business and affairs of the Company and to determine the rights and obligations of its Member.

NOW, THEREFORE, the Member, intending to be legally bound by this Operating Agreement, hereby agrees that the limited liability company operating agreement of the Company shall be as follows:

1. **Organization.** The Member hereby organizes the Company as a single-member Florida limited liability company pursuant to the provisions of the Act.

2. **Purpose; Powers.** The purpose of the Company shall be to engage in any lawful business that may be engaged in by a limited liability company organized under the Act, as such business activities may be determined by the Member from time to time. The Company shall have the authority to do all things necessary or convenient to accomplish its purpose and operate its business as described in this Section 2. The Company shall have all powers of a limited liability company under the Act and the power to do all things necessary or convenient to accomplish its purpose and operate its business as described in this Section 2.

3. **Officers.** The Member may elect a President, a Secretary, a Treasurer and one or more Vice-Presidents and such other officers and assistant officers and agents of the Company as may be deemed desirable by the Member. Any two or more offices may be held by the same person. All officers shall serve until their respective successors are elected and qualify.

a. Duties.

(1) President. The President shall preside at all meetings of the Member and shall have general and active management of the business and affairs of the Company. The President shall execute on behalf of the Company, all instruments requiring such execution except to the extent the signing and execution thereof may be expressly delegated by the Member to some other officer or agent of the Company.

(2) Vice-President. In case of the office of the President becoming vacant by death, resignation, or otherwise, or in case of the absence of the President, or his or her disability to discharge the duties of his office, such duties shall, for the time being, devolve upon the Vice-President, first in order of election, who shall do and perform such other acts as the Member or the President may, from time to time, authorize him or her to do.

(3) Secretary. The Secretary shall act under the direction of the President. The Secretary shall take the minutes of all meetings of the Member and may sign, execute and deliver such documents and instruments as may be appropriately signed and executed in the name of the Company by a Secretary. The Secretary shall give, or cause to be given, notice of all meetings of the Member, and shall perform such other duties as may be prescribed by the President or the Member.

(4) Treasurer. The Treasurer shall act under the direction of the President. Subject to the direction of the President, the Treasurer shall have custody of the Company's funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Company and shall deposit all moneys and other valuable effects in the name and to the credit of the Company in such depositories as may be designated by the Member. The Treasurer shall disburse the funds of the Company as may be ordered by the President or the Member, taking proper vouchers for such disbursements, and shall render to the President and the Member, at its regular meetings, or when the Member so requires, an account of all transactions as Treasurer and of the financial condition of the Company.

b. Vacancies. Any vacancy occurring among the officers of the Company may be filled by the Member. A person elected to fill a vacancy shall hold office only until the next annual meeting of the Member and until his or her successor shall have been duly elected and qualified.

c. Removal. Any officer of the Company may be removed, with or without cause, by the Member at a meeting of the Member called expressly for that purpose.

d. Resignation. Any officer of the Company may resign upon written notice being made to the Member. The resignation is effective upon receipt of the written notice by the Member.

4. Capital. The name, address and value of the initial Capital Contribution of the Member shall be set forth on Schedule A attached hereto. The Member shall have no obligation to

make any additional capital contributions to the Company. The Member may make additional contributions of capital to the Company as the Member determines are necessary, appropriate or desirable.

5. Rights, Power and Authority of the Member. The Member shall have the full and exclusive right, power and authority to manage the affairs of the Company, to make all decisions with respect thereto and to do or cause to be done any and all acts or things deemed by the Member to be necessary, appropriate or desirable to carry out or further the business of the Company.

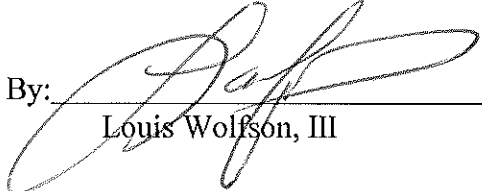
6. Liability of the Member. Except as otherwise provided by the Act, the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Company, and the Member shall not be obligated personally for any such debt, obligation or liability of the Company solely by reason of being a member.

7. Indemnification. The Company shall indemnify the Member and any of the Member's agents, affiliates, successors or assigns (individually, an "Indemnified Party") against any and all judgments, costs, losses, liabilities and damages (including attorneys' fees and expenses) paid or incurred by the Indemnified Party in connection with the activities of the Company or in dealing with third parties on behalf of the Company, to the fullest extent provided or allowed by law.

8. Dissolution and Winding-up of the Company. The Company shall be dissolved upon the first to occur of (a) the written consent of the Member or (b) the entry of a decree of judicial dissolution under the Act.

IN WITNESS WHEREOF, this Operating Agreement has been made and executed by the Member effective as of the date first written above.

MEMBER:

By: 
Louis Wolfson, III

SCHEDULE A

**NAME, ADDRESS AND INITIAL
CAPITAL CONTRIBUTION OF THE MEMBER**

<u>Name of Member</u>	<u>Address of Member</u>	<u>Value of Initial Capital Contribution of Member</u>
Louis Wolfson, III	23327 NW CR 236, Suite 60 High Springs, FL 32643	\$10.00

**WRITTEN CONSENT
OF THE SOLE MEMBER OF
PHG TX REGION 2, LLC
IN LIEU OF A MEETING
AS OF December 1, 2010**

The undersigned sole Member of PHG TX Region 2, LLC, a Florida limited liability company (the "Company"), does hereby adopt the following resolutions by written consent in lieu of a meeting effective as of the date first written above:

RESOLVED, that a certified copy of the Articles of Organization of the Company (the "Articles of Organization") which were filed with the Florida Department of State on December 21, 2010 is ordered to be inserted in the Company's Minute Book as part of the permanent records of the Company;

FURTHER RESOLVED, that a copy of the Company's Operating Agreement, effective as of December 1, 2010, is ordered to be inserted in the Company's Minute Book as part of the permanent records of the Company;

FURTHER RESOLVED, that the designation of Brian J. McDonough as Registered Agent of the Company made at the time of filing the Articles of Organization is hereby approved, adopted, ratified and confirmed;

FURTHER RESOLVED, that the fiscal year of the Company shall end on the last day of December in each year;

FURTHER RESOLVED, that the Member is authorized, empowered and directed to open an account with a bank or banks of his choice and to deposit therein all funds of the Company. All drafts, checks and notes of the Company, payable on said account, shall be made in the name of the Company, signed by the parties designated in the corporate banking resolution;

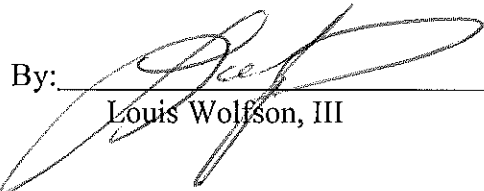
FURTHER RESOLVED, that any resolution required by the bank to effect the foregoing is hereby adopted as the action of the sole Member of the Company, and the Member is hereby directed to append a copy of such resolution to a copy of these resolutions in the Company's Minute Book;

FURTHER RESOLVED, that the Member is authorized to pay on behalf of the Company all fees and expenses incident to and necessary for the organization of the Company;

FURTHER RESOLVED, that the Member or any appropriate officer of the Company be, and each of them hereby is, authorized and directed on behalf of and in the name of the Company, to take such action, execute such documents and incur and pay such expenses as may be necessary or appropriate to carry out the foregoing resolutions and to effectuate the transactions and other matters authorized thereby.

IN WITNESS WHEREOF, the undersigned sole Member of the Company has adopted and approved the foregoing resolutions effective as of the date first above written.

SOLE MEMBER:

By: 
Louis Wolfson, III

MF RCV'D Fri 6/24/2011 1:45 PM



February 16, 2011

FLORIDA DEPARTMENT OF STATE
Division of CorporationsTYLOR REGION 2 HOLDING, LLC
9400 S DADELAND BLVD STE 100
MIAMI, FL 33156

Re: Document Number L10000130105

The Articles of Amendment to the Articles of Organization for PHG TX REGION 2, LLC which changed its name to TYLOR REGION 2 HOLDING, LLC, a Florida limited liability company, were filed on February 15, 2011.

The certification you requested is enclosed. To be official, the certification for a certified copy must be attached to the original document that was electronically submitted and filed under FAX audit number H11000040340.

Should you have any questions regarding this matter, please telephone (850) 245-6051, the Registration Section.

Tammy Hampton
Regulatory Specialist II
Division of Corporations

Letter Number: 011A00003959

P.O BOX 6327 - Tallahassee, Florida 32314

RECEIVED 2/24/2011 1:45 PM

State of Florida



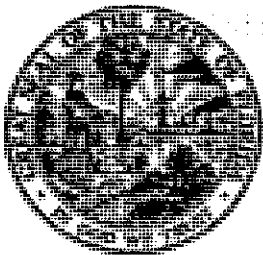
Department of State

I certify the attached is a true and correct copy of Articles of Amendment, filed on February 15, 2011, to the Articles of Organization for PHG TX REGION 2, LLC which changed its name to TYLOR REGION 2 HOLDING, LLC, a Florida limited liability company, as shown by the records of this office.

I further certify the document was electronically received under FAX audit number H11000040340. This certificate is issued in accordance with section 15.16, Florida Statutes, and authenticated by the code noted below.

The document number of this limited liability company is L10000130105.

Authentication Code: 011A00003959-021611-L10000130105-1/1



Given under my hand and the
Great Seal of the State of Florida,
at Tallahassee, the Capital, this the
Sixteenth day of February, 2011

Kurt S. Browning
Secretary of State

**ARTICLES OF AMENDMENT
TO
ARTICLES OF ORGANIZATION
OF
PHG TX REGION 2, LLC**

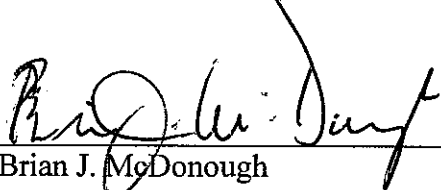
1. The Articles of Organization of PHG TX Region 2, LLC, a Florida limited liability company, were filed on December 21, 2010 and assigned document number L10000130105.

2. This amendment is submitted to amend the following:

ARTICLE I - NAME

The name of the limited liability company is Tylor Region 2 Holding, LLC.

IN WITNESS WHEREOF, the undersigned has executed these Articles of Amendment as of the 14 day of February 2011.



Brian J. McDonough
Authorized Representative



Office of the Secretary of State

February 07, 2011

Attn: Lisa Stephens
Lisa Stephens
9400 S. Dadeland Blvd., Ste. 100
Miami, FL 33156 USA

Batch Number: 35302545

Document Number: 353025450004

Re: PHG TX Region 2, LLC
Application for Name Reservation

This office has received and reviewed the above referenced document. The review reveals the following objections to the filing of the document. The document and any checks submitted in payment of statutory fees are returned to you for correction and resubmission. If payment of fees were to be charged to a credit card, LegalEase®, or a SOS client account, the account has not been charged.

1. The entity name is not available because it is similar to that of an existing entity. The name may be used only if written consent to use the name is obtained from the entity named below. Form 509 can be used to give written consent. For a preliminary check on name availability you may call (512) 463-5555 or e-mail corpinfo@sos.state.tx.us

Filing Number	Entity Name	RA Name	RA Address
800757145	PHG Tx. Management Corp.	Brian McCabe	400 W. 15th St, Ste 200, Austin, TX, 78701

Sincerely,

Dee Harris
Corporations Section
Business & Public Filings Division
512-936-4447

Come visit us on the internet at <http://www.sos.state.tx.us/>

STEARNS WEAVER MILLER
WEISSLER ALHADEFF & SITTERSON, P.A.

Museum Tower
150 West Flagler Street, Suite 2200
Miami, FL 33130
(305) 789-3200
stearnsweaver.com

June 23, 2011

Mr. Tom Gouris
Deputy Executive Director
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701

RE: Singing Oaks Region 3 Holding, LLC
Tylor Region 2 Holding, LLC
Bar T Region 4 Holding, LLC

Dear Mr. Gouris:

The above referenced entities were formed by this office on December 21, 2010 as single-member Florida limited liability companies (the "Companies"). Pursuant to our records, David O. Deutch has not been a member of the Companies. The annual reports that were filed on April 29, 2011 with the Florida Department of State on behalf of the Companies erroneously indicated that David O. Deutch was Vice President. Amended annual reports were filed with the Florida Department of State on June 21, 2011 to reflect the correct members of the Companies.

Sincerely,



Brian J. McDonough

2011 LIMITED LIABILITY COMPANY AMENDED ANNUAL REPORT

**FILED
Jun 21, 2011
Secretary of State**

ME RCV'D Fri 6/24/2011 1:45 PM

DOCUMENT# L10000130105

Entity Name: TYLOR REGION 2 HOLDING, LLC

Current Principal Place of Business:

9400 S DADELAND BLVD STE 100
MIAMI, FL 33156

New Principal Place of Business:

9400 S DADELAND BLVD
SUITE 100
MIAMI, FL 33156

Current Mailing Address:

9400 S DADELAND BLVD STE 100
MIAMI, FL 33156

New Mailing Address:

9400 S DADELAND BLVD.
SUITE 100
MIAMI, FL 33156

FEI Number: **FEI Number Applied For (X)** **FEI Number Not Applicable ()** **Certificate of Status Desired ()**

Name and Address of Current Registered Agent:

MCDONOUGH, BRIAN J
2200 MUSEUM TOWER
150 WEST FLAGLER STREET
MIAMI, FL 33130 US

Name and Address of New Registered Agent:

The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.

SIGNATURE: _____

Electronic Signature of Registered Agent

_____ Date

MANAGING MEMBERS/MANAGERS:

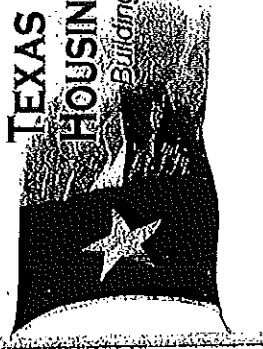
Title: MGM
Name: WOLFSON, III, LOUIS
Address: 9400 S. DADELAND BLVD., STE. 100
City-St-Zip: MIAMI, FL 33156

I hereby certify that the information indicated on this report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am a managing member or manager of the limited liability company or the receiver or trustee empowered to execute this report as required by Chapter 608, Florida Statutes.

SIGNATURE: LOUIS WOLFSON, III MGM 06/21/2011

_____ Electronic Signature of Signing Managing Member, Manager, or Authorized Representative / Date

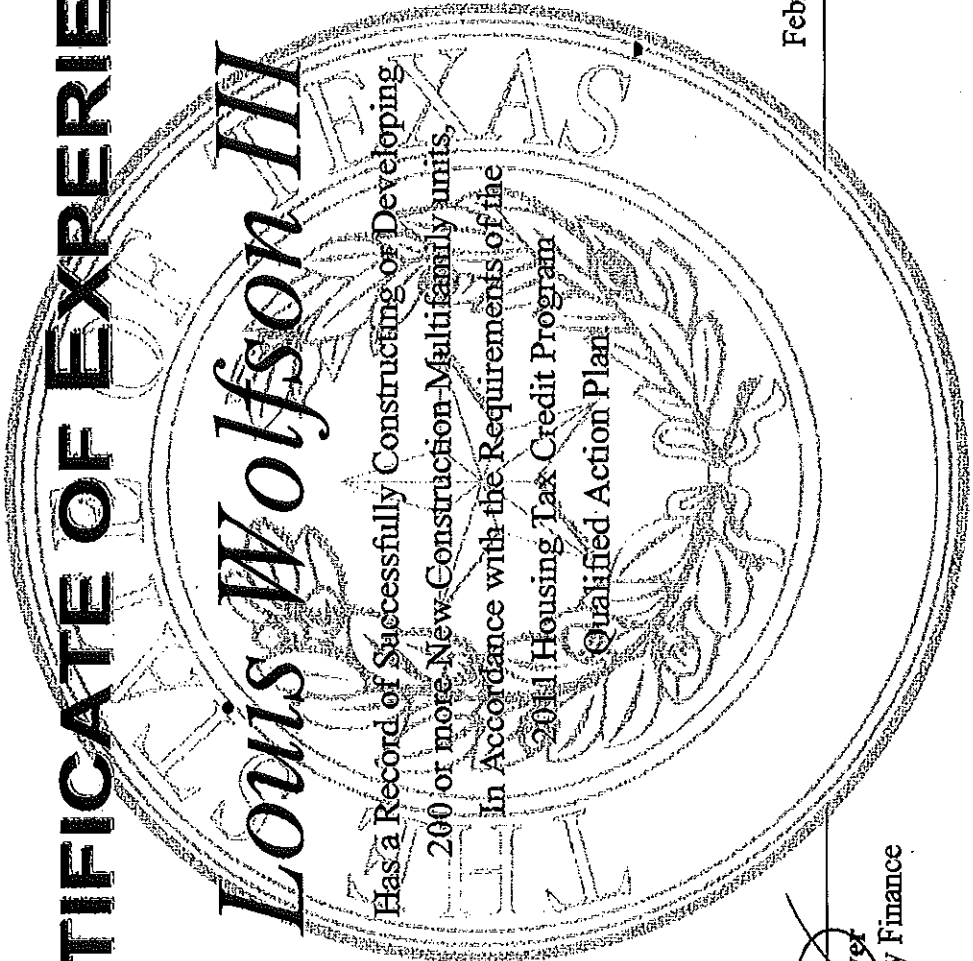
TEXAS DEPARTMENT OF
HOUSING & COMMUNITY AFFAIRS
Building Homes. Strengthening Communities.

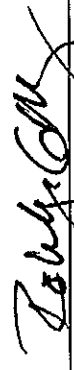


CERTIFICATE OF EXPERIENCE

Louis Wolfson III

Has a Record of Successfully Constructing or Developing
200 or more New Construction Multifamily units,
In Accordance with the Requirements of the
2004 Housing Tax Credit Program
Qualified Action Plan




Robbye G. Meyer
Director of Multifamily Finance

February 25, 2011

Date

RISK PROFILE

STRENGTHS/MITIGATING FACTORS		WEAKNESSES/RISKS	
▫	Based on the average market rate units in the sub-market, the average rent savings is \$227/month or 34%	▫	One-month concession on average rent is less than breakeven rent
▫	Will offer lower rents than the immediately adjacent multifamily properties	▫	Limited investigation of site work requirements and costs has been done (i.e. soil testing, detention requirements, etc.)
▫	84% breakeven occupancy and low expense ratio are indicative of less sensitivity to adverse market changes	▫	Direct construction costs are 9% lower than the Underwriter's estimate
▫	No deferred developer fee provides cushion against cost increases and financing changes		
▫	Visibility is good due to frontage on Catclaw.		
▫	Development is close to the Mall of Abilene and other major retail outlets		

DEVELOPMENT TEAM

PRIMARY CONTACTS

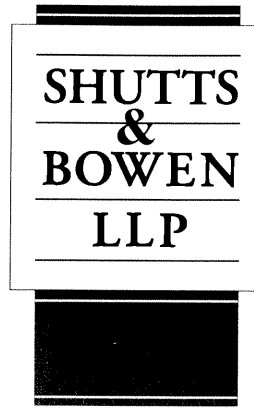
Name: Louis Wolfson III Relationship: Owner of Developer & Co-GP
 Email: louisw@pinnaclehousing.com Phone: (386) 454-0290 Fax: _____

Name: Sarah Dale Relationship: S2A Development Consulting (Co-GP)
 Email: sarah@s2adevelopment.com Phone: (512) 698-3369 Fax: (512) 233-2269

KEY PRINCIPALS

Related-Party Seller/Identity of Interest: No

- The Louis Wolfson III is a Co-General Partner and owner of the Developer for the transaction. Mr. Wolfson is a principal with Pinnacle Housing Group which is involved in a 2010 transaction that received an allocation. Pinnacle Housing Group's other partners are sponsoring other applications in the 2011 cycle.
- S2A Development Consulting is the Co-General Partner and serves as a consultant for several other applications in the 2011 cycle.



GARY J. COHEN
Member Florida Bar
(305) 347-7308 Direct Telephone
(305) 347-7808 Direct Facsimile

E-MAIL ADDRESS:
gcohen@shutts.com

June 23, 2011

Mr. Tom Gouris
Deputy Executive Director
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701

Re: Application #11248/Singing Oaks

Dear Mr. Gouris:

I write as counsel for Singing Oaks, LLC (the "Applicant"), Singing Oaks Region 3 Holdings, LLC (the "Managing Member"), Singing Oaks Development, LLC (the "Developer") and Mr. Mitchell Friedman (the "Principal/Guarantor") in connection with the Applicant's submission (the "Application") to the Texas Department of Housing and Community Affairs ("TDHCA") for an allocation of federal low income housing tax credits and, in particular, in response to a challenge to the Application filed with TDHCA and received by the Applicant (the "Challenge").

The Challenge alleges that Applicant and its Application attempted to circumvent the \$2,000,000 credit limitation rule set forth in Section 49.5(b) of the 2011 TDHCA Qualified Allocation Plan (the "QAP"). The Challenge asserts that the Application is somehow "related" to Application #11245 (Bar T Apartments, the principal/guarantor of which is Mr. Michael Wohl) and Application #11246 (Tylor Grand, the principal/guarantor of which is Mr. Louis Wolfson III).

For the reasons set forth below, neither the Applicant, the Managing Member, the Developer or the Principal/Guarantor of the Singing Oaks application/development is a "Related Party", "Affiliate" or "Principal" of the other two applications referenced above (Bar T Apartments and Tylor Grand), and there is no connection or affiliation between the Singing Oaks application and those submitted by the other two applicants referenced above. As such, none of the three applications referenced above are in any way connected to each other, and the \$2,000,000 credit limit should be applied separately to each such application and not to the three applications as a group, given the lack of any relationship between those three applications.

Mr. Tom Gouris
June 23, 2011
Page 2 of 4

The primary arguments (as I understand them) set forth in the Challenge, and our responses to each, are as follows:

1. The applications are connected due to the relationship of Messrs. Friedman, Wolfson and Wohl in Pinnacle Housing Group, LLC ("Pinnacle").

Pinnacle has no connection to any of the three applications submitted to TDHCA. Pinnacle is not acting as an applicant, developer or guarantor under any of the three applications. Pinnacle does not in any way "control", and is not under common control with, any of entities referenced in any of the three applications referenced herein. Pinnacle has no ownership or fee interest in any of the three applications, and will not be performing any services or otherwise be involved in any way in any of the three proposed developments. The fact that Messrs. Friedman, Wohl and Wolfson have undertaken prior transactions under the Pinnacle entity is irrelevant to the three applications submitted in this year's TDHCA funding cycle; Each of the three persons referenced above (Friedman, Wohl and Wolfson) has determined to "go it alone" and form their own applicant, managing member and developer entities and provide their sole individual guarantees, without involvement of any of the other two persons or Pinnacle Housing Group, LLC, in this year's Texas funding cycle. The fact that they may choose to do business together in other states and/or other funding cycles is simply not relevant here. Obviously, developers are free to do business in whatever form of entity they see fit, so long as such entities do not run afoul of applicable rules.

As is evidenced by the equity commitment provided by Wells Fargo to each of the three applications discussed herein, Wells Fargo is looking to the guaranty of the applicant, managing member and principal/guarantor of each free standing transaction, and is not looking for the guaranty of any other person (for example, in Singing Oaks, Mr. Friedman is the sole individual guarantor).

The fact that Messrs. Friedman, Wohl and Wolfson may be doing business together in Pinnacle Housing Group, LLC does not mean, under the applicable Texas rules, that they (or the three applications submitted by them in this year's Texas funding cycle) are in any way "related" or "affiliated". None of the three persons referenced above is a "principal", "related party" or "affiliate" of any application other than the one directly submitted by it. None of the three persons "controls" in any way any applicant, managing member, or developer other than the applicant/managing member/developer entity referenced in the application directly submitted by it.

Mr. Friedman has no relationship to any of the entities referenced in the Tylor Grand and Bar T Apartments applications. Mr. Wohl has no relationship to any of the entities referenced in the Tylor Grand and Singing Oaks applications. Mr. Wolfson has no relationship to any of the entities referenced in the Singing Oaks and Bar T Apartments applications.

2. Name change of managing member of each applicant shows "negligent material misrepresentation" which should result in disqualification of each application.

Mr. Tom Gouris
June 23, 2011
Page 3 of 4

Prior to the submission of its Application, the Managing Member filed an amendment to its Articles of Organization with the Florida Secretary of State, changing its name from PHG TX Region 3, LLC to Singing Oaks Region 3 Holding, LLC. This was done in response from the Texas Secretary of State that the original name of the Managing Member could not be reserved in Texas due to its similarity to another Texas entity. Hence, Mr. Friedman changed the name with the Florida Secretary of State on February 15, 2011 to Singing Oaks Region 3 Holding LLC. There is no intent to deceive or misrepresent in any way; Mr. Friedman was merely responding to the instruction of the Texas Secretary of State. Please see the attached documentation to this effect. Pinnacle Housing Group, LLC does not have (and has never had) any affiliation or involvement in any way with this entity. The fact that the phrase "PHG" appeared in the original name of the Managing Member entity means nothing; names of entities do not in any way connote ownership or affiliation.

3. Email addresses and mailing addresses show "affiliation" or "related party" status.

Obviously, there is no rule requiring Messrs. Friedman, Wohl and Wolfson to physically separate their Miami offices or adopt new email addresses with different (non-Pinnacle suffixes) in order to transact business entirely separately from each other in Texas.

4. Annual Report filings for Managing Member entities.

The Challenge notes that Mr. Deutch is, in the Annual Report filed with Florida for each of the three managing member entities for each of the three applications referenced above, the "managing member of the GP of the applicant". This is wrong on several levels. Mr. Deutch was erroneously listed on each of the three annual reports (filed on Florida on April 29, 2011) as the vice-president of the managing member for each of the three applicants discussed herein; on June 21, 2011, the annual reports were refiled and corrected reflecting that, with respect to each managing member of each applicant discussed herein, the sole officer/managing member of each such entity is the individual whose is the principal/guarantor of such application. See attached documentation. In other words, Mr. Friedman is the sole managing member of Singing Oaks Region 3 Holding, and Mr. Deutch has no affiliation therewith. Similarly, Mr. Wolfson is the sole managing member of Tylor Region 2 Holding, LLC, and Mr. Deutch has no affiliation therewith. Finally, Mr. Wohl is the sole managing member of Bar T Region 4 Holding, LLC, and Mr. Deutch has no affiliation therewith.

Mr. Tom Gouris
June 23, 2011
Page 4 of 4

5. Other "affiliations" alleged.

The Challenge also makes reference to Ms. Lisa Stephens as being an "affiliate" of the three applications discussed herein. In fact, Ms. Stephens is not affiliated with any of the three transactions discussed herein, other than in her capacity as a "Development Consultant" to each of those transactions, which is expressly excluded from the definition of Affiliate under Section 49.5(b)(4) of the QAP. Ms. Stephens has no other relationship with any of the three applications discussed herein other than as set forth immediately above.

6. Rule Interpretation.

At a meeting with members of the TAAHP Board and Tim Irvine (then General Counsel and currently Acting Executive Director) and Tom Gouris (Deputy Executive Director for Housing Programs) regarding the QAP on August 9, 2010, the Texas based consultants on staff for Singing Oaks had a specific discussion regarding TDHCA's interpretation of the \$2 million cap. At that time, it was brought to TDHCA's attention that their interpretation of this clause was causing principals from existing strong development partnerships to form new separate entities and do developments on their own. Department staff acknowledged that they knew this was a common occurrence, and that while the individuals may not be as financially sound as the development partnerships, as long as they were completely independent for those particular deals, they would meet the requirements of the QAP.


7. Staff Determinations.

TDHCA reviewed the experience of each of Messrs. Friedman, Wohl and Wolfson each individually and determined that each has sufficient experience and wherewithal to develop these properties without any reliance on Pinnacle Housing Group or other persons as evidenced by the experience certificates issued to each by TDHCA (see attached documentation).

TDHCA staff has completed their underwriting reports for Tylor Grand and Singing Oaks and has specifically determined that no related party status or identity of interest exists among the applicants, their managing members and developers regardless of their other involvements with Pinnacle Housing Group.

Please do not hesitate to contact me if you have any questions concerning this matter. Thank you for the opportunity to be of assistance.

Sincerely,


Gary J. Cohen

GJC/mar
Attachment

MIADOCS 5468306 2

1500 Miami Center • 201 South Biscayne Boulevard, Miami, Florida 33131 • ph 305.358.6300 • fx 305.381.9982 • www.shutts.com

**OPERATING AGREEMENT
PHG TX REGION 3, LLC
(a Florida Limited Liability Company)**

THIS OPERATING AGREEMENT (the "Operating Agreement") is entered into by the undersigned (the "Member"), effective as of the 1 day of December, 2010.

RECITAL

The Member desires to form PHG TX Region 3, LLC, a limited liability company (the "Company"), under the Florida Limited Liability Company Act (the "Act") for the purposes set forth herein, and, accordingly, desires to enter into this Operating Agreement in order to set forth the terms and conditions of the business and affairs of the Company and to determine the rights and obligations of its Member.

NOW, THEREFORE, the Member, intending to be legally bound by this Operating Agreement, hereby agrees that the limited liability company operating agreement of the Company shall be as follows:

1. **Organization.** The Member hereby organizes the Company as a single-member Florida limited liability company pursuant to the provisions of the Act.

2. **Purpose; Powers.** The purpose of the Company shall be to engage in any lawful business that may be engaged in by a limited liability company organized under the Act, as such business activities may be determined by the Member from time to time. The Company shall have the authority to do all things necessary or convenient to accomplish its purpose and operate its business as described in this Section 2. The Company shall have all powers of a limited liability company under the Act and the power to do all things necessary or convenient to accomplish its purpose and operate its business as described in this Section 2.

3. **Officers.** The Member may elect a President, a Secretary, a Treasurer and one or more Vice-Presidents and such other officers and assistant officers and agents of the Company as may be deemed desirable by the Member. Any two or more offices may be held by the same person. All officers shall serve until their respective successors are elected and qualify.

a. Duties.

(1) President. The President shall preside at all meetings of the Member and shall have general and active management of the business and affairs of the Company. The President shall execute on behalf of the Company, all instruments requiring such execution except to the extent the signing and execution thereof may be expressly delegated by the Member to some other officer or agent of the Company.

(2) Vice-President. In case of the office of the President becoming vacant by death, resignation, or otherwise, or in case of the absence of the President, or his or her disability to discharge the duties of his office, such duties shall, for the time being, devolve upon the Vice-President, first in order of election, who shall do and perform such other acts as the Member or the President may, from time to time, authorize him or her to do.

(3) Secretary. The Secretary shall act under the direction of the President. The Secretary shall take the minutes of all meetings of the Member and may sign, execute and deliver such documents and instruments as may be appropriately signed and executed in the name of the Company by a Secretary. The Secretary shall give, or cause to be given, notice of all meetings of the Member, and shall perform such other duties as may be prescribed by the President or the Member.

(4) Treasurer. The Treasurer shall act under the direction of the President. Subject to the direction of the President, the Treasurer shall have custody of the Company's funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Company and shall deposit all moneys and other valuable effects in the name and to the credit of the Company in such depositories as may be designated by the Member. The Treasurer shall disburse the funds of the Company as may be ordered by the President or the Member, taking proper vouchers for such disbursements, and shall render to the President and the Member, at its regular meetings, or when the Member so requires, an account of all transactions as Treasurer and of the financial condition of the Company.

b. Vacancies. Any vacancy occurring among the officers of the Company may be filled by the Member. A person elected to fill a vacancy shall hold office only until the next annual meeting of the Member and until his or her successor shall have been duly elected and qualified.

c. Removal. Any officer of the Company may be removed, with or without cause, by the Member at a meeting of the Member called expressly for that purpose.

d. Resignation. Any officer of the Company may resign upon written notice being made to the Member. The resignation is effective upon receipt of the written notice by the Member.

4. Capital. The name, address and value of the initial Capital Contribution of the Member shall be set forth on Schedule A attached hereto. The Member shall have no obligation to

make any additional capital contributions to the Company. The Member may make additional contributions of capital to the Company as the Member determines are necessary, appropriate or desirable.

5. Rights, Power and Authority of the Member. The Member shall have the full and exclusive right, power and authority to manage the affairs of the Company, to make all decisions with respect thereto and to do or cause to be done any and all acts or things deemed by the Member to be necessary, appropriate or desirable to carry out or further the business of the Company.


6. Liability of the Member. Except as otherwise provided by the Act, the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Company, and the Member shall not be obligated personally for any such debt, obligation or liability of the Company solely by reason of being a member.

7. Indemnification. The Company shall indemnify the Member and any of the Member=s agents, affiliates, successors or assigns (individually, an “Indemnified Party”) against any and all judgments, costs, losses, liabilities and damages (including attorneys= fees and expenses) paid or incurred by the Indemnified Party in connection with the activities of the Company or in dealing with third parties on behalf of the Company, to the fullest extent provided or allowed by law.

8. Dissolution and Winding-up of the Company. The Company shall be dissolved upon the first to occur of (a) the written consent of the Member or (b) the entry of a decree of judicial dissolution under the Act.

IN WITNESS WHEREOF, this Operating Agreement has been made and executed by the Member effective as of the date first written above.

MEMBER:

By: 

Mitchell Friedman

SCHEDULE A

**NAME, ADDRESS AND INITIAL
CAPITAL CONTRIBUTION OF THE MEMBER**

<u>Name of Member</u>	<u>Address of Member</u>	<u>Value of Initial Capital Contribution of Member</u>
Mitchell Friedman	9400 Dadeland Boulevard Suite 100 Miami, Florida 33156	\$10.00

**WRITTEN CONSENT
OF THE SOLE MEMBER OF
PHG TX REGION 3, LLC
IN LIEU OF A MEETING
AS OF December 1, 2010**

The undersigned sole Member of PHG TX Region 3, LLC, a Florida limited liability company (the "Company"), does hereby adopt the following resolutions by written consent in lieu of a meeting effective as of the date first written above:

RESOLVED, that a certified copy of the Articles of Organization of the Company (the "Articles of Organization") which were filed with the Florida Department of State on December 21, 2010 is ordered to be inserted in the Company's Minute Book as part of the permanent records of the Company;

FURTHER RESOLVED, that a copy of the Company's Operating Agreement, effective as of December 1, 2010, is ordered to be inserted in the Company's Minute Book as part of the permanent records of the Company;

FURTHER RESOLVED, that the designation of Brian J. McDonough as Registered Agent of the Company made at the time of filing the Articles of Organization is hereby approved, adopted, ratified and confirmed;

FURTHER RESOLVED, that the fiscal year of the Company shall end on the last day of December in each year;

FURTHER RESOLVED, that the Member is authorized, empowered and directed to open an account with a bank or banks of his choice and to deposit therein all funds of the Company. All drafts, checks and notes of the Company, payable on said account, shall be made in the name of the Company, signed by the parties designated in the corporate banking resolution;

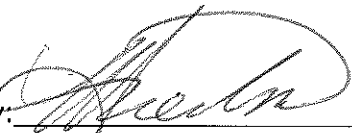
FURTHER RESOLVED, that any resolution required by the bank to effect the foregoing is hereby adopted as the action of the sole Member of the Company, and the Member is hereby directed to append a copy of such resolution to a copy of these resolutions in the Company's Minute Book;

FURTHER RESOLVED, that the Member is authorized to pay on behalf of the Company all fees and expenses incident to and necessary for the organization of the Company;

FURTHER RESOLVED, that the Member or any appropriate officer of the Company be, and each of them hereby is, authorized and directed on behalf of and in the name of the Company, to take such action, execute such documents and incur and pay such expenses as may be necessary or appropriate to carry out the foregoing resolutions and to effectuate the transactions and other matters authorized thereby.

IN WITNESS WHEREOF, the undersigned sole Member of the Company has adopted and approved the foregoing resolutions effective as of the date first above written.

SOLE MEMBER:

By: 

Mitchell Friedman

MF RCV'D Fri 6/24/2011 1:42 PM



February 16, 2011

FLORIDA DEPARTMENT OF STATE
Division of CorporationsSINGING OAKS REGION 3 HOLDING, LLC
9400 S. DADELAND BLVD., STE. 100
MIAMI, FL 33156

Re: Document Number L10000130348

The Articles of Amendment to the Articles of Organization for PEG TX REGION 3, LLC which changed its name to SINGING OAKS REGION 3 HOLDING, LLC, a Florida limited liability company, were filed on February 15, 2011.

The certification you requested is enclosed. To be official, the certification for a certified copy must be attached to the original document that was electronically submitted and filed under FAX audit number H11000040347.

Should you have any questions regarding this matter, please telephone (850) 245-6051, the Registration Section.

Karen A Saly
Regulatory Specialist II
Division of CorporationsSINGING, LLC
STE. 100
Letter Number: 711A00003960

P.O BOX 6327 - Tallahassee, Florida 32314

MF RCVD Fri 6/24/2011 1:42 PM

State of Florida



Department of State

I certify the attached is a true and correct copy of Articles of Amendment, filed on February 15, 2011, to the Articles of Organization for PHG TX REGION 3, LLC which changed its name to SINGING OAKS REGION 3 HOLDING, LLC, a Florida limited liability company, as shown by the records of this office.

I further certify the document was electronically received under FAX audit number H11000040347. This certificate is issued in accordance with section 15.16, Florida Statutes, and authenticated by the code noted below.

The document number of this limited liability company is L10000130348.

Authentication Code: 711A00003960-021611-L10000130348-1/1

Department of State



Given under my hand and the Great Seal of the State of Florida, at Tallahassee, the Capital, this the Sixteenth day of February, 2011

Kurt S. Browning
Secretary of State

**ARTICLES OF AMENDMENT
TO
ARTICLES OF ORGANIZATION
OF
PHG TX REGION 3, LLC**

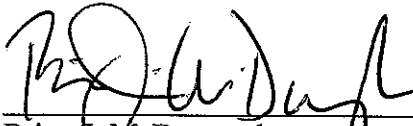
1. The Articles of Organization of PHG TX Region 3, LLC, a Florida limited liability company, were filed on December 21, 2010 and assigned document number L10000130348.

2. This amendment is submitted to amend the following:

ARTICLE I - NAME

The name of the limited liability company is Singing Oaks Region 3 Holding, LLC.

IN WITNESS WHEREOF, the undersigned has executed these Articles of Amendment as of the 15 day of February 2011.



Brian J. McDonough
Authorized Representative



Office of the Secretary of State

February 07, 2011

Attn: Lisa Stephens
Lisa Stephens
9400 S. Dadeland Blvd., Ste. 100
Miami, FL 33156 USA

Batch Number: 35302545

Document Number: 353025450019

Re: PHG TX Region 3, LLC
Application for Name Reservation

This office has received and reviewed the above referenced document. The review reveals the following objections to the filing of the document. The document and any checks submitted in payment of statutory fees are returned to you for correction and resubmission. If payment of fees were to be charged to a credit card, LegalEase®, or a SOS client account, the account has not been charged.

1. The entity name is not available because it is similar to that of an existing entity. The name may be used only if written consent to use the name is obtained from the entity named below. Form 509 can be used to give written consent. For a preliminary check on name availability you may call (512) 463-5555 or e-mail corpinfo@sos.state.tx.us

Filing Number	Entity Name	RA Name	RA Address
800757145	PHG Tx. Management Corp.	Brian McCabe	400 W. 15th St, Ste 200, Austin, TX, 78701

2. An electronic web filing that has been rejected cannot be "re-submitted" or re-transmitted. In order to proceed with the filing, a new session must be initiated and a new web document meeting the statutory requirements must be created and transmitted. The filing fee for the document has not been deducted from your client account or charged to your credit card.

Sincerely,

Lisa Sartin

Come visit us on the internet at <http://www.sos.state.tx.us/>

Phone: (512) 463-5555
Prepared by: LSARTIN

Fax: (512) 463-5709
TID: 10004

Dial: 7-1-1 for Relay Services
Document: 353025450019

Corporations Section
P.O. Box 13697
Austin, Texas 78711-3697



Hope Andrade
Secretary of State

Office of the Secretary of State

Corporations Section
Business & Public Filings Division
512-463-5583

Come visit us on the internet at <http://www.sos.state.tx.us/>

Phone: (512) 463-5555
Prepared by: LSARTIN

Fax: (512) 463-5709
TID: 10004

Dial: 7-1-1 for Relay Services
Document: 353025450019

STEARNS WEAVER MILLER
WEISSLER ALHADEFF & SITTERSON, P.A.

Museum Tower
150 West Flagler Street, Suite 2200
Miami, FL 33130
(305) 789-3200
stearnsweaver.com

June 23, 2011

Mr. Tom Gouris
Deputy Executive Director
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701

RE: Singing Oaks Region 3 Holding, LLC
Tylor Region 2 Holding, LLC
Bar T Region 4 Holding, LLC

Dear Mr. Gouris:

The above referenced entities were formed by this office on December 21, 2010 as single-member Florida limited liability companies (the "Companies"). Pursuant to our records, David O. Deutch has not been a member of the Companies. The annual reports that were filed on April 29, 2011 with the Florida Department of State on behalf of the Companies erroneously indicated that David O. Deutch was Vice President. Amended annual reports were filed with the Florida Department of State on June 21, 2011 to reflect the correct members of the Companies.

Sincerely,



Brian J. McDonough

2011 LIMITED LIABILITY COMPANY AMENDED ANNUAL REPORT**FILED
Jun 21, 2011
Secretary of State**ME RCV'D Fri 6/24/2011 1:42 PM
DOCUMENT# L10000130348**Entity Name:** SINGING OAKS REGION 3 HOLDING, LLC**Current Principal Place of Business:**9400 S. DADELAND BLVD., STE. 100
MIAMI, FL 33156**New Principal Place of Business:**9400 S. DADELAND BLVD.
SUITE 100
MIAMI, FL 33156**Current Mailing Address:**9400 S. DADELAND BLVD., STE. 100
MIAMI, FL 33156**New Mailing Address:**9400 S. DADELAND BLVD.
SUITE 100
MIAMI, FL 33156**FEI Number:** **FEI Number Applied For (X)** **FEI Number Not Applicable ()** **Certificate of Status Desired ()****Name and Address of Current Registered Agent:**MCDONOUGH, BRIAN J
2200 MUSEUM TOWER
150 W. FLAGLER STREET
MIAMI, FL 33130 US**Name and Address of New Registered Agent:**

The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.

SIGNATURE: _____

Electronic Signature of Registered Agent

Date

MANAGING MEMBERS/MANAGERS:**Title:** MGM
Name: FRIEDMAN, MITCHELL
Address: 9400 S. DADELAND BLVD., STE. 100
City-St-Zip: MIAMI, FL 33156

I hereby certify that the information indicated on this report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am a managing member or manager of the limited liability company or the receiver or trustee empowered to execute this report as required by Chapter 608, Florida Statutes.

SIGNATURE: MITCHELL FRIEDMAN MGM 06/21/2011

Electronic Signature of Signing Managing Member, Manager, or Authorized Representative / Date

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



CERTIFICATE OF EXPERIENCE

Mitchell Friedman

Has a Record of Successfully Constructing or Developing
200 or more Rehabilitation Multifamily units,
In Accordance with the Requirements of the
2011 Housing Tax Credit Program
Qualified Action Plan.


Robbye G. Meyer
Director of Multifamily Finance

March 9, 2011
Date

RISK PROFILE

STRENGTHS/MITIGATING FACTORS	
▫	Based on the average market rate units in the sub market, the average rent savings is \$99/month or 12%
▫	Underwritten expense to income ratio is 55%
▫	Applicant believes majority of existing tenants will qualify
▫	Current occupancy 95% and capture rate less than 2%

WEAKNESSES/RISKS	
▫	One-month concession on 60% and market units yields effective average rent below break-even level
▫	Underwriter's debt coverage ratio is below 1.15
▫	Several revisions were made to the operating proforma and cost schedule

DEVELOPMENT TEAM

PRIMARY CONTACTS

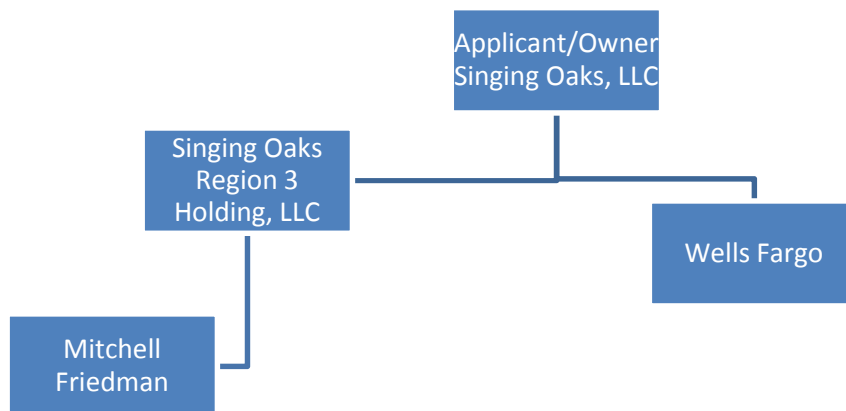
Name: <u>Mitchell Friedman</u>	Relationship: <u>Developer</u>
Email: <u>mfriedman@pinnaclehousing.com</u>	Phone: <u>(305) 854-7100</u> Fax: <u>(305) 859-9858</u>
Name: <u>Alyssa Carpenter</u>	Consultant: <u>S2A Development Consulting</u>
Email: <u>ajcarpen@gmail.com</u>	Phone: <u>(512) 789-1295</u> Fax: <u>(512) 233-2269</u>

IDENTITIES OF INTEREST

Related-Party Seller/Identity of Interest: No

- The Mitchell Friedman is the General Partner and owner of the Developer for the transaction. Mr. Friedman is a principal with Pinnacle Housing Group which is involved in a 2010 transaction that received an allocation. Pinnacle Housing Group's other partners are sponsoring other applications in the 2011 cycle.

OWNERSHIP STRUCTURE





CITY OF DALLAS

May 16, 2011

Robbye Meyer
Director of Multifamily Finance
Texas Dept. of Housing & Community Affairs
P.O. Box 13941
Austin, Texas 78711-3941

Re: Low Income Housing Tax Credit Application #11258 Brook Village Apts

Dear Ms Meyer:

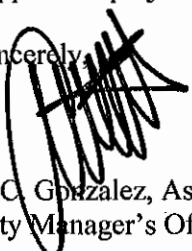
The purpose of this letter is to request clarification and justification for points awarded to LIHTC application #11258 Brook Village Apts under the 2011 Qualified Allocation Plan 50.9(i) Selection (5) Local Political Subdivision Funding.

After the application for Brook Village Apts was reviewed by the Dallas City Council on February 23, 2011, the Council voted not to support the project (see attached). The project is not in keeping with the priorities for the City of Dallas. As we understand the nature of the language in the QAP under 50.9(i) Selection (5)(A)(ix), the Governing Body of the Local Political Subdivision should be the City of Dallas, where the project is located. This particular applicant provided a letter of commitment from an Austin based Housing Corporation, Capital Area Housing Finance Corporation. We do not believe that an Austin company should be able to approve projects for Dallas.

Additionally, this particular corporation's by-laws state that their assistance is conditioned on the "consent of the applicable Local Political Subdivision as evidenced by an executed Interlocal Agreement" (see attached). The City of Dallas has not executed an Interlocal Agreement nor do we intend to execute such an agreement.

The City of Dallas would ask TDHCA to deduct the 18 points for Local Political Subdivision Funding for this application given that the Governing Body where the project is located does not support the project.

Sincerely,


A.C. Gonzalez, Assistant City Manager
City Manager's Office

C: Kent Conine, TDHCA Board Chairman
Michael Gerber, Executive Director

05-18-11A08:45 RCVD



City of Dallas

STATE OF TEXAS §
COUNTY OF DALLAS §
CITY OF DALLAS §

I, **DEBORAH WATKINS**, City Secretary of the City of Dallas, Texas, do hereby certify that the attached is a complete true and correct copy of:

FILE NO. 11-0599

filed in my office as official records of the City of Dallas, and that I have custody and control of said records.

WITNESS MY HAND AND THE SEAL OF THE CITY OF DALLAS, TEXAS,
this the 28th day of **February, 2011**.

A handwritten signature in cursive script, reading "Deborah Watkins".

DEBORAH WATKINS
CITY SECRETARY
CITY OF DALLAS, TEXAS

PREPARED BY G. S. Ruelas

05-13-11A08:47 RCVD

WHEREAS, on February 10, 2010, the City Council approved a modification to the policy for the acceptance of applications seeking City of Dallas support for low income housing tax credit financing, when the State of Texas does not require direct City of Dallas approval by Resolution No. 10-0498; and

WHEREAS, the Applicant, Deepak P. Sulakhe, submitted an application to the City of Dallas on behalf of Dallas Brook Village Apartments, L.P., for support of their application to TDHCA for the 2011 Low Income Housing Tax Credit Program; and

WHEREAS, on February 7, 2011 and February 22, 2011, the Brook Village Apartments Low Income Housing Tax Credit multifamily project was briefed to the Housing Committee; and

WHEREAS, as a condition for being considered for the award of the 9% tax credit, the Applicant has committed to renting 213 units or 100% of the units to tenants with household incomes 60% or below the area median family income (AMFI) with rents affordable to tenants whose household incomes are 60% or below the AMFI; and

WHEREAS, as with the City of Dallas funding and endorsement of the TDHCA LIHTC application for Brook Village Apartments, the owner of the project will provide social services with the project approved by the Housing/Community Services Department, if the owner is utilizing City funding in the financing of the low income housing tax credit project; and

WHEREAS, the City of Dallas desires to provide approval of the TDHCA LIHTC application for the Brook Village Apartments project located at 6852 Shady Brook Lane;
NOW, THEREFORE

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That the City of Dallas supports the Texas Department of Housing and Community Affairs (TDHCA) 9% low-income housing tax credit allocation for Brook Village Apartments project located at 6852 Shady Brook Lane for the acquisition and rehabilitation of the 213-unit multifamily residential development for low income family housing, provided, however, that the City's approval of the tax credit financing for this project shall be contingent upon, among other things, future City Council approval of zoning.

February 23, 2011

SECTION 2. That the City of Dallas' funding and endorsement of the TDHCA LIHTC application for Brook Village Apartments will be contingent on the following if the owner is utilizing City funding in financing of the low income housing tax credit project: (1) the Project Owner expending a minimum of \$40,000 (a minimum of \$40,000 or \$200 per unit per year, whichever is greater) for social services for, and at no cost to, the residents of the development, based on a survey of residents needs, to be implemented within three months of project completion; (2) inclusion of this requirement in the Land Use Restriction Agreement (LURA) by the Texas Department of Housing and Community Affairs (TDHCA) and the City's Deed Restrictions containing the social services requirement; and, (3) if the LURA does not require the social services expenditures to be made prior to debt service payment, a separate guarantee by an entity or individual acceptable to the City that the social services expenditures will be made. Up to 50% of the social service requirement can be fulfilled with in kind social services provided the Housing/community services department gives prior approval of the social service plan.

SECTION 3. That prior to receiving a conditional City of Dallas building permit required by TDHCA prior to closing on the tax credits, the Project Developer will consult with the City of Dallas Sustainable Development and Construction Department with regard to security related design standards.

SECTION 4. That the City of Dallas' funding and endorsement for this project will be contingent on the Project Owner paying to the City an annual monitoring review fee in the amount of \$500, beginning on the anniversary of the closing on the 9% tax credits and ending at the end of the tax credit compliance period, for the cost of monitoring compliance with the social service requirement, if the Project Owner is utilizing City funding in the financing of the low income housing tax credit project.

SECTION 5. That the City of Dallas authorizes the applicant to act on behalf of the City in applying for HOME funds from TDHCA to specifically accommodate disabled persons for the particular application.

SECTION 6. That this resolution shall take effect immediately from and after its passage in accordance with the Charter of the City of Dallas, and it is accordingly so resolved.

DISTRIBUTION:

Housing/Community Services Department
City Attorney's Office
Office of Financial Services/Community Development, 4FN

KEY FOCUS AREA: Economic Vibrancy
AGENDA DATE: February 23, 2011
COUNCIL DISTRICT(S): 13
DEPARTMENT: Housing/Community Services
CMO: A. C. Gonzalez, 671-8925
MAPSCO: 26T

SUBJECT

Authorize a resolution in support of the Texas Department of Housing and Community Affairs (TDHCA) 9% low-income housing tax credit (LIHTC) allocation for Brook Village Apartments located at 6852 Shady Brook Lane for the acquisition and rehabilitation of the proposed 213-unit multifamily residential development for low income families - Financing: No cost consideration to the City
Recommendation of Staff: Denial

DENIED

BACKGROUND

On February 10, 2010, the City Council approved an action item authorizing a modification to the City of Dallas' policy for accepting applications seeking City of Dallas support for low income housing tax credit financing, when the State of Texas does not require direct City of Dallas approval to: 1) allow for only one application to be submitted; and 2) require applicants to submit a \$1,000 fee with the single application to cover administrative costs associated with reviewing the applications for City consideration of funding and endorsement by the City Council.

On January 19, 2011, the Applicant, Deepak Sulakhe, submitted an application to the City of Dallas on behalf of Dallas Brook Village Apartments, L.P., for support of their application to TDHCA for the 2011 Low Income Housing Tax Credit Program.

BACKGROUND (continued)

The Applicant has committed to 22 units or 10% of the units to tenants with household incomes capped at 30% or below the AMFI with rents affordable to tenants whose household incomes are 30% or below the AMFI and 75 units or 35% of the units to tenants with household incomes capped at 50% or below the AMFI with rents affordable to tenants whose household incomes are 50% or below the AMFI and 116 units or 55% of the units to tenants with household incomes capped at 60% or below the AMFI with rents affordable to tenants whose household incomes are 60% or below the AMFI.

As a requirement for City of Dallas' funding and endorsement of low income housing tax credit projects, the Applicant(s) are required to conduct a survey of the needs of the tenants as each lease is signed and will provide some or all of the following social services at no cost to the tenants, such as: after-school and summer break care for children, health screenings; counseling/domestic crisis intervention; emergency assistance, computer education, adult education programs (such as: ESL, life skills and nutrition classes, etc.); and social and recreational activities. This requirement only applies if the Applicant(s) is utilizing City funding in the financing of the low income housing tax credit project.

This project is not located within one mile of another proposed LIHTC multifamily project that proposes to serve the same population. State law prohibits approval of new tax credit projects that are located less than a mile from another tax credit project funded within the same year unless the projects are serving different clientele. However, if the project serving the same population was funded between one and three years, then the municipality has the authority to provide a resolution waiving the one mile three year rule.

The Housing/Community Services Department is not recommending that City Council grant endorsement of the application to TDHCA for Brook Village Apartments for the LIHTC program.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

On February 10, 2010, the City Council approved a modification to the policy for the acceptance of applications seeking City of Dallas support for low income housing tax credit financing, when the State of Texas does not require direct City of Dallas approval by Resolution No. 10-0498.

PRIOR ACTION/REVIEW (Council, Boards, Commissions) (continued)

On February 7, 2011, the Housing Committee of the City Council was briefed on the Low Income Housing Tax Credit Program.

On February 22, 2011, the Brook Village Apartments Low Income Housing Tax Credit multifamily project was briefed to the Housing Committee.

FISCAL INFORMATION

No cost consideration to the City.

OWNER(S)

Dallas Brook Village Apartments, LP

Dallas Brook Village Development, LLC

OM Housing, LLC
Deepak P. Sulakhe, Managing Member

DEVELOPER

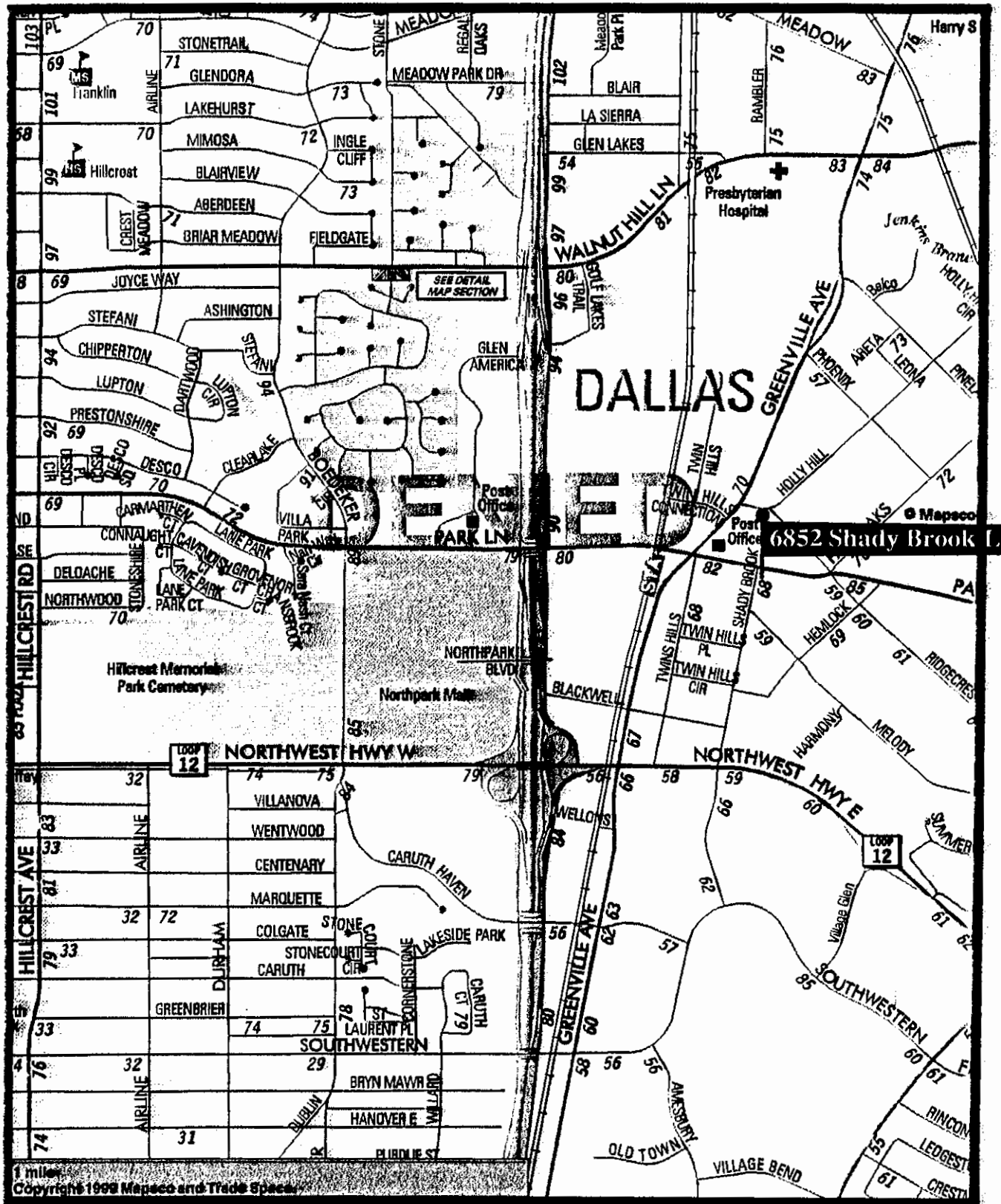
OM Housing, LLC
Deepak P. Sulakhe, Managing Member

Spectrum Housing Corporation
John D. Mathews, Executive Director

DENIED

MAP

Attached





Rules for 9% Tax Credit Loans

ABOUT CAHFC

- Mission
- Board Members & Staff
- Service Area / Data
- Contact Us
- Capital Area Affordable Housing, LLC
- Capital Area Multi-Housing

NEWS / RESOURCES

- Publications
- Website Links

BUYERS & RENTERS

- Homes For Sale
- First Time Home Buyer Program
- Find an Affordable Apartment

HOUSING PROGRAMS

- Multi-Family Finance
- Previously Financed Projects

APPLICATIONS

- Financing Qualified Residential Rental Property
- Rules for 9% Tax Credit Loans.

Capital Area Housing Finance Corporation

Rules for Loans in Connection with Obtaining Tax Credits for Multifamily Residential Rental Projects

Article I. Purpose and Scope

Capital Area Housing Finance Corporation (the “Corporation”) was created as a public non-profit corporation under the provisions of the Texas Housing Finance Corporations Act, Texas Local Government Code, Chapter 394, as amended (the “Act”). The Corporation’s primary purpose is to assist individuals of low and moderate income to obtain decent, safe, sanitary, and affordable housing. The Corporation is authorized by the Act to make loans to further its purposes thereunder. Applications for loans will be considered in connection with developments located in one or more of the following: Counties of Bastrop, Blanco, Burnet, Caldwell, Fayette, Hays, Lee, Llano and Williamson (collectively, the “Program Area”) or in locations outside of the Program Area with the consent of the applicable Local Political Subdivision as evidenced by an executed Interlocal Agreement. The Corporation has adopted these Rules to set forth the general requirements and procedures applicable to qualifying for a loan in connection with obtaining tax credits from the Texas Department of Housing and Community Affairs (the “TDHCA”) in connection with applicant’s residential development. The Corporation makes no representation or warranty that the loan will comply with the rules and regulations of the TDHCA.

A. *Application of Rules.* These Rules apply to specific multifamily rental residential developments for which an applicant or a Local Political Subdivision on behalf of an applicant requests the Corporation to make a loan to obtain tax credits in connection with such development

B. *Waiver of Rules.* Specific provisions of these Rules may be waived by a majority vote of the Board of Directors of the Corporation

C. *Amendment of Rules.* These Rules may be amended, revised, repealed or otherwise altered by a majority of the Board of Directors of the Corporation at any time and from time to time and with or without notice.

Article II. General Requirements

The Corporation will not make a loan of funds to any applicant in connection with any financing for any residential development that has not satisfied, as determined by the

May 26, 2011

Ms. Robbye Meyer
Director, Multifamily Finance Production Division
Texas Department of Housing and Community Affairs
PO Box 13941
Austin, TX 78711

RE: Response to Challenge of 11258 Brook Village Apartments

Dear Ms. Meyer:

This letter is in response to the challenge presented by Mr. A.C. Gonzalez with the City of Dallas regarding the Commitment of Development Funding by Government Instrumentality for application # 11258 Brook Village Apartments. Mr. Gonzalez argues that points under section 50.9(i)(5) should not be awarded to this application because the City of Dallas does not support the project and does not intend to execute an inter local agreement with the Capital Area Housing Finance Corporation (CAHFC).

Per section 50.9(i)(5)(viii) of the QAP, an applicant may provide either (a) a copy of the commitment of funds, (b) a copy of the application to the funding entity, or (c) or a letter from the funding entity indicating that the award of funds with respect to the funding cycle for which the Applicant intends to apply for will be made by August 1, 2011. Option (c), A letter from CAHFC indicating that a funding decision will be made by August 1, 2011, is included with the HTC Full Application for this scoring item.

Per the QAP, the application for Brook Village met the submission requirements under section 50.9(i)(5)(viii) of the QAP with the submission of a letter from CAHFC. Therefore, points should be awarded for this scoring item.

We believe that this challenge is premature in that the inter local agreement referenced in the challenge is not due until Commitment Notice. Per section 50.9(i)(5)(IX) of the QAP, the final commitment of funding, which would include an inter local agreement, is not required until Commitment Notice. The exact language of the QAP reads as follows:

If not already provided, at the time the executed Commitment Notice is required to be submitted, the Applicant or Development Owner must provide evidence of a commitment approved by the Governing Body of the Local Political Subdivision for the Development Funding to the Department.

There is ample time for Applicant to continue working with the neighborhood, City Council, and City staff to garner additional support for this application. We believe that it is premature to rule that this development will not obtain an inter local agreement with the local government instrumentality at this time.

In summary, we believe that points for this scoring item should be awarded to the application based on the language of the QAP. Furthermore, because an inter local agreement is not due until Commitment Notice, it would be premature to rule on that part of the challenge at this time.

Thank you for your attention to this matter. Please contact me with any questions.

Regards,

Deepak P. Sulakhe

Deepak P. Sulakhe

1400 Belleview, L.P.

June 15, 2011

Email to michael.gerber@tdhca.state.tx.us

Mr. Michael Gerber, Executive Director
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701-2410

RE: TDHCA # 11258– Brook Village Apartments – Challenge to Development Location Points.

Dear Mr. Gerber:

We hereby challenge the award of four points to Brook Village Apartments for Development Location in an “Urban Core” area. We wish to direct your attention to the following considerations:

1. Brook Village Apartments has applied for points under §49.9(a)(16)(D) of the QAP, which permits four points for being located in an “urban core” area as defined below:

The proposed Development is located in an urban core, on a site where the proposed use is not prohibited by the Unit of General Local Government via ordinance or regulation. For purposes of this item, an urban core is defined as a compact and contiguous geographical area that is located in a Metropolitan Statistical Area within the city limits with a population of no less than 150,000 composed of adjacent block groups of which is zoned to accommodate a mix of medium or high density residential and commercial uses **and at least 50% of such land is actually being used for such purposes based on high density residential structures and/or commercial structures already constructed.** Evidence must be submitted in the form of zoning maps and a certification provided in the Application. [emphasis added]

We believe that Brook Village Apartments does not meet the requirements that (i) the adjacent block groups be zoned to accommodate a mix of medium or high density residential and commercial uses, and (ii) that at least 50% of the land in the adjacent block groups be actually used for such purposes based on high density residential structures and/or commercial structures in place. The only evidence provided behind Tab 16 was a certification by the applicant and a zoning map. The evidence provided therefore cannot be said to address the requirement (ii) in any manner whatsoever.

2. The Brook Village Apartments application does not qualify for points because the zoning information provided in the application behind Volume 4, Tab 16 does not show adjacent block groups zoned to accommodate a mix of medium or high density residential and commercial uses. Please see the attachments which provide the location of the relevant census tract and then an aerial photo of the census tract with the current development indicated. The project is to be located in Block Group 1, Census Tract 78.18, which is currently 100% multifamily, consisting of 1, 2 and 3-story walk up apartments. The adjacent block groups consist of (i) Block Group 1, Census Tract 78.19, which is primarily zoned commercial and is developed with one-story retail with extensive parking lots, 1, 2 and 3-story multifamily walk-up apartments and an area on

1400 Belleview, L.P.

Skillman Street which is currently under construction; (ii) Block Group 3, Census Tract 78.15 is primarily developed with a middle school, 1,2 and 3-story walk-up apartments and single story commercial development; and (iii) Block Group 4, Census Tract 78.16, which is entirely developed with 1, 2 and 3-story walk-up apartments.

3. The Downtown Dallas 360 Plan was adopted by Dallas City Council on April 13, 2011 to provide an action-oriented development plan for the city center. Enclosed is a copy of a slide from the presentation to Dallas City Council which shows the type of development associated with medium and high density residential development. The same table appears on page 75 of the adopted 360 Plan and indicates that appropriate product types include medium density development through mid-rise flats with 5-10 stories, 60-100 unit/acre and high density development through high-rise flats with 10+ stories and 100+ units/acre. Nowhere in the specified Block Groups is there any residential development which approaches this density.
4. The site for Brook Village Apartments, as shown in the zoning map behind Volume 4, Tab 16 of the application, is surrounded by Planned Developments, most being zoned MF-2(A) (multifamily residential with 36 foot height limitation) with a small MR-3(A) component (multifamily residential with 90 foot height limitation). There is some GO(A) zoning (general office use – up to 20 stories), some MU-2 and MU-3 areas (mixed use with up to 14 or 20 stories respectively), and NS(A) (neighborhood services - two stories).
5. Notwithstanding the zoning, current development is almost entirely 1, 2 and 3-story walk-up apartments with some single story commercial development in Census Tract 78.19. It is clear that the existing development falls far short of having 50% of the use being high density and/or commercial use.

Since the application for Brook Village Apartments did not provide any evidence of qualification under §49.9(a)(16)(D) except for a certification by the applicant and a zoning map without any explanation of the use requirements, we believe the Selection Criterion for Development Location has not been met. We accordingly request that the four points for Development Location be denied to Brook Village Apartments.

Thank you for your consideration of this challenge.









Sincerely,







Kristian Teleki
Senior Vice President

CC: Raquel Morales – 9% Housing Tax Credit Administrator

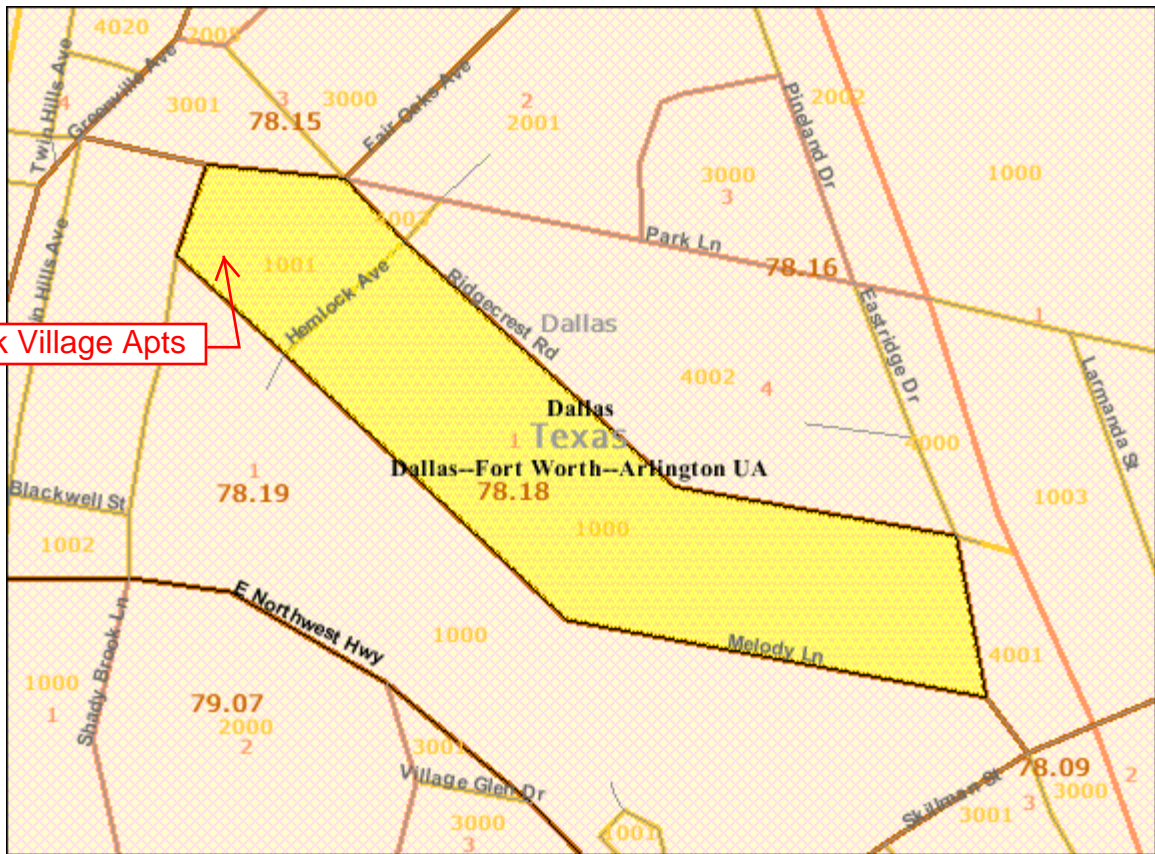
Boundaries

-  State
-  '00 County
-  '00 Census Tract
-  '00 Block Group
-  '00 Block
-  '00 Place
-  '00 Urban Area
-  '00 Urban Area

Features

-  Major Road
-  Street
-  Stream/Waterbody
-  Stream/Waterbody

Brook Village Apts

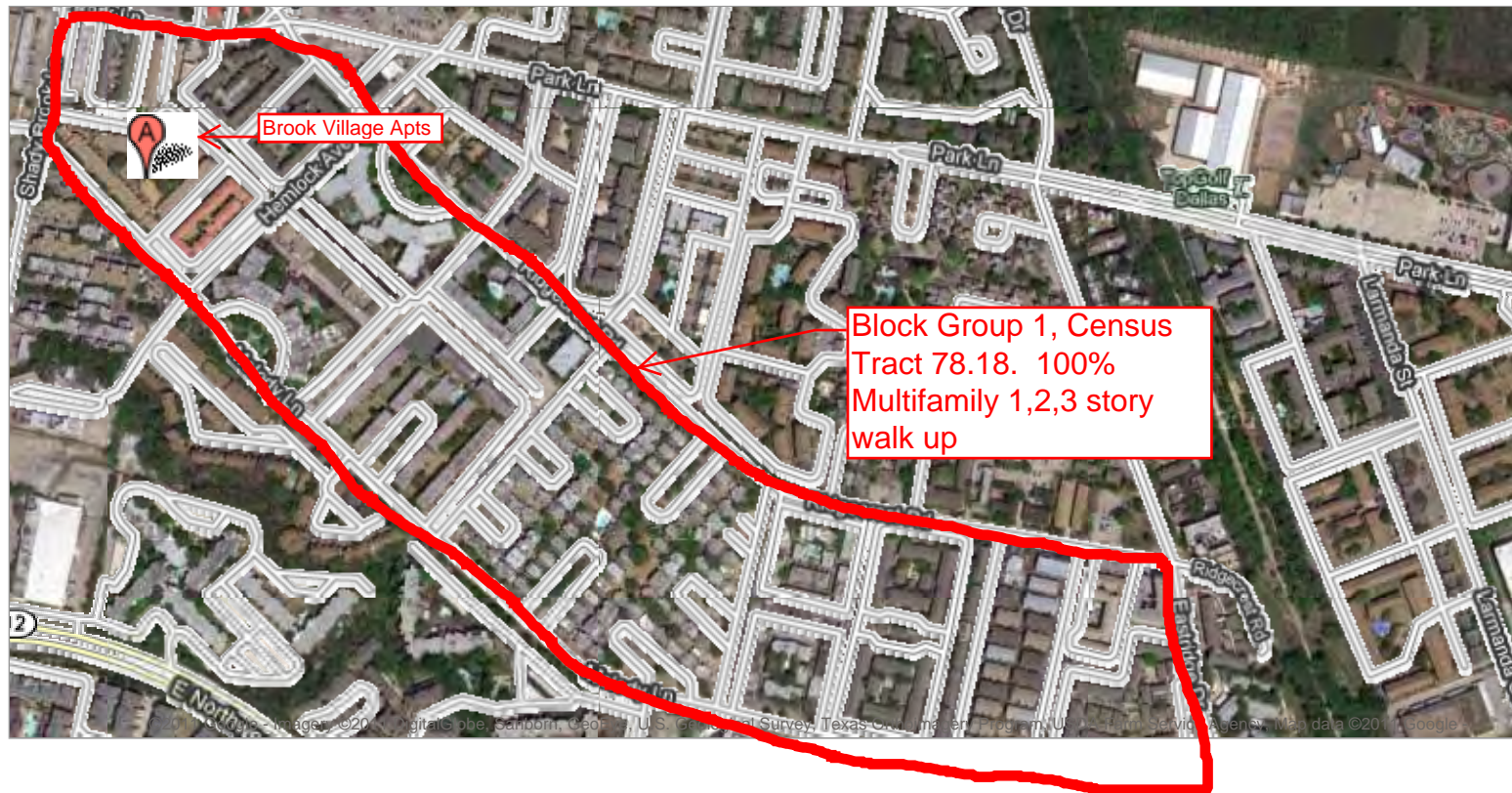


1.1 mile across

Close









MF RCV'D June 15, 2011 2:28 PM

To see all the details that are visible on the screen, use the "Print" link next to the map.







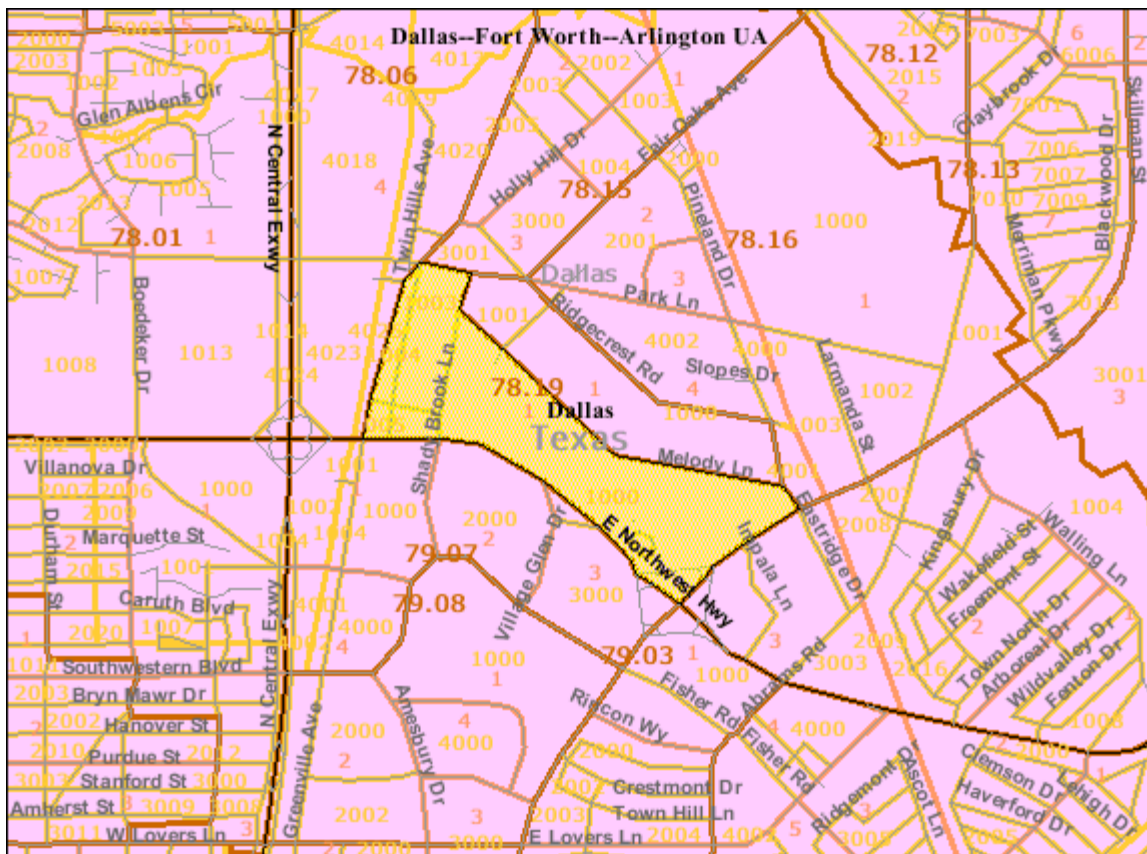
Block Group 1, Census Tract 78.19, Dallas County, Texas

Boundaries

-  State
-  '00 County
-  '00 Census Tract
-  '00 Block Group
-  '00 Block
-  '00 Place
-  '00 Urban Area
-  '00 Urban Area

Features

-  Major Road
-  Street
-  Stream/Waterbody
-  Stream/Waterbody

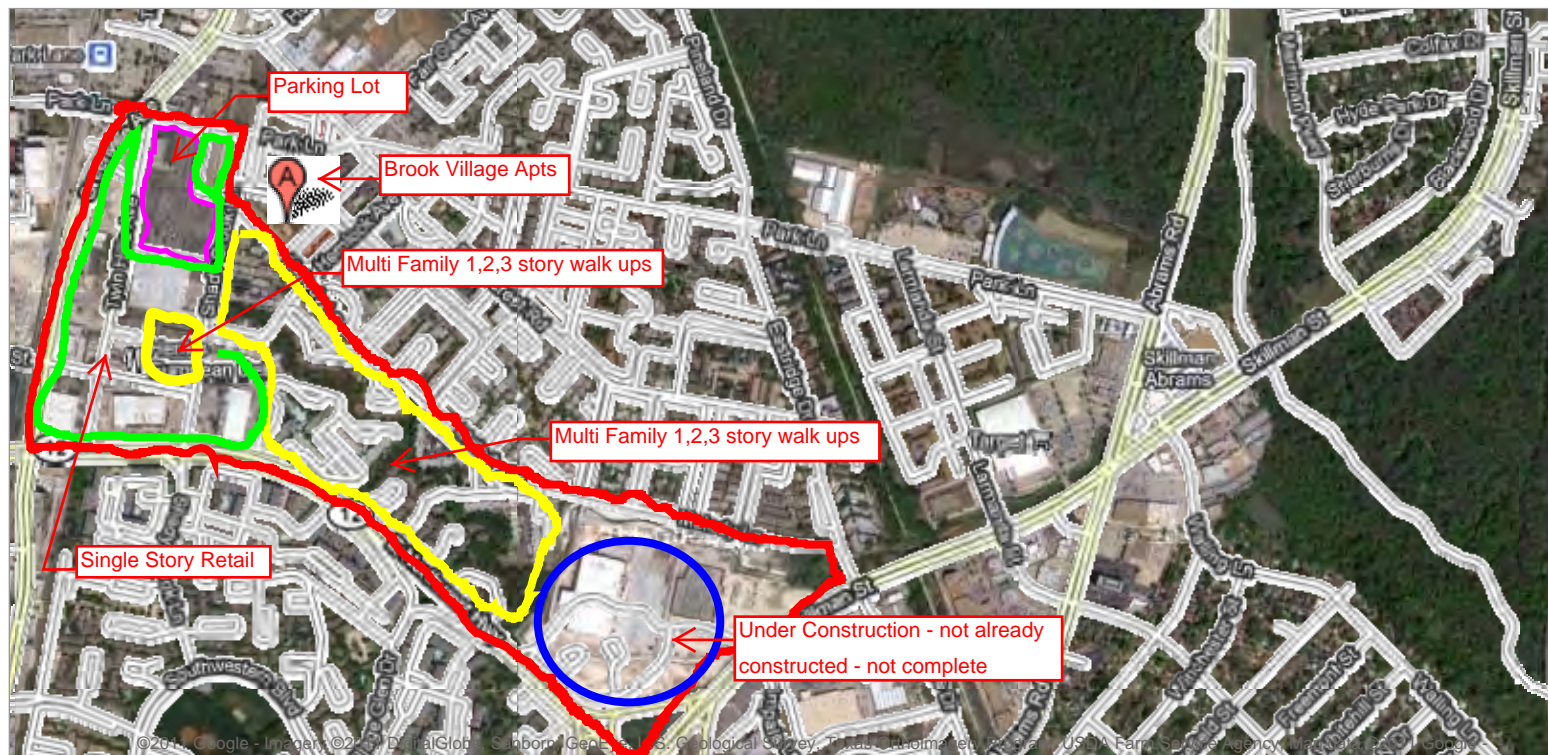


2.8 miles across









Close

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To see all the details that are visible on the screen, use the "Print" link next to the map.

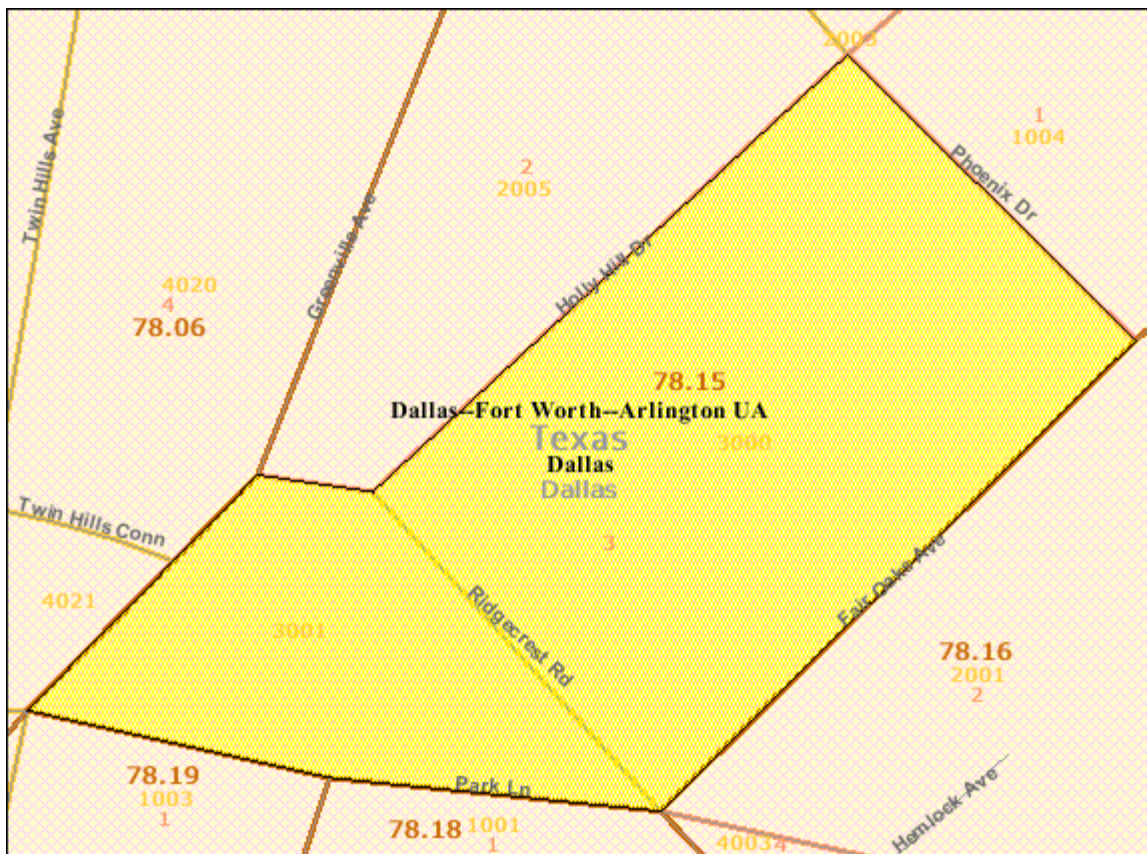


Boundaries

-  State
-  '00 County
-  '00 Census Tract
-  '00 Block Group
-  '00 Block
-  '00 Place
-  '00 Urban Area
-  '00 Urban Area

Features

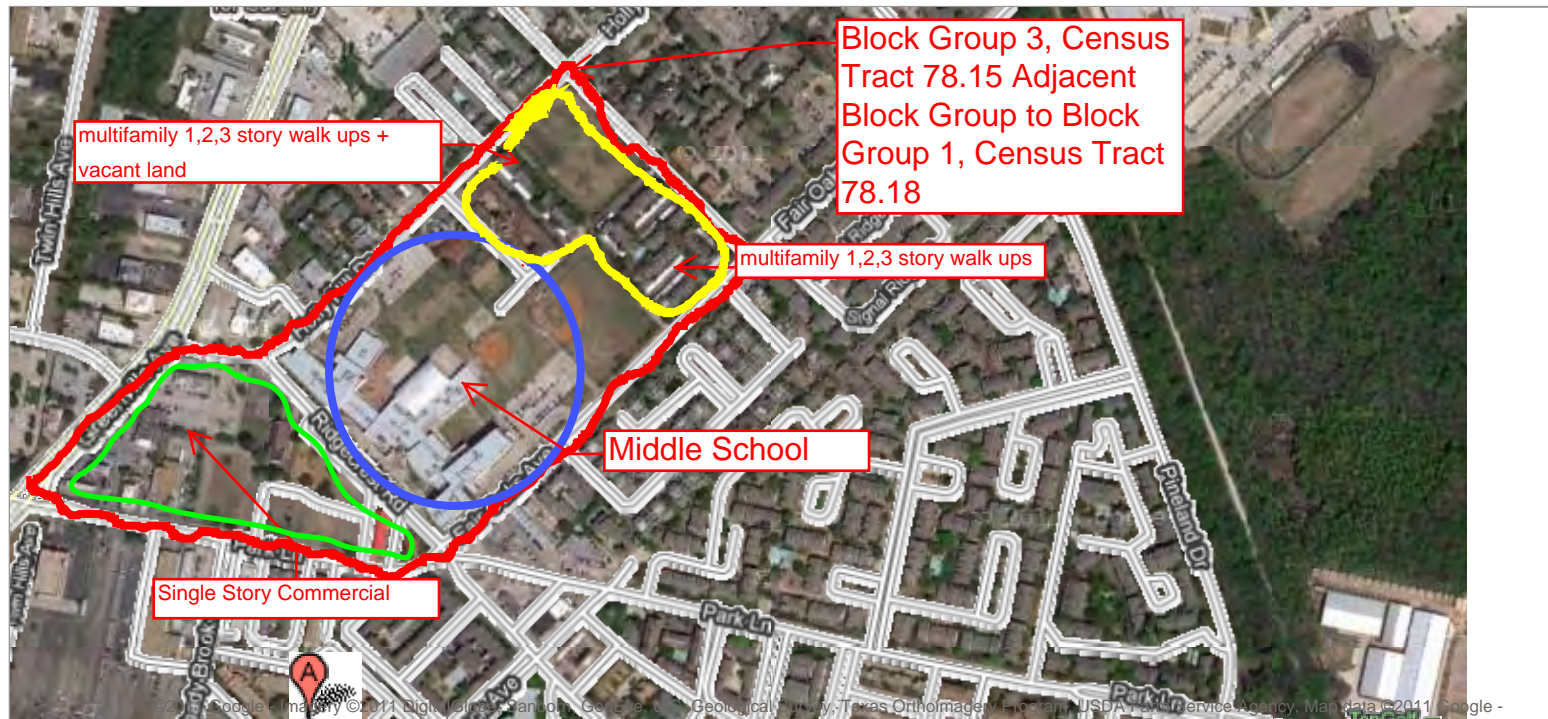
-  Major Road
-  Street
-  Stream/Waterbody
-  Stream/Waterbody











0.5 mile across

Close





To see all the details that are visible on the screen, use the "Print" link next to the map.

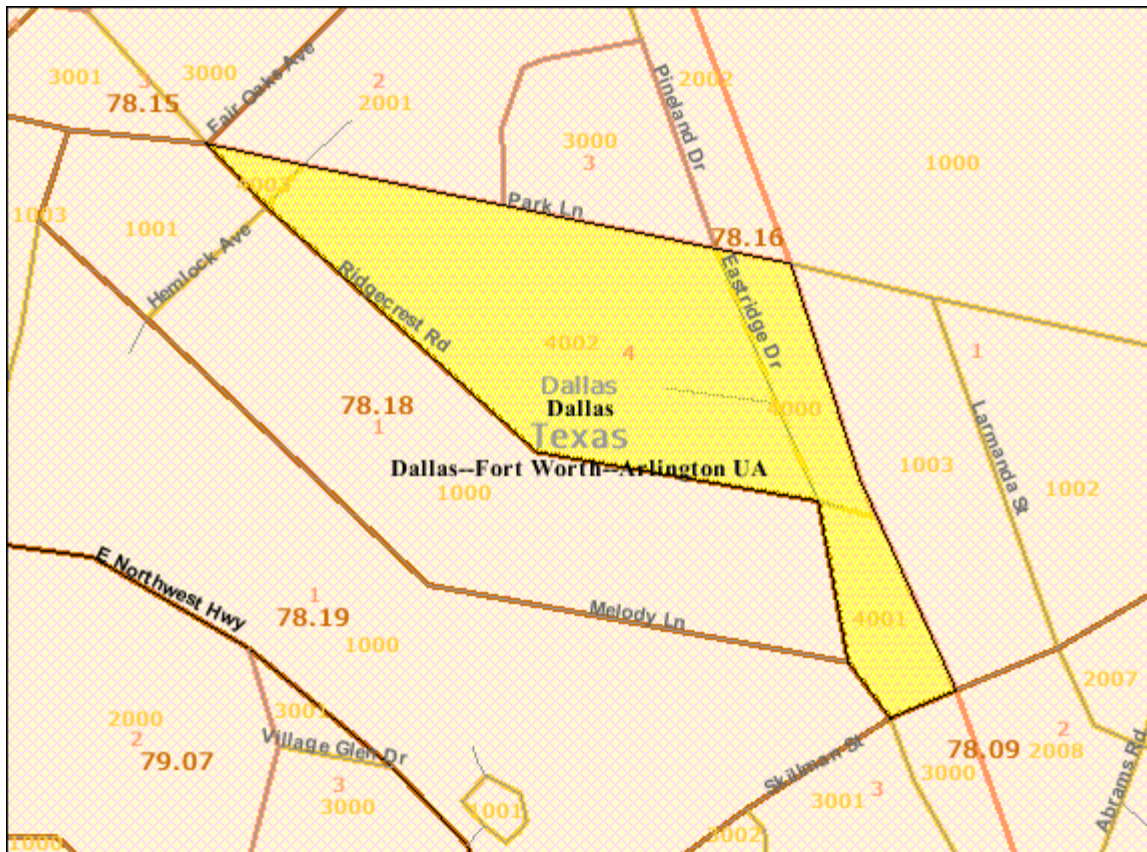


Boundaries

-  State
-  '00 County
-  '00 Census Tract
-  '00 Block Group
-  '00 Block
-  '00 Place
-  '00 Urban Area
-  '00 Urban Area

Features

-  Major Road
-  Street
-  Stream/Waterbody
-  Stream/Waterbody



1.1 mile across

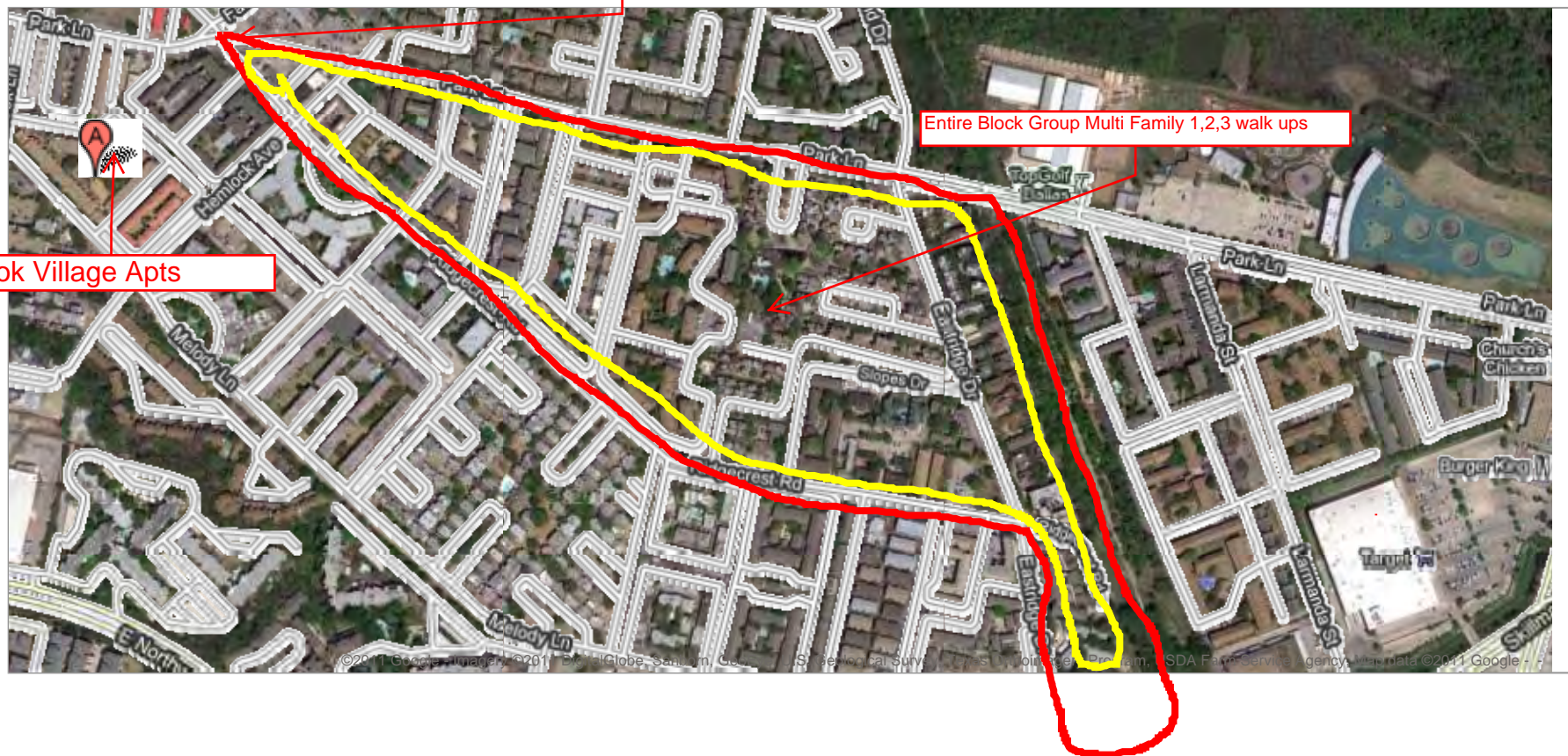
Close

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To see all the details that are visible on the screen, use the "Print" link next to the map.

Block Group 4, Census Tract 78.16, Adjacent Block Group to Block Group 1, Census Tract 78.18



Brook Village Apts

Entire Block Group Multi Family 1,2,3 walk ups

City of Dallas Zoning Website

Find Address Print FindParcel

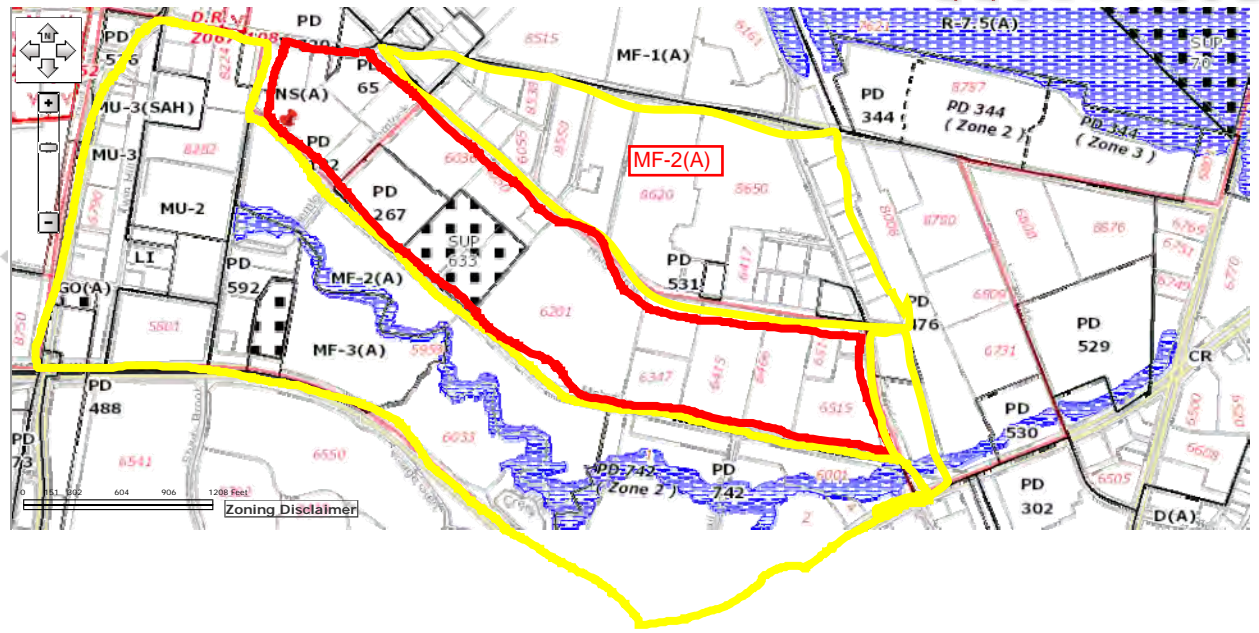
Results

[Clear All](#)

- 5929 Melody Lane (1)
 - 5929 MELODY LN
- 5929 Melody Lane (1)
 - 5929 MELODY LN

Map Contents

- DallasZoning
 - GIS_DATA
 - ZONING LAYERS
 - Airport Noise Contours
 - ALCOHOL LAYERS
- CensusTracts2000
 - Census Tracts 2000
- DallasRoads
 - Highways
 - Major Streets



THE ZONING RULES

HIGHLIGHTS OF 51A

- No change in District regulations for the following districts: A, R-5, R-7.5, R-10, R-13, R-16, R-1/2ac, R-1ac, TH-1, TH-2, TH-3, D, MH, P, CA-1, CA-2.
- Nonresidential districts revised to focus the uses and design standards on the purpose of the district.
- No residential uses allowed in nonresidential districts except for mixed use districts.
- Heights and Floor Ratio related to principal uses allowed in district.
-e.g. retail districts have heights and FAR that accommodate all types of retail uses.
- Added provisions for reduced height of structures when next to SF, D, TH, districts for each foot in height over 26', buildings must be 3 feet further away from low density residential development.
- The following charts summarize districts in Chapter 51A. Please note that many districts have significant changes in permitted height, density, and coverage.

	DISTRICT	SETBACKS		Density	Height	Lot Coverage	Special Standards	PRIMARY Uses	
		Front	Side/Rear						
RESIDENTIAL	A(A) Agricultural	50'	20'/50'	1 Dwelling Unit 3 Acres	24'	10%		Agricultural and residential uses	
	Single Family	R-1ac(A) Residential	40'	10'	1 Dwelling Unit 1 Acres	36'	40%		Single family residential uses
		R-1/2ac(A) Residential	40'	10'	1 Dwelling Unit 1/2 Acres	36'	40%		Single family residential uses
		R-16(A) Residential	35'	10'	1 Dwelling Unit 16,000 sq. ft.	30'	40%		Single family residential uses
		R-13(A) Residential	30'	8'	1 Dwelling Unit 13,000 sq. ft.	30'	45%		Single family residential uses
		R-10(A) Residential	30'	6'	1 Dwelling Unit 10,000 sq. ft.	30'	45%		Single family residential uses
		R-7.5(A) Residential	25'	5'	1 Dwelling Unit 7,500 sq. ft.	30'	45%		Single family residential uses
		R-5(A) Residential	20'	5'	1 Dwelling Unit 5,000 sq. ft.	30'	45%		Single family residential uses
		DUPLEX / TOWNHOUSE	D(A) Duplex	25'	5'	1 Dwelling Unit 6,000 sq. ft.	36'	60%	
	TH-1(A) Townhouse Residential		0'	0'	6 DU Acre	36'	60%		Single family residential uses
	TH-2(A) Townhouse Residential		0'	0'	9 DU Acre	36'	60%		Single family residential uses
TH-3(A) Townhouse Residential	0'		0'	12 DU Acre	36'	60%		Single family residential uses	

NOTE: Additional conditions may apply. Consult the Dallas Development Code.

		DISTRICT	SETBACKS		Density	Height	PM Lot Coverage	Special Standards	PRIMARY Uses
			Front	Side/Rear					
RESIDENTIAL	CLUSTERED HOUSING / MULTIFAMILY	CH Clustered Housing	0'	0'	18 DU Per Acre	36'	60%	Proximity Slope	Single family and multifamily residential uses
		MF-1(A) Multifamily residential	15'	15'	Min lot 3,000 sq ft 1,000 sq ft - E 1,400 - 1 BR 1,800 - 2 BR + 200 sq ft each add BR	36'	60%	Proximity Slope	Multifamily residential uses
		MF-2(A) Multifamily residential	15'	15'	Min lot 1,000 sq ft 800 sq ft - E 1,000 - 1 BR 1,200 - 2 BR + 150 sq ft each add BR	36'	60%	Proximity Slope	Multifamily residential uses
		MF-3(A) Multifamily residential	15'	10'	Min lot 6,000 sq ft 450 sq ft - E 500 - 1 BR 550 - 2 BR + 50 sq ft each add BR	90'	60%	Proximity Slope U-form setback Tower spacing	Multifamily residential; supporting limited retail and personal service uses
		MF-4(A) Multifamily residential	15'	10'	Min lot 6,000 sq ft 225 sq ft - E 275 - 1 BR 325 - 2 BR + 50 sq ft each add BR	240'	80%	Proximity Slope U-form setback Tower spacing	Multifamily residential; supporting limited retail and personal service uses
		MH(A) Mobile home	20'	10'	1 DU/ 4,000 sq ft	24'	20%	Proximity Slope	Manufactured homes
NONRESIDENTIAL	office	NO(A) Neighborhood office	15'	20' adjacent to residential OTHER: No Min.	0.5 Floor Area Ratio	30' 2 stories	50%	Proximity Slope Visual intrusion	Office
		LO-1 Limited office - 1	15'	20' adjacent to residential OTHER: No Min.	1.0 FAR	70' 5 stories	80%	Proximity Slope U-form setback Tower spacing Visual intrusion	Office; retail and personal service uses as limited uses
		LO-2 Limited office - 2	15'	20' adjacent to residential OTHER: No Min.	1.5 FAR	95' 7 stories	80%	Proximity Slope U-form setback Tower spacing Visual intrusion	Office; retail and personal service uses as limited uses
		LO-3 Limited office - 3	15'	20' adjacent to residential OTHER: No Min.	1.75 FAR	115' 9 stories	80%	Proximity Slope U-form setback Tower spacing Visual intrusion	Office; retail and personal service uses as limited uses
		MO-1 Mid-range office - 1	15'	20' adjacent to residential OTHER: No Min.	2.0 FAR	135' 10 stories	80%	Proximity Slope U-form setback Tower spacing Visual intrusion	Office; lodging; retail and personal service uses as limited uses
		MO-2 Mid-range office - 2	15'	20' adjacent to residential OTHER: No Min.	3.0 FAR	160' 12 stories	80%	Proximity Slope U-form setback Tower spacing Visual intrusion	Office; lodging; retail and personal service uses as limited uses
		GO(A) General office	15'	20' adjacent to residential OTHER: No Min.	4.0 FAR	270' 20 stories	80%	Proximity Slope U-form setback Tower spacing Visual intrusion	Office; lodging; retail and personal service uses as limited uses
	Retail	NS(A) Neighborhood service	15'	20' adjacent to residential OTHER: No Min.	0.5 FAR	30' 2 stories	40%	Proximity Slope Visual intrusion	Retail and personal service; and office uses
		CR Community retail	15'	20' adjacent to residential OTHER: No Min.	0.75 overall 0.5 office	54' 4 stories	60%	Proximity Slope Visual intrusion	Retail and personal service; and office uses
		RR Regional retail	15'	20' adjacent to residential OTHER: No Min.	1.5 overall 0.5 office	70' 5 stories	80%	Proximity Slope U-form setback Visual intrusion	Retail and personal service; and office uses

NOTE: Additional conditions may apply. Consult the Dallas Development Code.

	DISTRICT	SETBACKS		Density FAR	Height	Lot Coverage	Special Standards	PRIMARY Uses	
		Front	Side/Rear						
NONRESIDENTIAL	COMMERCIAL / INDUSTRIAL	CS COMMERCIAL SERVICE	15' 0' on minor	20' adjacent to residential OTHER: No Min.	0.75 overall 0.5 office/lodging/ retail combined	45' 3 stories	80%	Proximity Slope Visual intrusion	Commercial and business service; supporting retail and personal service, and office
		LI Light industrial	15'	30' adjacent to residential OTHER: No Min.	1.0 overall 0.75 office/retail 0.5 retail	70' 5 stories	80%	Proximity Slope Visual intrusion	Industrial; wholesale distribution and storage; supporting office and retail
		IR Industrial research	15'	30' adjacent to residential OTHER: No Min.	2.0 overall 0.75 office/retail 0.5 retail	200' 15 stories	80%	Proximity Slope Visual intrusion	Industrial; wholesale distribution and storage; supporting office and retail
		IM Industrial manufacturing	15' 0' on minor	30' adjacent to residential OTHER: No Min.	2.0 overall 0.75 office/retail 0.5 retail	110' 8 stories	80%	Proximity Slope Visual intrusion	Industrial; wholesale distribution and storage; supporting office and retail
	Central area	CA - 1(A) Central area - 1	0'	0'	20.0 FAR	Any legal height	100%		All but the heaviest industrial uses
		CA - 2(A) Central area - 2	0'	0'	20.0 FAR	Any legal height	100%		All but the heaviest industrial uses
	Mixed use	MU - 1 Mixed use - 1	15'	20' adjacent to residential OTHER: No Min.	0.8 base 1.0 max + bonus for residential	90' 7 stories 120' 9 stories with retail	80%	Proximity Slope U-form setback Tower spacing Visual intrusion	Office; retail and personal service; lodging; residential
		MU - 2 Mixed use - 2	15'	20' adjacent to residential OTHER: No Min.	1.6 base 2.0 max + bonus for residential	135' 10 stories 180' 14 stories with retail	80%	Proximity Slope U-form setback Tower spacing Visual intrusion	Office; retail and personal service; lodging; and residential
		MU - 3 Mixed use - 3	15'	20' adjacent to residential OTHER: No Min.	3.2 base 4.0 max + bonus for residential	270' 20 stories	80%	Proximity Slope U-form setback Tower spacing Visual intrusion	Office; retail and personal service; lodging; residential; trade center
	Multiple commercial	MC - 1 Multiple commercial - 1	15' Urban Form	20' adjacent to residential OTHER: No Min.	0.8 base 1.0 max	70' 5 stories	80%	Proximity Slope U-form setback Tower spacing Visual intrusion	Office; retail and personal service; lodging
		MC - 2 Multiple commercial - 2	15' Urban Form	20' adjacent to residential OTHER: No Min.	0.8 base 1.0 max	90' 7 stories	80%	Proximity Slope U-form setback Tower spacing Visual intrusion	Office; retail and personal service; lodging
		MC - 3 Multiple commercial - 3	15' Urban Form	20' adjacent to residential OTHER: No Min.	1.2 base 1.5 max	115' 9 stories	80%	Proximity Slope U-form setback Tower spacing Visual intrusion	Office; retail and personal service; lodging
		MC - 4 Multiple commercial - 4	15' Urban Form	20' adjacent to residential OTHER: No Min.	1.6 base 2.0 max	135' 10 stories	80%	Proximity Slope U-form setback Tower spacing Visual intrusion	Office; retail and personal service; lodging
	PARKING	P(A) Parking							Surface parking

NOTE: Additional conditions may apply. Consult the Dallas Development Code.

Memorandum



CITY OF DALLAS

DATE February 10, 2011

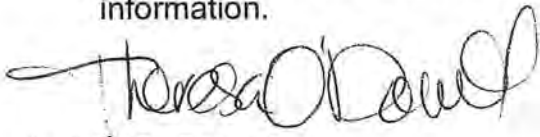
TO The Mayor and City Council

SUBJECT Downtown Dallas 360 Plan

At the Full Council briefing on Wednesday, February 16, 2011, there will be a briefing on the Downtown Dallas 360 Plan. The attached presentation highlights the key features of the plan vision and implementation priorities and marks the culmination of an eighteen month process of developing the plan through extensive stakeholder involvement in collaboration with Downtown Dallas Inc.

The draft plan document will be provided to the City Council in two weeks. A final Council Economic Development Committee briefing will also be held prior to scheduling the plan for council action in April 2011.

Please feel free to contact Theresa O'Donnell at 214 671 9293 if you need additional information.


for A.C. Gonzalez
Assistant City Manager

c: Mary K. Suhm, City Manager
Thomas P. Perkins, Jr. City Attorney
Deborah Watkins, City Secretary
Craig Kinton, City Auditor
Judge C. Victor Lander, Administrative Judge
Ryan S. Evans, First Assistant City Manager
Jill A. Jordan, P.E., Assistant City Manager
Forest E. Turner, Assistant City Manager
Jeanne Chipperfield, Chief Financial Officer
Edward Scott, Director, Controller's Office
Frank Libro, Public Information Office
Karl Zavitkovsky, Director, Office of Economic Development
Theresa O'Donnell, Director, Sustainable Development and Construction
Helena Stevens-Thompson, Assistant to the City Manager – Council Office

Priority Action 3

Create an Intown Housing Development Strategy and Public-Private Incentive Guidelines

- Enhance financial incentives for middle and lower income housing
- Promote family-friendly amenities and services in Farmers Market and Cedars

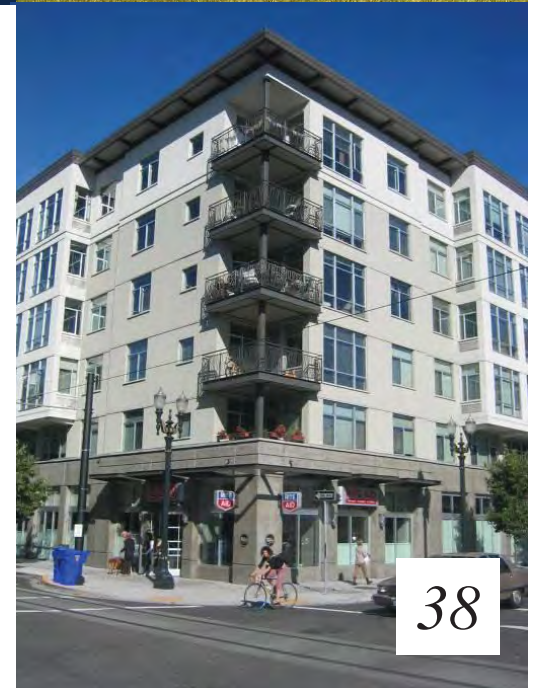


Mid to High Density is 5+ stories with 60+ units/acre
City of Dallas 360 Plan

Product Type	Typical Height (Stories)	Typical Density (Units/Acre)	District							
			Arts District	Civic Center	Farmers Market	Financial District	Main Street	Reunion/Union Station	South Arts District	West End
High-Rise Flats	10+	100+	■	□		■	■	■	■	
Mid-Rise Flats	5-10	60-100	■	■	□	■	■	■	■	■
Low-Rise Flats/Lofts	3-5	40-75	□	□	■	□		□	□	■
Townhomes	2-3	15-30		□	■					

Priority Housing Types by District (Inside Loop)

■ = Generally appropriate
□ = Appropriate at select locations



MF RCV'D June 15, 2011 2:28 PM



Address **8254 Park Lane**

Address is approximate

Save trees. Go green!
Download Google Maps on your phone at google.com/gmm



Park Lane heading East towards Shady Brook

MF RCV'D June 15, 2011 2:28 PM



Address **8292 Park Lane**

Address is approximate

Save trees. Go green!
Download Google Maps on your phone at google.com/gmm



Park Lane at Shady Brook

MF RCV'D June 15, 2011 2:28 PM



Address **5981 Ridgecrest Road**

Address is approximate

Save trees. Go green!
Download Google Maps on your phone at google.com/gmm



Ridgecrest at Park Lane

MF RCV'D June 15, 2011 2:28 PM



Address **Greenville Avenue**

Address is approximate

Save trees. Go green!

Download Google Maps on your phone at google.com/gmm



Park Lane and Greenville NE

MF RCV'D June 15, 2011 2:28 PM



Address **Park Lane**

Address is approximate

Save trees. Go green!
Download Google Maps on your phone at google.com/gmm



Park Lane near Shady Brook

MF RCV'D June 15, 2011 2:28 PM



Address **6696 Shady Brook Lane**

Address is approximate

Save trees. Go green!
Download Google Maps on your phone at google.com/gmm



NWHY at Shady Brook looking East



MF RCV'D June 15, 2011 2:28 PM

To see all the details that are visible on the screen, use the "Print" link next to the map.

Greenville Avenue N of NWHwy





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To see all the details that are visible on the screen, use the "Print" link next to the map.

Twin Hills at NWHY
looking North





MF RCV'D June 15, 2011 2:28 PM

To see all the details that are visible on the screen, use the "Print" link next to the map.

School





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To see all the details that are visible on the screen, use the "Print" link next to the map.

Hollyhill and Phoenix - East





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To see all the details that are visible on the screen, use the "Print" link next to the map.

Phoenix and Fair Oaks-South



MF RCV'D June 15, 2011 2:28 PM



Address **6712 Shady Brook Lane**

Address is approximate

Save trees. Go green!
Download Google Maps on your phone at google.com/gmm




Shady Brook looking South from Melody Lane



Address **8510 Park Lane**
MF RCV'D June 15, 2011 2:28 PM
Address is approximate

Save trees. Go green!
Download Google Maps on your phone at google.com/gmm



Park Lane Heading East
from Shady Brook



MF RCV'D June 15, 2011 2:28 PM

To see all the details that are visible on the screen, use the "Print" link next to the map.

Park and Shady Brook - East



MF RCV'D June 15, 2011 2:28 PM



Address **Melody Lane**
Address is approximate

Save trees. Go green!
Download Google Maps on your phone at google.com/gmm




Southside Melody Lane



Address **Hemlock Avenue / Ridgecrest Road**
MF RCV'D June 15, 2011 2:28 PM
Address is approximate

Save trees. Go green!
Download Google Maps on your phone at google.com/gmm



Ridgecrest Road and Hemlock Avenue



MF RCV'D June 15, 2011 2:28 PM

To see all the details that are visible on the screen, use the "Print" link next to the map.

Ridgecrest looking E
towards Eastridge

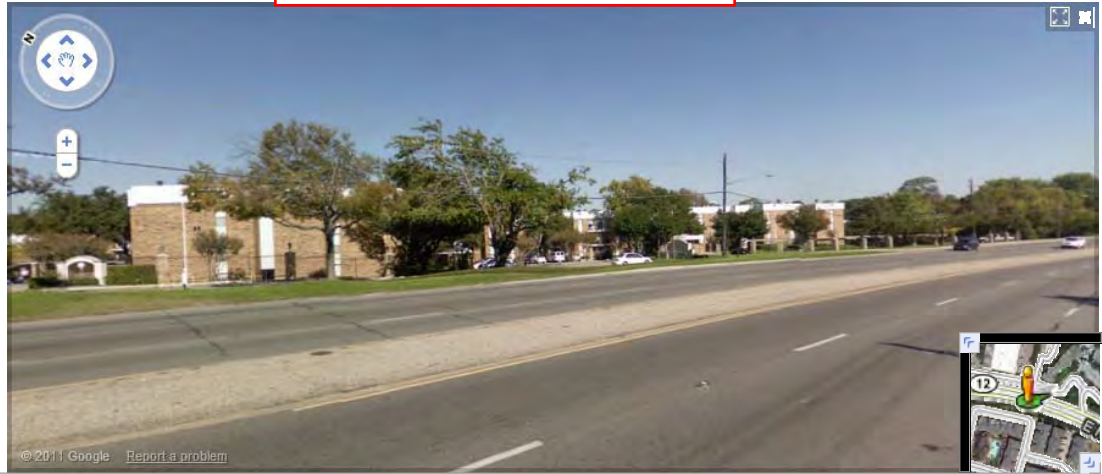




MF RCV'D June 15, 2011 2:28 PM

To see all the details that are visible on the screen, use the "Print" link next to the map.

NWHY near Shady Brook - East



June 23, 2011

Ms. Robbye Meyer
Director, Multifamily Finance Production Division
Texas Department of Housing and Community Affairs
PO Box 13941
Austin, TX 78711

RE: Response to Challenge of 11258 Brook Village Apartments

Dear Ms. Meyer:

This letter is in response to the challenge presented by Mr. Kristian Teleki with 1400 Belleview, L.P., regarding the Development Location points for application # 11258 Brook Village Apartments. Mr. Teleki does not believe Brook Village qualifies for these points.

In Section 49.9(a)(16)(D) of the QAP, 4 points may be awarded for a development that is located in an urban core. The scoring language is below:

The proposed Development is located in an urban core, on a site where the proposed use is not prohibited by the Unit of General Local Government via ordinance or regulation. For purposes of this item, an urban core is defined as a compact and contiguous geographical area that is located in a Metropolitan Statistical Area within the city limits with a population of no less than 150,000 composed of adjacent block groups of which is zoned to accommodate a mix of medium or high density residential and commercial uses and at least 50% of such land is actually being used for such purposes based on high density residential structures and/or commercial structures already constructed. Evidence must be submitted in the form of zoning maps and a certification provided in the Application.

The application states that the evidence for this item “must be submitted in the form of zoning maps and a certification provided in the application,” both of which were provided in the original application. During the administrative deficiency process, we provided additional maps and documentation to verify that the land in the block groups surrounding Brook Village was a mix of multifamily and commercial with no single family structures. This information was accepted and the points for this scoring item were awarded in the final scoring notice.

Mr. Teleki does not dispute the fact that the land use for the block groups surrounding Brook Village are primarily multifamily and commercial. However, he believes that the surrounding areas are not medium or high density because of a Downtown Dallas 360 document that includes a grid that lists “mid-rise flats” as 5-10 stories and 60-100 units per acre and “high-rise flats” as 10+ stories 100+ units per acre.

First and foremost, the City of Dallas document provided was not approved by the City of Dallas until April 13, 2011, as stated in Mr. Teleki’s letter. Because it was approved after the final day of the application acceptance period and the Brook Village application was submitted, this information was not official and available to the Applicant prior to the submission of the application. For most items in the application, the documentation requested by the Department should be current as of the opening date of the application acceptance period. We do not believe that a plan that was approved after March 1, 2011, can affect an application that has already been submitted.

Secondly, the Downtown Dallas 360 Plan, which Mr. Teleki uses to substantiate his claim, does not even include the Brook Village Apartments location. We have attached page 7 from the approved Downtown Dallas 360 plan that maps the “newly defined Downtown Dallas,” and the Brook Village Apartments is much farther north. The area that includes Brook Village is not included on the map, which is labeled “Downtown

Dallas 360 Study Area.” We do not think a plan that does not even include the development site should pertain to the development.

Finally, while we already contend that the Downtown Dallas 360 Plan does not pertain to the Brook Village Apartments location or any application in the 2011 HTC application cycle, we still must disagree with Mr. Teleki’s opinion that the grid provided in his challenge is relevant to the density language in the QAP in general. The grid says “mid-rise flats” are 5-10 stories and 60-100 units per acre and “high-rise flats” are 10+ stories 100+ units per acre. These terms refer to building construction types and not official zoning designations. “Mid-rise flats” is not the same as “medium density” and “high-rise flats” is not the same as “high density.”

The definition of the QAP says “is zoned to accommodate a mix of medium or high density residential and commercial uses and at least 50% of such land is actually being used for such purposes.” The QAP does not capitalize or define “medium or high density residential.” The City of Dallas’s zoning regulations offer guidance for density. The zoning designations for Brook Village and areas around Brook Village specify that there is no maximum unit density. As a comparison, the City of Fort Worth zoning ordinance considers “medium density multifamily” to be a maximum of 18 units per acre and “high density multifamily” to be a maximum of 24 units per acre. Note that density designations will vary by city. In addition, single family densities will be less and the QAP does not specify single family or multifamily, only “residential.”

In order to determine whether Brook Village might qualify under this scoring item, we used a standard concept of medium to high density residential of anything higher than 10 units per acre. The Brook Village application will have 213 units on 5.7 acres for a density of 37 units per acre. The property currently has 262 units on 5.7 acres for a density of 46 units per acre. The surrounding multifamily developments have a similar construction to Brook Village, as Mr. Teleki confirmed in his letter. Considering the majority of land uses surrounding Brook Village are multifamily with approximately 46 units per acre as well as other commercial uses, we believe that the area meets the definition of “is zoned to accommodate a mix of medium or high density residential and commercial uses and at least 50% of such land is actually being used for such purposes.”

In summary, we believe that points awarded for this scoring item should not be reconsidered based on this challenge. The land use in the block groups surrounding Brook Village is a mix of multifamily and commercial, which conforms to the QAP language of “is zoned to accommodate a mix of medium or high density residential and commercial uses and at least 50% of such land is actually being used for such purposes.”

Thank you for your attention to this matter. Please contact me with any questions.

Regards,

Deepak P. Sulakhe

Deepak P. Sulakhe

Residential Zoning

The City of Fort Worth maintains 13 residential zoning districts which are intended to separate the different types, intensities, and forms of housing units. More information for each district may be found in the [Zoning Ordinance](#).

Sect. 4.700 **A-2.5A** Minimum 2 1/2 acre lot. 150 ft. min. lot width. 35 ft. front yard setback.

Sect. 4.701 **A-43** Minimum 1 acre lot (43,560 sf). 125 ft. min. lot width. 35 ft. front yard setback.

Sect. 4.702 **A-21** Minimum 1/2 acre lot (21,780 sf). 85 ft. min. lot width. 30 ft. front yard setback.

Sect. 4.703 **A-10** Minimum 10,000 sf lot. 60 ft. min. lot width. 25 ft. front yard setback.

Sect. 4.704 **A-7.5** Minimum 7,500 sf lot. 55 ft. min. lot width. 20 ft. front yard setback.

Sect. 4.705 **A-5** Minimum 5,000 sf lot. 50 ft. min. lot width. 20 ft. front yard setback.

Sect. 4.706 **AR** Zero lotline homes. 35 ft. min. lot width. 10 ft. side yard, one side.

Sect. 4.707 **B** One and two family lots (duplexes). Attached or detached.

Sect. 4.708 **R1** Higher density single family and zero lotline homes. Cluster housing.

Sect. 4.709 **R2** Townhouse development. Max. 10 units per building. URD required*.

Sect. 4.710 **CR** Low Density Multifamily - max. 12 units per acre. URD required*.

Sect. 4.711 **C** Medium Density Multifamily - max. 18 units per acre. URD required*.

Sect. 4.712 **D** High Density Multifamily - max. 24 units per acre. URD required*.





The **MH** Manufactured Housing District (Sect. 4.202) is a Special Purpose District that provides the regulations for the development and operation of manufactured home subdivisions, manufactured home parks, and RV parks.

*URD = Unified Residential Development (Sect. 6.506). Specific site plan requirements for multifamily design.

Zoning Types

- [Residential Zoning](#)
- [Commercial Zoning](#)
- [Industrial Zoning](#)
- [Urban Design Districts](#) - NS, TU
- [Planned Developments](#) (PD)
- [Overlay Districts](#)
- [Mixed Use District Guidelines](#)

Helpful Links

- [Zoning Commission Calendar](#) 
- [Current Agenda / Decisions / Cases / Amendments](#)
- [Zoning District Summary](#) 
- [Zoning Ordinance](#) (unofficial but updated)
- [Zoning Ordinance- Municode](#) (official but updated 4x/yr)
- [Interactive Zoning Map](#)
- [Applications and Fees](#)
- [Variances](#)
- [Pre-Development Conference](#)
- [Tent Permits](#) 
- [Holiday Vendor Permits](#) 
- [Urban Forestry](#)
- [NAS/JRB Land Use Study](#)

Zoning Questions

Telephone

Zoning: 817-392-8028
Urban Forestry: 817-392-7933

Location

1000 Throckmorton St.

MF RCV'D Thu 6/23/2011 10:32 AM

Lower Level, Northeast Corner
Fort Worth, TX 76102

E-mail

zoninglanduse@fortworthgov.org.

Official Web site of the City of Fort Worth, Texas
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