

**SUPPLEMENTAL BOARD BOOK
OF
July 8, 2021**



**Leo Vasquez III, Chair
Paul Braden, Vice-Chair
Sharon Thomason, Member
Ajay Thomas, Member
Brandon Batch, Member
Kenny Marchant, Member**

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

A G E N D A

9:00 AM

July 8, 2021

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

Governing Board Webinar registration:

<https://attendee.gotowebinar.com/register/3608568990809228814>

Dial-in number: +1 (415) 655-0052, access code 885-481-128 (persons who use the dial-in number and access code without registering online will only be able to hear the Board meeting and will not be able to ask questions or provide comments). Note, this meeting will be proceeding as a videoconference under Tex. Gov't Code §551.127, as modified by waiver.

If the GoToWebinar terminates prior to adjournment of the meeting (i.e. if the webinar session "crashes") the meeting will be recessed. A new link to the meeting will be posted immediately on the TDHCA Board meetings web page (<https://www.tdhca.state.tx.us/board/meetings.htm>) along with the time the meeting will resume. The time indicated to resume the meeting will be within six hours of the interruption of the webinar. Please note that in this contingency, the original meeting link will no longer function, and only the new link (posted on the TDHCA Board meetings web page) will work to return to the meeting.

CALL TO ORDER

ROLL CALL

CERTIFICATION OF QUORUM

Leo Vasquez, Chair

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

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

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

CONSENT AGENDA

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

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

RULES

- a) Presentation, discussion, and possible action on an order adopting the amendment of 10 TAC Chapter 1, Subchapter A, General Policies and Procedures, §1.3, Sick Leave Pool
- b) Presentation, discussion, and possible action on an order adopting new 10 TAC Chapter 5, Section 8 Housing Choice Voucher Program, §5.802, Waiting List

Brooke Boston
Deputy Director
of Programs

ACTION ITEMS

ITEM 3: EXECUTIVE

Executive Director's Report

Bobby Wilkinson
Executive Director, TDHCA

ITEM 4: RULES

Presentation, discussion, and possible action on an order proposing new 10 TAC §1.8, Plan Requirements, Process, and Approval Criteria for Properties Designated for Camping by Political Subdivisions for Persons Experiencing Homelessness, and directing its publication for public comment in the Texas Register

Brooke Boston
Deputy Director
of Programs

ITEM 5: HOUSING RESOURCE CENTER

Presentation, discussion, and possible action on the 2022 Regional Allocation Formula Methodology

Elizabeth Yevich
Director of
Housing Resource Center

ITEM 6: CDBG CARES

Presentation, discussion, and possible action on adoption of the third substantial amendment to the 2019 State of Texas Consolidated Plan: One-Year Action Plan relating to the Community Development Block Grant funding under the CARES Act; programming of CDBG CARES funds; authority to request waivers of HUD; and delegation of authority to the Department's Executive Director to make awards to subrecipients

Rudy Bentancourt
Director of
CDBG CARES

ITEM 7: COMMUNITY AFFAIRS

Presentation, discussion, and possible action on contracting with subrecipients and contractors to perform services for the Emergency Housing Voucher Program funded by the American Rescue Plan Act of 2021

Spencer Duran
Section 811 Program
Director

ITEM 8: BOND FINANCE

Presentation, discussion, and possible action on Resolution No. 21-034 authorizing the issuance, sale and delivery of Texas Department of Housing and Community Affairs 2021 Series A, Single Family Mortgage Revenue Bonds, and 2021 Series B Single Family Mortgage Revenue Refunding Bonds (Taxable), approving the form and substance of related documents, authorizing the execution of documents and instruments necessary or convenient to carry out the purposes of this resolution, and containing other provisions relating to the subject

Monica Galuski
Director of Bond
Finance

ITEM 9: MULTIFAMILY FINANCE

- a) 2022-23 Qualified Allocation Plan (QAP) Planning Project Report
- b) Presentation, discussion and possible action on timely filed appeals

Marni Holloway
Director of
Multifamily Finance

21116

Sweetwater Station

Sweetwater

21149

Residences at Alpha

Dallas

21185

Weslaco Village Apartments

Weslaco

21230

Calle del Norte Apartments

Laredo

21259

Jackson Place Apartments

Edinburg

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

EXECUTIVE SESSION

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

Leo Vasquez
Chair

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

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

Pursuant to Tex. Gov't Code §551.071(2) for the purpose of seeking the advice of its attorney about a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Tex. Gov't Code Chapter 551; including seeking legal advice in connection with a posted agenda item;

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

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

OPEN SESSION

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

ADJOURN

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

Individuals who require auxiliary aids, services or sign language interpreters for this meeting should contact Nancy Dennis, at 512-475-3959 or Relay Texas at 1-800-735-2989, at least five days before the meeting so that appropriate arrangements can be made. Non-English speaking individuals who require interpreters for this meeting should contact Elena Peinado, 512-475-3814, at least five days before the meeting so that appropriate arrangements can be made.

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

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BOARD ACTION REQUEST

EXECUTIVE DIVISION

JULY 8, 2021

Presentation, discussion, and possible action on an order proposing new 10 TAC §1.8, Plan Requirements, Process, and Approval Criteria for Properties Designated for Camping by Political Subdivisions for Homeless Individuals, and directing its publication for public comment in the *Texas Register*

RECOMMENDED ACTION

WHEREAS, the 87th Texas Legislature, Regular Session passed House Bill (HB) 1925 which established new Subchapter PP of Chapter 2306 of the Texas Government Code, entitled Property Designated by Political Subdivision for Camping by Homeless Individuals;

WHEREAS, Subchapter PP provides that a political subdivision may not designate a property to be used by homeless individuals to camp unless the Texas Department of Housing and Community Affairs (the Department) has approved a plan as further described by Subchapter PP;

WHEREAS, the Department seeks to implement clear objective guidance for political subdivisions on how they can submit such plans, what they must include in the plans, and the criteria by which such plans may be approved; and

WHEREAS, upon Board approval, the proposed new rule will be submitted to the *Texas Register* to be released for public comment which will be accepted from July 23, 2021, through August 23, 2021;

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees, be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department to cause the proposed new 10 TAC §1.8, Plan Requirements, Process and Approval Criteria for Properties Designated for Camping by Political Subdivisions for Homeless Individuals, in the form presented to this meeting, to be published in the *Texas Register* for public comment and in connection therewith, and make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing, including the preparation of the subchapter specific preambles and any requested revisions to the preambles.

BACKGROUND

During the 87th Regular Legislative Session, the Texas Legislature passed HB1925 which established prohibitions on camping in public places, created a criminal offense in Texas Penal Code for prohibited camping, and established new Subchapter PP of Chapter 2306 of the Texas Government Code, entitled Property Designated by Political Subdivision for Camping by Homeless Individuals. Governor Greg Abbott signed the bill into law on June 15, 2021.

The new Subchapter PP provides that a political subdivision may not designate a property to be used by homeless individuals to camp unless the Texas Department of Housing and Community Affairs (the Department) has approved a plan as further described by Subchapter PP. The bill becomes effective on September 1, 2021. Staff feels it is critically important to adopt a rule that provides clear objective guidance on:

- how political subdivisions can submit such plans,
- what the plans must include,
- the process to be used for submission and review of plans, and
- the criteria by which such plans may be approved or denied.

The Department intends to also make available, by the time the rule is adopted, a plan template for use by political subdivisions, and an informational webpage within the Department's website outlining the process, required forms and frequently asked questions. Staff suggests that submitted plans, and the Department's final determination on those plans, will also be posted on this webpage.

The draft rule presented today will be released for public comment. The public comment period will be open from Friday, July 23, 2021, through Monday, August 23, 2021.

Attachment 2: Preamble proposing new 10 TAC §1.8, Plan Requirements, Process and Approval Criteria for Properties Designated for Camping by Political Subdivisions for Homeless Individuals

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC §1.8, Plan Requirements, Process and Approval Criteria for Properties Designated for Camping Political Subdivisions for Homeless Individuals. The purpose of the rule is to implement new requirements established by the 87th Regular Texas Legislature that establishes in Chapter 2306, Texas Government Code, new Subchapter PP. Subchapter PP provides that a political subdivision may not designate a property to be used by homeless individuals to camp unless the Texas Department of Housing and Community Affairs (the Department) has approved a plan as further described by Subchapter PP. The rule proposed provides clear objective guidance for political subdivisions on how they can submit such plans, the content of the plans, how plans will be reviewed, and the criteria by which such plans will be approved.

The Department has analyzed this rulemaking action and the analysis is described below for each category of analysis performed.

Tex. Gov't Code §2001.0045(b) does not apply to the rule. §2001.0045(c)(9) provides that the requirements of the section do not apply to a rule that is "necessary to implement legislation, unless the legislature specifically states this section applies to the rule."

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

1. Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the rule will be in effect, the rule does not create or eliminate a government program, but only provides the process and framework for how a political subdivision may submit a plan to designate a property to be used by homeless individuals to camp, what must be included in the plan, and provides how the Department will review and approve such plans.

2. The enacted law does create additional work associated with the review and processing of such plans, however the rule only formalizes that process created by statute. Therefore, the rule does not require a change in work that will require the creation of new employee positions, nor will the rule reduce work load to a degree that any existing employee positions are eliminated.

3. The rule does not require additional future legislative appropriations.

4. The rule does not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The rule is creating a new regulation; the regulation is applicable only to those political subdivisions seeking to obtain plan approval to designate a property to be used by homeless individuals to camp.

6. The action will not repeal any rule.

7. The rule will increase the number of individuals subject to the rule's applicability as the rule currently does not exist. When adopted, those political subdivisions seeking such plan approvals will become subject to the rule's applicability.

8. The rule will not negatively or positively affect this state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated this rule and determined that the rule will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX GOV'T CODE §2007.043. The rule does not contemplate or authorize a taking by the Department, therefore no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the rule as to its possible effects on local economies and has determined that for the first five years the rule will be in effect there will be no economic effect on local employment; therefore no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of the rule would be the provision of a clear policy for how a political subdivision may designate a property to be used by homeless individuals to camp through submission of a plan to the Department. The rule proposed provides clear guidance for political subdivisions on how they can submit such plans, what must be included in the plan, how plans will be reviewed, and the criteria by which such plans will be approved. There will not be economic costs to individuals required to comply with the rule.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the rule is in effect, enforcing or administering the rule has minimal implications related to costs or revenues of the state or local governments. There may be negligible costs associated with the time required of a political subdivision to prepare and submit the plan, and respond to questions from the Department, but these processes and costs are necessary to ensure implementation of the newly enacted law. All costs are borne by the political subdivision.

g. REQUEST FOR PUBLIC COMMENT. The public comment period will be held July 23, 2021, to August 23, 2021, to receive input on the proposed rule. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, or email brooke.boston@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. Austin local time August 13, 2021.

STATUTORY AUTHORITY. The rule is proposed pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules and Tex. Gov't Code §§2306.1121-1124, which establish Subchapter PP requiring the plan process covered by the rule. Except as described herein the rule affect no other code, article, or statute.

§1.8, Plan Requirements, Process and Approval Criteria for Properties Designated for Camping by Political Subdivisions for Homeless Individuals

(a) Purpose.

Subchapter PP of Chapter 2306, Texas Government Code, Property Designated by Political Subdivision for Camping by Homeless Individuals, was enacted in September 2021. §2306.1122 provides that a Political Subdivision may not designate a property to be used by homeless individuals to Camp unless the Department has approved a Plan as further described by Subchapter PP. This rule provides the Department's policies for such Plans, including the process for Plan submission, Plan requirements, the review process, and the criteria by which a Plan will be reviewed by the Department.

(b) Applicability.

(1) This rule applies only to the designation and use of a property designated for camping by homeless individuals that first begins that use on or after September 1, 2021, except that the rule and requirements of Subchapter PP, Chapter 2306, Texas Government Code, do not apply to a Proposed Property to be located on/in a Public Park. Public Parks are ineligible to be used as a Camp by homeless individuals per Subchapter PP, Chapter 2306, Texas Government Code.

(2) The designation and use of a Proposed Property described by Subchapter PP, Chapter 2306, Government Code that first began before September 1, 2021, is governed by the law in effect when the designation and use first began, and the former law is continued in effect for that purpose.

(3) A Political Subdivision that designated a property to be used by homeless individuals to Camp before September 1, 2021, may apply on or after that date for approval of a Plan pursuant to this section.

(c) Definitions.

(1) Camp--Has the meaning assigned by Section 48.05 of the Texas Penal Code.

(2) Department--the Texas Department of Housing and Community Affairs.

(3) Plan--Specifically an application drafted by a Political Subdivision, submitted to the Department by the Political Subdivision, with the intention of meeting the requirements provided for in subsection (e) of this Section (relating to Threshold Plan Requirements).

(4) Plan Determination Notice--the notification provided by the Department to the Political Subdivision stating a Plan's Approval or Denial.

(5) Political Subdivision--a local government as defined in Chapter 2306, Texas Government Code.

(6) Proposed New Campers--Homeless individuals that the Political Subdivision intends to allow to Camp at the Proposed Property for which a Plan is submitted.

(7) Proposed Property--that property proposed for use for Proposed New Campers and submitted in the Plan, owned, controlled, leased, or managed by the Political Subdivision.

(8) Public Park--Any parcel of land dedicated and used as parkland, or land owned by a political subdivision that is used for a park or recreational purpose that is under the control of the political subdivision, which is designated by the political subdivision.

(d) Plan Process.

(1) Submission.

(A) Plans may be submitted at any time. Plan resubmissions may also be submitted at any time.

(B) All Plans must be submitted electronically to campingplans@tdhca.state.tx.us.

(C) At least one designated email address must be provided by the Political Subdivision; all communications from the Department to the Political Subdivision regarding the Plan will be sent to that email address. No communication will be sent by traditional postal delivery methods. Up to two email contacts may be provided.

(2) Review Process.

(A) Upon receipt, Department staff will send a confirmation email receipt to the designated email address and initiate review of the Plan. The Plan will be reviewed first to determine that all information specified in subsection (e) of this Section (relating to Threshold Plan Requirements) have been included and that sufficient information has been provided by which to evaluate the Plan against the Plan Criteria provided for in subsection (f) of this Section (relating to Plan Criteria).

(B) If a Plan as submitted does not sufficiently meet the requirements of §2306.1123, Texas Government Code, and subsection (e) of this Section, or does not provide sufficient explanation by which to assess the Plan Criteria provided for in subsection (f) of this Section, staff will issue the Political Subdivision a notice of deficiency. The Political Subdivision will have five calendar days to fully respond to all items requested in the deficiency notice.

(i) For a Political Subdivision that satisfies all requested deficiencies by the end of the five calendar day period, the review will proceed.

(ii) For a Political Subdivisions that does not satisfy all requested deficiencies by the end of the five calendar day period, no further review will occur. A Plan Determination Notice will be issued notifying the Political Subdivision that its Plan has been denied and stating the reason for the denial. The Political Subdivision may resubmit a Plan at any time after receiving a Plan Determination Notice.

(C) Plan Determination Notice.

(i) Upon completion of the review by staff, the Political Subdivision will be notified that its Plan has been Approved or Denied in a Plan Determination Notice.

(ii) Not later than the 30th day after the date the Department receives a plan or resubmitted Plan, the Department will make a final determination regarding approval of the Plan and send a Plan Determination Notice to the Political Subdivision. For a Political Subdivision that had a deficiency notice issued, and that satisfied all requested deficiencies by the end of the five calendar day period, the Department will strive to still issue a final determination notice by the 30th day from the date the Plan was originally received, however the date of issuance of the Plan Determination Notice may extend past the 30th day by the number of days taken by the Political Subdivision to resolve the deficiencies.

(iii) A Political Subdivision may appeal the decision in the Plan Determination Notice using the appeal process outlined in §1.7 of this Chapter (relating to Appeals Process).

(e) Threshold Plan Requirements.

A Plan submitted for approval to the Department must include all of the following items for the property for which the Plan is being submitted:

(1) pertinent contact information for the Political Subdivision as specified by the Department in its Plan template;

(2) the physical address or if there is no physical address the legal description of the property;

(3) the estimated number of Proposed New Campers to be located at the Proposed Property;

(4) a description with respect to the property of the following five evaluative factors that addresses all of the requirements below:

(A) Local Health Care. Provide:

(i) A description of the availability of local health care for Proposed New Campers, including access to Medicaid services and mental health services;

(ii) A description of the specific providers of the local health care and mental health services available to Proposed New Campers. Local health/mental health care service providers do not include hospitals or other emergency medical assistance, but contemplate access to ongoing and routine health and mental health care. Providers of such services can include, but are not limited to: local health clinics, local mental health authorities, mobile clinics that have the location in their service area, and county indigent healthcare programs;

(iii) A description or copy of a communication from the Texas Department of Health and Human Services specific to the Political Subdivision and specific to the population of homeless individuals must be provided to establish the availability of access to Medicaid services;

(iv) A map or clear written description of the geographic proximity (in miles) of each of those providers to the Proposed Property;

(v) The cost of such care and services, whether those costs will be borne by the Proposed New Campers or an alternative source, and if an alternative source, then what that source is; and

(vi) A description of any limitations on eligibility that each or any of the providers may have in place that could preclude Proposed New Campers from receiving such care and services from the specific providers.

(B) Indigent Services. Provide:

(i) A description of the availability of indigent services for Proposed New Campers. For purposes of this factor, indigent services are any services that assist individuals or households in poverty with their access to basic human needs and supports. Indigent service providers include, but are not limited to: community action agencies, area agencies on aging, and local nonprofit or faith-based organizations providing such indigent services;

(ii) A description of the specific providers of the services and what services they provide;

(iii) A map or clear written description of the geographic proximity (in miles) of each of those providers to the Proposed Property; and

(iv) A description of any limitations on eligibility that each or any the providers may have in place that could preclude Proposed New Campers from receiving such services from the specific providers.

(C) Public Transportation. Provide:

(i) A description of the availability of reasonably affordable public transportation for Proposed New Campers. Transportation provided by a homeless service provider is not considered public transportation. Reasonably affordable for the purposes of this section means the rate for public transportation for the majority of users of that public transportation; if for instance the standard bus fare in an area is \$2 per ride, then that rate is considered the

reasonable affordable rate for the Proposed Property; Proposed New Campers should not have to pay a rate higher than that standard fare;

(ii) A description of the specific providers of the public transportation services and their prices;

(iii) A description of the closest proximity of the property to a specified entrance to a public transportation stop or station, with a sidewalk for pedestrians, including a map of the closest stop and public transportation route shown in relation to the Proposed Property;

(iv) A description of the route schedule of the closest proximate public transportation route; and

(v) If public transportation is available upon demand at the property location, identification of any limitations on eligibility that each or any of the providers may have in place that could preclude Proposed New Campers from receiving such transportation services from that specific on-demand provider.

(D) Law Enforcement Resources. Provide:

(i) A description of the local law enforcement resources in the area;

(ii) The description should include a brief explanation of which local law enforcement patrol beat covers the Proposed Property;

(iii) A description of local law enforcement resources and local coverage in several other census tracts or law enforcement beats/areas with similar demographics to that of the beat/area of the Proposed Property to provide a comparative picture;

(iv) a description of any added resources for the area or proposed specifically for the property, and how proximate those resources are; and

(v) any explanation of reduced (or lower than typical of similar demographic areas) local law enforcement coverage in the area.

(E) Coordination with Local Mental Health Authority. Provide:

(i) A description of the steps the Political Subdivision has taken to coordinate with the Local Mental Health Authority to provide services for any Proposed New Campers; and

(ii) A description must include documentation of meetings or conversations, dates when they occurred, any coordination steps resulting from the conversations, and whether any ongoing coordination is intended for the Proposed Property.

(5) The Political Subdivision must provide evidence that establishes that the property is not a Public Park. Evidence must include documentation addressing the definition of a Public Park as defined in subsection (c)(8) of this Section.

(6) Plans should be limited in length. Plans in excess of 15 pages of text, not including documentation and attachments, will not be reviewed.

(7) Any Plan that is a resubmission of a denied Plan, submitted again for the same Proposed Property, must include a short summary at the front of the Plan explaining what has been changed in the resubmitted Plan from the original denied Plan.

(f) Plan Criteria

(1) Approval. In no case will a Plan be approved if the Department has determined that the Proposed Property referenced in a Plan is a Public Park as defined in subsection (c)(6) of this Section. Plans for other properties will be approved if the following five factors are satisfied:

(A) Local health care, including access to Medicaid services (or other comparable health services) and mental health services, are within one mile of the Proposed Property, are accessible via public transportation, or transportation is provided, and are expected to be available at little or no cost for at least 90% of Proposed New Campers (some limited exceptions from providers

as may be described in accordance with (d)(5)(A)(v) of this section will not preclude approval for this factor);

(B) There are indigent services providers that have locations within one mile of the Proposed Property, are accessible via public transportation, or transportation is provided, and 90% of Proposed New Campers are expected to be eligible;

(C) The property is within 1/2 mile or less from a public transportation stop or station that has scheduled service at least several times per day for at least six days per week, or there is on demand public transportation available, and the political subdivision estimates that least 90% of the Proposed New Campers are eligible for that on-demand public transportation;

(D) The local law enforcement resources for the patrol zone or precinct that includes the Proposed Property are not materially less than those available in other zones or precincts of the local law enforcement entity; and

(E) the Political Subdivision has had at least one meeting to discuss initial steps and coordination with the Local Mental Health Authority, specific to this particular Proposed Property and the volume/service needs of Proposed New Campers.

(2) A Plan that meets at least four of the five factors in paragraph (1) of this subsection, may be approved if significant and sufficient mitigation is provided that delivers similarly comprehensive resources as required, to justify how the remaining factor not met will still be sufficiently addressed through some other means.

(3) Denial.

An Application that does not meet all of the requirements in paragraph (1) of this subsection, or that does not meet the requirements of paragraph (2) of this paragraph will be issued a Plan Determination Notice within 30 days of Plan application (which may be extended by the amount of calendar days the Political Subdivision took to respond to deficiencies) reflecting denial.

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BOARD ACTION REQUEST

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM DIVISION

JULY 8, 2021

Presentation, discussion, and possible action on adoption of the third substantial amendment to the 2019 State of Texas Consolidated Plan: One-Year Action Plan relating to the Community Development Block Grant funding under the CARES Act; programming of CDBG CARES funds; authority to request waivers of HUD; and delegation of authority to the Department's Executive Director to make awards to subrecipients.

RECOMMENDED ACTION

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

WHEREAS, Title XII of the CARES Act provides supplemental formula funding of at least \$5 billion to states to carry out activities under the Community Development Block Grant program (CDBG CARES) among other programs to prevent, prepare for, and respond to COVID-19;

WHEREAS, the Texas Department of Housing and Community Affairs (TDHCA or the Department) received \$141,846,258 in three allocations of CDBG CARES funding from the U.S. Department of Housing and Urban Development (HUD), to prevent, prepare for, and respond to COVID-19;

WHEREAS, on October 8, 2020, TDHCA's Board approved a first amendment to the 2019 Consolidated Plan One-Year Action Plan, which approved the programming of the CDBG-CARES funds, with a primary focus on rental assistance and outlined the planned uses of additional CDBG CARES funding which included Food Bank Distribution Assistance, Provider Relief for Persons with Disabilities, Legal Services for Persons with Disabilities, and Administrative costs;

WHEREAS, on January 14, 2021, the Board approved a second amendment to the 2019 Consolidated Plan One Year Action Plan, which approved funding for mortgage assistance, along with identifying the previously approved activities;

WHEREAS, not all of the previously proposed activities have resulted in contracts or awards, and in order to adequately allocate the full amount of \$141,846,258 CDBG-CARES funds which have been awarded to TDHCA, the Department seeks to reprogram \$71,180,317 of unobligated funds into three program activities: Feeding Texans Pandemic Response Program, Future Capacity Response Improvements, and the Texas Emergency Mortgage Assistance Program (TEMAP) Non-Entitlement set-aside;

WHEREAS, a previously awarded project, Legal Services to Persons with Disabilities, has requested a funding increase of \$195,000 to their original award of \$200,000 to continue their efforts of providing statewide legal services to persons with disabilities;

WHEREAS, in consideration of the heightened time sensitivity of programming funds quickly, staff will be releasing the plan amendment for the CDBG-CARES funds reflecting the new proposed activities on July 12, 2021, for a 5-day public comment period as required by HUD;

WHEREAS, to best serve low-income Texans in an expeditious manner, one or more waivers may be needed from HUD and staff is seeking authority to pursue any such waivers; and

WHEREAS, for activities in the plan that recommend non-competitive awards of funds to subrecipients, staff is seeking authority with this item to also proceed with the execution of contracts with such subrecipients, conditioned on a recommendation or a recommendation with conditions by the Executive Award Review and Advisory Committee (EARAC) being confirmed prior to execution, and subsequent report of such contacts to the Board;

NOW, therefore, it is hereby

RESOLVED, that the third substantial amendment to the 2019 State of Texas Consolidated Plan: One Year Action Plan, and re-programming of the CDBG CARES funds, is hereby approved and staff is directed to accept public comment, make responsive revisions if needed at the direction of the Executive Director, and submit such amendment to HUD;

FURTHER RESOLVED, staff is authorized to pursue waiver requests with HUD, if needed, to effectuate the programming of these funds;

FURTHER RESOLVED, should funds under any CDBG CARES allocation contracts be returned or otherwise be made available, those funds may be reallocated at the discretion and authority of the Executive Director or designee to other contracts awarded under CDBG CARES that have shown sufficient obligations and/or expenditures or to other uses so authorized by the Plan along with a recommendation or a recommendation with conditions by EARAC (if applicable);

FURTHER RESOLVED, that the Executive Director and his designees and each of them be and they hereby are authorized, empowered and directed, for and on behalf of this Board to produce such documents as may be needed to release such funds;

FURTHER RESOLVED, that the Executive Director and his designees and each of them be and they hereby are authorized, empowered, and directed, for and on behalf of this Board, to issue awards of funds and contracts for non-competitive activities, subject to a positive recommendation or a recommendation with conditions from

EARAC, including an increase of \$195,000 in the award to the project, Legal Services to Persons with Disabilities, consistent with the policy noted herein; and

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

BACKGROUND

On March 27, 2020, the CARES Act was signed into law. The CARES Act provides for \$5 billion to be distributed through the CDBG Program nationally and includes waivers of certain provisions of the CDBG regulations. The CDBG Program is a HUD-funded program designed to provide decent housing and a suitable living environment, and by expanding economic opportunities, principally for low- and moderate-income persons. The response by HUD to address the Coronavirus Pandemic under CDBG CARES allows the funding to be used for a range of eligible activities which prevent, prepare for, or respond to the spread of infectious diseases such as the coronavirus disease 2019 (COVID-19).

The COVID-19 pandemic has had a massive impact on communities with food instability, financial capacity to pay for their mortgages, and gaps in overall delivery systems. These considerations are compounded for those experiencing homelessness, at risk of homelessness, and lack of available services and protections for certain categories of low-income populations.

In its initial plan amendment, approved by the Board in October 2020, the \$141,846,258 in CDBG CARES or CDBG-CV funds focused significantly on rental assistance. CDBG CARES funds were also approved for being used as match for food distribution activities, for relief assistance for providers of persons with disabilities, for legal services for persons with disabilities, for broadband planning, and for administrative costs associated with administering the CDBG CARES funds. Subsequent to this plan approval, significant resources were made available federally to address rental assistance such that using CDBG funds for this activity was no longer the most optimal use of the funds.

The Department's second amendment, approved by the Board in January 2021, identified \$69,538,864 in CDBG CARES funding to be shifted to addressing Urgent Need Mortgage Payment Assistance. A NOFA was released in January 2021 and in May 2021 the Department obligated \$22,524,125 of the funds. The Department has released a second NOFA and has allocated \$3 million for mortgage assistance to serve households in the 31 counties which do not have current mortgage assistance coverage. However, as with the rental assistance, since the time the plan was approved, significant additional federal resources were made available to address mortgage assistance such that there was insufficient demand to utilize more of the funds.

This third amendment now seeks to reprogram \$71,180,317.03 of unobligated funds into three program activities: Feeding Texans Pandemic Response Program, Community Resiliency Program, and TEMAP Non-Entitlement set-aside. Of the \$71.1 million, approximately \$29,504,946 is required by HUD to serve households in non-entitlement communities, to add to the total of \$40,000,886 to serve households in

non-entitlement communities. The amendment will also increase funding to a previously awarded project, Legal Services to Persons with Disabilities, in the amount of \$195,000 added to their original award of \$200,000 to continue their efforts of providing statewide legal services to persons with disabilities.

Proposed Reprogramming of Funds

Feeding Texans Pandemic Response Program: Funds dedicated to this activity will be deployed to address statewide food and nutrition needs through Feeding Texas, a network of food banks and other hunger-relief organizations covering the entire state. All contracts will track what portion of funds will serve Non-Entitlement Communities.

Based on data from the U.S. Census Bureau, from May 26 to June 7, 2021, approximately 2.3 million Texans reported that they sometimes or often times do not have enough to eat. Further, approximately 2 million Texans reported they could not afford to buy more food. Celia Cole, Chief Executive Officer for Feeding Texas, stated in May 2021: “Almost every food bank is anticipating higher than normal demand in the coming year as the economy recovers and people out of work for so long struggle to get back on their feet. Most food banks are concerned about their ability to meet the increased demand with government (USDA commodities, state produce grant) and donated food alone. The increase in demand also continues to strain the capacity of the network in terms of infrastructure (warehouse space, cooler/freezers, trucks, equipment, etc.)... and those needs have grown.”

Funding Method: TDHCA will contract directly with Feeding Texas as the sole CDBG-CV subrecipient. Feeding Texas operates a network of 21 member food banks, and addresses the food and nutrition needs of all 254 Texas counties. The 21 food banks work with more than 3,000 local partners to distribute food statewide. Feeding Texas will act as a pass-through to their member food banks, providing fiscal oversight and confirming that the CDBG-CV and other federal requirements for funding are met. The activity would serve both entitlement and non-entitlement areas and the contract would be written to identify and track each activity separately.

Use of Funds: Funds will be used for bulk food purchases. Funds may also be used to provide funds for equipment, supplies, and materials necessary to carry-out the public service in response to the COVID-19 pandemic and to enable resilience of the network to the effects of coronavirus outbreaks in the future.

If funds are contracted for this purpose, specific investments in infrastructure will support member food banks in being able to meet the ongoing need for food and prepare for future emergency needs, including improving adaptive changes in the food bank’s warehouse/distribution models. Eligible costs may include warehouse expansion, repairs or refurbishment; expanded freezer/cooler capacity; transportation and freight; equipment (such as yard mules, trailers, forklifts, electric jacks, rider jacks, and dollies); and materials for emergency food boxes and distribution (such as bags, boxes, cones, and tents). Staff time is not intended to be an eligible expense.

Community Resiliency Program: Funds dedicated to this activity will allow low-and-moderate income, and rural and small metro communities to address gaps in their ability to respond to future pandemics or other disasters.

Due to the COVID-19 pandemic, homeless emergency shelters, health clinics/facilities, domestic violence facilities, and senior centers have been required to reduce capacity and services to clients, and establish

non-congregate shelters to adhere to CDC guidelines and social distancing. Many rural and smaller urban areas lacked capacity in these areas, so when the pandemic occurred, they were unable to respond quickly and effectively. Further, few rural and small metro areas have had the opportunity to implement mobile response units or emergency medical services that could have been very impactful in reaching some households. CDBG-CV funds are eligible to be used for activities that help augment a community's ability to be more resilient in preparing for and responding to future pandemics.

Funding Method: Funds would be made available as grants (not loans) through an open NOFA. Funds will be prioritized for applicants that are non-entitlement communities or are organizations willing to serve non-entitlement communities, but applications will be accepted from applicants in entitlement communities as well for a portion of funding. Priority will be given to those applications with readiness to proceed.

Assistance will be limited to activities:

- serving populations presumed low income by HUD (abused children, battered spouses, elderly persons, adults meeting the Bureau of the Census' Current Population Reports definition of "severely disabled," homeless persons, illiterate adults, persons living with AIDS, and migrant farm workers); or
- to areas meeting the national objective of benefit to low- and moderate-income persons on an area basis under 24 CFR 570.208(a)(1), in which the activity's service area must be a primarily residential area where not less than 51% of the persons residing in the area are low and moderate income; or
- meeting the low- and moderate-income limited clientele national objective under 24 CFR 570.208(a)(2), in which at least 51% of the households benefitting from a service must be low-moderate income.

Use of Funds:

Applications may be accepted for proposals that are seeking grants for any one of the following activities, subject to an area's eligibility (as described above):

- a. Acquisition and/or rehabilitation, or new construction costs, including connectivity costs, related to publicly owned:
 - homeless shelters/facilities, (presumed benefit population)
 - domestic violence centers/facilities, (presumed benefit population)
 - health clinics,
 - emergency medical (EMS) stations, and
 - senior centers/facilities (presumed benefit population).
- b. Purchase of the following if intended to be publicly owned:
 - Mobile food pantries
 - Mobile health clinics, and
 - Emergency medical services vehicles.

For acquisition related activities: CDBG-CV funds may be used to pay the cost of identifying the property acquired, purchasing the property based on the Fair Market Value, and covering other related costs such as appraisals, the preparation of legal documents, recordation fees, and other costs that are necessary to the acquisition process. An environmental review using the HUD standards at 24 CFR Part 58 must be completed prior to the acquisition of any property.

For construction or rehabilitation activities: CDBG CARES funds may be used for the construction or

rehabilitation of a public facility to prevent or address the spread of coronavirus, or to prepare for future pandemics. Rehabilitation includes establishing appropriately ventilated spaces for the public facilities listed above. An additional CDBG-CV eligible activity is the acquisition and rehabilitation (if necessary) of buildings to expand the capacity for non-congregate shelter where such temporary housing is not sufficient during a coronavirus pandemic or epidemic. CDBG-CV funds are not being proposed here for use for permanent supportive housing or transitional housing.

Any facilities funded with CDBG-CV funds will be required to have a use agreement consistent with applicable regulations (typically five years after the grant close out period).

The Department may limit or prioritize certain activities under the NOFA, but the following activities are some examples, but not an exhaustive list, of what may be done under the programming ideas to improve a community's resiliency being authorized with this action:

- Rehabilitation of a vacant building to be used as a group home to serve the chronically homeless;
- Acquisition of property and construction or rehabilitation of a building on the property to be used as a homeless shelter
- Clearance of a site on which an emergency shelter will be constructed;
- Conversion of an abandoned public school to a facility providing both shelter and services to the homeless;
- Rehabilitation or construction of a senior center to improve the structure of the building including improving ventilation, the addition of sanitation stations for the elderly, encouraging social distancing, and improvements which will allow contactless meal pickups if necessary;
- Rehabilitation or construction of a domestic violence facility for improved ventilation and social distancing to ensure all clients are receiving the necessary social services provided with no limitations;
- Rehabilitation or construction of a health clinic to provide services necessary for the health and well-being of the clients served including treatment areas and cold storage to store vaccines; or
- Acquisition of mobile units that are meant to be used to serve at least 51% or more of low-income participants requiring services of the mobile unit or primarily used in an area comprised of at least 51% or more low-income participants.

Texas Emergency Assistance Program (TEMAP) Non-Entitlement set-aside

When the Department made awards recently to subrecipients that would provide mortgage assistance through the TEMAP program, 31 of the state's 254 counties were not covered by those awards. In the interest of offering this type of mortgage assistance statewide, the Department has re-released the TEMAP NOFA specifically seeking applicants that will provide the program in those 31 counties. Staff has set aside \$3 million for potential awards under the re-issued NOFA; if the funds are not contracted within approximately nine months, the remaining funds will be transferred into one of the other activities authorized by the Plan Amendment.

Recommendation of Reprogramming Allocation

Based on the Department's interest in having funds serve communities as promptly as possible, and in allowing communities to seek funds for gaps in their delivery systems, the Department recommends that the funds be reprogrammed into the programs described above, with the flexibility to move funds as needed (within programmatic limitations) within any of these activities to respond to the demand and efficiency in delivering these services. Of the funds below across all activities, at least \$29,504,946 will be

programmed for service delivery in non-entitlement areas.

Program Activity	Recommended Allocation
Feeding Texans Pandemic Response Program	\$30,000,000
Community Resiliency Program	\$38,180,317.03
TEMAP Non-Entitlement NOFA Projection	\$3,000,000
TOTAL FIRST AND SECOND ALLOCATIONS FROM HUD	\$71,180,317.03

The Department will accept comment from July 12, 2021, through July 16, 2021. Staff will respond to any comments received during the 5-day comment period as required by HUD and if needed, the Executive Director will determine any revisions that may be needed to the Plan Amendment prior to its submission. This action seeks approval to submit the Plan to HUD upon approval by the Board and any related revisions by the Executive Director in response to public comment. Staff recommends approval of this action.



Texas Department of Housing and Community Affairs

Summary of CDBG-CV Third Amendment to the 2019 State of Texas

Consolidated Plan One Year Action Plan

July 8, 2021

The Governor of the State of Texas has designated the Texas Department of Housing and Community Affairs (TDHCA) as the administrator for all allocations of CDBG-CV funds under the CARES Act. TDHCA received three allocations from the U.S. Department of Housing and Urban Development (HUD) in the amounts of \$40,000,886, \$63,546,200, and \$38,299,172 (respectively), for a total of \$141,846,258.

In November 2020, HUD approved the Department's Substantial Amendment to its One-Year Action Plan reflecting the programming and method of distributing all allocations of the CDBG-CV funds with a primary focus on rental assistance. Signed by the President on December 27, 2020, an additional and significant federal resource, the Coronavirus Relief Bill (tied to H.R. 133, The Consolidated Appropriations Act, 2021) is dedicated specifically to rental assistance.

On January 14, 2020, HUD approved the Department's Second Substantial Amendment to its One-Year Action Plan reflecting a change in the distribution of all allocations of the CDBG-CV funds to include an additional focus on mortgage assistance.

To date, of the \$141,846,258 in CDBG-CV funds awarded to TDHCA in its three allocations, TDHCA has allocated approximately \$61,181,703 to the following eligible programs and activities: rental and mortgage assistance, legal services for persons with disabilities, relief for disability providers, and administrative costs. The Department is estimating that approximately \$71,180,317 will need to be reprogrammed into CDBG-CV eligible programs and activities.

Therefore, TDHCA is proposing a third amendment to its 2019 State of Texas Consolidated Plan One Year Action Plan focused on the reprogramming of its CDBG-CV funds for the two additional activities: the Feeding Texans Pandemic Response Program, and the Community Resiliency Program. The plan will also hold aside \$3 million for potential additional awards in the TEMAP program and will increase the funding allocation for an already approved Legal Services for Persons with Disabilities project by \$195,000. This third amendment which is being released for public comment is subject to rescission or amendment any time prior to its final submission to HUD.

As required by the Federal Register Notice F.R. 6218-N-01CDBG-CV, TDHCA will ensure through its contracts that \$40,000,886 (the amount of its first allocation) will be provided to non-entitlement units of general local government (UGLG), or will be provided to participants (regional organizations which include private non-profits serving more than one county, community action agencies, or regional councils of governments) who will in turn assist households located in non-entitlement communities. Non-entitlement units of government are cities with populations of less than 50,000 (except cities that are designated principal cities of Metropolitan Statistical Areas), and counties with populations of less than

200,000.

All CDBG-CV allocations will be used for the following activities to prevent, prepare for, or respond to the coronavirus. Depending on the ease of implementation of the following activities and the demand at the time the services are provided, TDHCA may redirect funds from one activity to another, without submitting an additional substantial amendment, to expedite the delivery of assistance in these urgent times for up to 100% of the budgeted and previously budgeted activities which perform exceptionally and expeditiously well.

As previously stated, the Executive Director or designee may reallocate funds among these activities and approve contract amendments within activities up to a 100% change without further amendment to this plan.

Uses for CDBG-CV Funds

CDBG-CV Program Activity	Recommended Allocation
1. Urgent Need Rental/Mortgage Assistance <i>A. Approximately \$33.2 million obligated to entitlement cities and counties already operating COVID rental assistance programs for a rental assistance activity until COVID Relief Act funds are able to be released.</i> <i>B. Competitive Allocation for Urgent Need Mortgage Payment Assistance (\$25,524,125) (Includes the \$3 million in the re-released NOFA).</i>	\$58,736,702.97
2. Food Bank Distribution Assistance	\$30,000,000
3. Community Resiliency Program	\$38,180,317.03
4. Provider Relief Assistance - Persons with Disabilities	\$5,000,000
5. Legal Services for Persons with Disabilities	\$445,000
TDHCA Administration and Technical Assistance (up to 7%)	\$9,484,238
Total first, second and third allocations from HUD	\$141,846,258*

*40,000,886 is required to serve participants in Non-Entitlement Communities (directly or indirectly)

The activities being added or revised through this amendment include:

1. Food Bank Distribution Assistance – \$30M

Funds dedicated to this activity will be deployed to address statewide food and nutrition needs through Feeding Texas, a network of food banks and other hunger-relief organizations covering the entire state of Texas. All contracts will track the portion of funds that serve Non-Entitlement Communities. Funding for this activity will be used for bulk food purchase as well as to provide funds for equipment, supplies, and materials necessary to carry out the public service in response to the effects of the pandemic and to enable resilience to the effects of coronavirus in the future.

2. Community Resiliency Program - \$38,180,317.03

Funds dedicated to this activity will allow for improvement of facilities to address gaps in future pandemic emergency response capacity in rural and small metro. Funding will be made available for the CDBG eligible activity of public facilities and improvements which may consist of acquisition, rehabilitation, or construction of public facilities such as homeless shelters, domestic violence shelters,

health clinics, emergency medical stations, and senior centers. Also eligible under this activity is the purchase of publicly owned mobile food pantries, mobile health clinics, and emergency medical services vehicles to support the activities. All contracts will track what portion of funds expended will serve Non-Entitlement Communities.

3. *Legal Services for Persons with Disability – \$445K*

TDHCA has dedicated \$250K in legal services designed to address the specific needs and rights of people with disabilities who have been impacted by the pandemic. An additional \$195,000 will be allocated to continue the efforts of providing legal services for persons with disabilities.

4. *TDHCA Administration – \$9,484,238M*

TDHCA is allowed to use up to five percent of its allocation for general administration and up to two percent for technical assistance for a total of \$9,929,238. However, TDHCA is planning to use up to \$9,484,238 for administration and technical assistance.

Any previously allocated or amended CDBG-CV activities which are not changed in this third amendment will remain the same.

NOTE: In the plan document that follows, the changes proposed are reflected in blackline so that the reader can quickly identify what has changed.

2015-2019 State of Texas Consolidated Plan

SP-35 Anticipated Resources - 91.315(a)(4), 91.320(c)(1,2)

Anticipated Resources (only added row shown)

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 1				Expected Amount Available Remainder of Con Plan: \$	Narrative Description
			Annual Allocation: \$	Program Income: \$	Prior Year Resources: \$	Total: \$		
CDBG-CV	public - federal	Admin and Planning Urgent Need Public Services Rental Assistance <u>Mortgage Assistance</u> <u>Public Facilities and Improvements</u> Financial Assistance	\$141,846,258	\$0	\$0	\$141,846,258	\$0	CDBG-CV funding will be allocated to the following activities to address the pandemic: 1) Rental assistance 2) Food bank distribution assistance 3) Public Facilities and Improvements 4) Relief to providers of persons with disabilities 5) Legal services for persons with disabilities 6) Mortgage Assistance 7) State Administration

State of Texas 2019 One-Year Action Plan

AP-15 Anticipated Resources

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 1				Expected Amount Available Remainder of Con Plan: \$	Narrative Description
			Annual Allocation: \$	Program Income: \$	Prior Year Resources: \$	Total: \$		
CDBG-CV	public - federal	Admin and Planning Urgent Need Public Services Rental Assistance <u>Mortgage Assistance</u> <u>Public Facilities and Improvements</u> Financial Assistance	\$141,846,258	\$0	\$0	\$141,846,258	\$141,846,258	CDBG-CV funding will be allocated to the following activities to address the pandemic: 1) Rental assistance 2) Food bank distribution assistance 3) <u>Public Facilities and Improvements</u> 4) Relief to providers of persons with disabilities 5) Legal services for persons with disabilities 6) Mortgage Assistance 7) State Administration

AP-20 Annual Goals and Objectives

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
26	CDBG-CV Mortgage Assistance for Rural and Small Metro Areas	2019	2019	Affordable Housing Non-Homeless Special Needs	State of Texas	Rental Assistance TBRA	CDBG-CV: \$40,000,886 <u>5,879,690</u>	Other: Mortgage Assistance: 3,887,571 Households
27	CDBG-CV Rental Assistance for Entitlement Communities with Existing COVID Rental Assistance Programs	2019	2019	Affordable Housing Non-Homeless Special Needs	State of Texas	Rental Assistance TBRA	CDBG-CV: \$37,400,000 <u>3,212,577.97</u>	Tenant-based rental assistance/Rapid Rehousing: 4,114,651 Households Assisted
28	CDBG-CV Mortgage Assistance for Balance of State Coverage	2019	2019	Affordable Housing Non-Homeless Special Needs	State of Texas	Rental Assistance TBRA	CDBG-CV: \$28,516,134 <u>1,964,435</u>	Other: Mortgage assistance: 2,774,909 Households Assisted
29	CDBG-CV Food bank distribution assistance	2019	2019	Non-Housing Community Development	State of Texas	Public Services	CDBG-CV: \$2130,000 0	Public Service activities other than Low/moderate income housing benefit: 0 Persons
30	CDBG-CV Relief to Providers of Persons with Disabilities	2019	2019	Non-Housing Community Development Non-Homeless Special Needs	State of Texas	Public Services	CDBG-CV: \$5,000,000	Public Service activities other than Low/moderate income housing benefit: 0 Persons

31	CDBG-CV Legal Services for Persons With Disabilities	2019	2019	Non-Housing Community Development Non-Homeless Special Needs	State of Texas	Public Services	CDBG-CV: \$250,445,000	Public Service activities other than Low/moderate income housing benefit: 0 Persons
32	CDBG-CV Community Resiliency Program	2019	2019	Homeless Non-Housing Community Development Non-Homeless Special Needs	State of Texas	Public Facility Improvements Address Homeless	CDBG-CV: \$38,180,317.03	Public Facility Activities to benefit LMI/LMC/LMA : 0 Persons Assisted*
3233	CDBG-CV Administration	2019	2019	Administration/ Technical Assistance	State of Texas	Rental Assistance TBRA Admin and Planning Public Service	CDBG-CV: \$9,679,238 9,484,238	Other: 0 Other

* Please note that in SP-45 and AP-20 below, the Goal Outcome Indicator for both programs reflects 0 persons being assisted at this time. The HUD system requires that a numeral be entered here, yet at this time an estimate is not available. Therefore, the field is defaulted to 0.

Goals Summary

26	Goal Name	CDBG-CV Mortgage Assistance for Rural and Small Metro Areas
	Goal Description	Funds will be awarded competitively to units of general local governments (UGLGs) in the state of Texas for mortgage assistance funds using a regional allocation to ensure broad geographic distribution in the state.
27	Goal Name	CDBG-CV Rental Assistance for Entitlement Communities with Existing Rental Assistance Programs
	Goal Description	Funds will be directly committed to those entitlement communities already having existing COVID-19 rental assistance programs and that applied for such program funds by the December 28, 2020 deadline. already released . This will allow those larger cities and counties to channel funds through their current program infrastructure until other Treasury dedicated rental assistance funds are available.
28	Goal Name	CDBG-CV Mortgage Assistance for Balance of State Coverage
	Goal Description	The funds within each region not allocated for non-entitlement awardees – approximately \$ 28.5 <u>19.6</u> million - will be used to fund one or more of the following: 1) entitlement communities, 2) local or regional nonprofit organizations, 3) and/or regional organizations to provide mortgage assistance to the balance of the area within a region. If needed the state may provide assistance to the balance of the area within a region. <u>Also, funding from this category may be used to assist households in non-entitlement communities.</u>
29	Goal Name	CDBG-CV Food Bank Distribution Assistance
	Goal Description	Funds dedicated to this activity will <u>address statewide food and nutrition needs through Feeding Texas, a network of food banks and other hunger-relief organizations covering the entire state in both Entitlement and Non-Entitlement Communities.</u> serve as state match for FEMA eligible activities related to food bank distribution. The Texas Department of Emergency Management (TDEM) has expended approximately \$133 million in food distribution activities to address food and nutrition needs statewide in response to the pandemic, of which the state was required to cover 25% (approximately \$33 million). These CDBG funds will cover approximately \$21 million of that match requirement, based upon a review of the CDBG eligibility of the incurred
30	Goal Name	Relief to Providers of Persons with Disabilities
	Goal Description	Funds will support relief assistance to providers of persons with disabilities, such as group homes, covering the costs of activities like: salaries, sheltering residents outside of group homes when quarantining, Personal Protective Equipment (PPP) and if determined eligible by HUD, the cost of holding beds for tenants who area temporarily relocated because of COVID-19.
31	Goal Name	CDBG-CV Legal Services for Persons With Disabilities
	Goal Description	Funds will be directed to Disability Rights Texas to provide unique legal services to persons with disabilities.
32	Goal Name	<u>CDBG-CV Community Resiliency Program</u>

	Goal Description	<u>Funds dedicated to this activity will allow primarily rural and small metro communities to address gaps in their ability to respond to future pandemics or other pandemic responses. Funding will be made available for the activity of public facilities and improvements which may consist of acquisition, rehabilitation, or construction of public facilities such as, but not limited to, homeless shelters, domestic violence shelters, health clinics, emergency medical</u>
33	Goal Name	CDBG-CV Administration
	Goal Description	CDBG-CV General Administrative costs including Technical Assistance. Up to \$500,000 of these funds will also be used to support broadband planning. Some portion of these funds may be used to support the planning for and/or establishment of a statewide homeless information management warehouse, system or initiative. _

AP-30 Methods of Distribution

Distribution Methods

Table 1 - Distribution Methods by State Program

26	State Program Name:	CDBG-CV Mortgage_Assistance for Rural and Small Metro Areas
	Funding Sources:	CDBG-CV: \$40,000,886 <u>\$5,879,690</u>
	Describe the state program addressed by the Method of Distribution.	Funds will be made available competitively and regionally to all Texas non-entitlement units of general local government (UGLGs) to apply as Subrecipients with funds limited to use for mortgage assistance. Funds not applied for within a region will be made available to non-entitlement applications from other regions. Subrecipients who apply can elect service areas of its jurisdiction (one city, one county) and enter into a contract for a given amount of funds.
	Describe all of the criteria that will be used to select applications and the relative importance of these criteria.	<p>A Notice of Funding Availability will contain a description of all criteria used to select applicants for funding, including the relative weight of each criterion.</p> <p>The Department will provide specific program design guidelines, facilitating the program administration for non-entitlement awardees that do not have an existing mortgage assistance program.</p> <p><u>A second Notice of Funding Availability, released in June 2021 to seek additional coverage for Non-Entitlement Communities, as well as counties which were not covered in the initial NOFA.</u></p>
	Describe how resources will be allocated among funding categories.	<p>Funds dedicated to this activity will assist households for <u>no more than six months</u> of mortgage assistance, including arrears. The assistance will allow payments for up to 5 months of arrears and at least one month of forward payment of the full amount of the monthly mortgage payment – including principal, interest, taxes, and insurance - if escrowed up to the Department-established limit. It is unclear at this time if taxes (as escrowed) are an eligible cost; however, because the taxes escrowed are a component of any arrears and payment, TDHCA would like to be able to determine this to be an eligible cost. If not initially determined by HUD as eligible, TDHCA will request a waiver from HUD for this factor so that the assistance can be of greatest help to Texans affected by the pandemic.</p> <p>The households needing assistance would be identified by Subrecipients reaching out to households in their community.–Subrecipients will accept applications from households, however all payments must be made to mortgagees/loan servicers directly.</p>
Describe threshold factors and grant size limits.	A grant limit per contract and threshold factors for subrecipients will be identified in the Notice of Funding Availability. Program participants must evidence or certify that they have been economically impacted by the pandemic and assistance is limited to no more than 6 consecutive months of assistance per household. There may also be limitations regarding mortgages held or financed by a public agency.	

	<p>What are the outcome measures expected as a result of the method of distribution?</p>	<p>Based on the following calculations, we estimate serving <u>3,887,571</u> households</p> <ul style="list-style-type: none"> • Average Texas Mortgage Payment (including taxes) = \$1,492 • Estimated average months of assistance = 6 months • Total Cost for 6 months at Avg. Mortgage Payment = \$8,952 • Allocation of <u>\$40,000,886,879,690</u> (minus 13% Subrecipient admin) = Estimated funds available for <u>rental mortgage</u> assistance or <u>\$34,800,770,115,330.30</u> • Estimated # of Households to be served: <u>3,887,571</u>
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<p>27</p>	<p>State Program Name:</p>	<p>CDBG-CV Rental Assistance for Entitlement Communities with Existing Rental Assistance Programs</p>
	<p>Funding Sources:</p>	<p>CDBG-CV: <u>\$37,400,000</u><u>33,212,577.97</u></p>
	<p>Describe the state program addressed by the Method of Distribution.</p>	<p>Approximately <u>\$37.433.2</u> million will be committed through non-competitive direct awards to those entitlement communities already having rental assistance programs responsive to the pandemic and that applied for CDBG- CV from the Department by December 28, 2020.</p>
	<p>Describe all of the criteria that will be used to select applications and the relative importance of these criteria.</p>	<p>There are 74 CDBG entitlement communities in the State of Texas. The Department offered rental assistance grants to those entitlement cities and counties already operating COVID-19 rental assistance programs. This will allow those larger cities and counties to quickly channel funds through their current programs until the Coronavirus Relief Bill rental assistance funds are available.</p>
	<p>Describe how resources will be allocated among funding categories.</p>	<p>Funds dedicated to this activity will assist households for no more than six months of rental and assistance, including arrears. The assistance will allow payments for up to 5 months of arrears and at least one month of forward payment of the full amount of the contracted rent up to the Department established limit.</p> <p>The households needing assistance would be identified by Subrecipients reaching out to properties and/or tenants. Subrecipients will accept applications from landlords and will have the option of working with clients directly or via landlords, however all payments must be made to landlords directly.</p>
	<p>Describe threshold factors and grant size limits.</p>	<p>The amount of funds each entitlement will receive will be determined by allocating the <u>\$37.433.2M</u> in this category among the entitlements with COVID-19 rental assistance programs that applied for such funds by using an allocation formula similar to the one HUD used to distribute its CDBG-CV 2 funds. Factors considered in the allocation formula for each entitlement include the number of low-income elderly, unemployment cases, children in poverty and rate of COVID-19 cases.</p>

	<p>What are the outcome measures expected as a result of the method of distribution?</p>	<p>Based on the following calculations, we estimate serving 4,111<u>3,651</u> households</p> <ul style="list-style-type: none"> • Average Fair Market Rent (FMR) for entitlement counties in Texas= \$1,319 • Estimated average months of assistance = 6 months • Total Cost for 6-months at Avg. FRM = \$7,914 • Allocation of \$37,400,000<u>\$33,212,577.97</u> minus 13% Subrecipient admin = Estimated funds available for rental assistance or \$34,800,000<u>\$28,894,942.83</u> <p>Estimated # of Households to be served: 4,397<u>3,651</u></p>
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28	State Program Name:	CDBG-CV Mortgage Assistance for Balance of State Coverage
	Funding Sources:	CDBG-CV: \$28,516,134 <u>19,644,435</u>
	Describe the state program addressed by the Method of Distribution.	<p>The funds within each region not allocated for non-entitlement awardees – approximately \$28.519.6 million - will be used to fund mortgage assistance to one or more of the following: 1) entitlement communities, 2) local or regional nonprofit organizations, 3) and/or regional organizations to cover the balance of an area within a region. <u>Funding awarded to a local non-profit or regional organization covering households in non-entitlement areas will be captured to account for non-entitlement participant coverage.-</u></p> <p>It is the intent of TDHCA that an eligible household anywhere in the state will be able to apply for mortgage assistance funds. Properties in an area covered by a contracted non-entitlement or entitlement awardee will be assisted through that respective program, and will may therefore not be eligible to be assisted through the regional or statewide activity.</p>
	Describe all of the criteria that will be used to select applications and the relative importance of these criteria.	Priority will be given to subrecipients that can readily utilize the funds and establish a program within a short amount of time given the contracts will be for a one-year period. Other criteria will be further explained in the Notice of Funding Availability.
	Describe how resources will be allocated among funding categories.	<p>Funds dedicated to this activity will assist households for <u>no more than six months</u> of mortgage assistance, including arrears. The assistance will allow payments for up to 5 months of arrears and at least one month of forward payment of the full amount of the monthly mortgage payment – including principal, interest, taxes and insurance up to the Department established limit. It is unclear at this time if taxes (as escrowed) are an eligible cost; however, because the taxes escrowed are a component of any arrears and payment, TDHCA would like to be able to determine this to be an eligible cost. If not initially eligible, TDHCA will request a waiver from HUD for this factor so that the assistance can be of greatest help to Texans affected by the pandemic.</p> <p>The households needing assistance would be identified by Subrecipients reaching out households. All payments must be made to mortgagees/loan servicers directly.</p>
Describe threshold factors and grant size limits.	Households must be able to evidence or certify that they have been economically impacted by the pandemic. No grant size limits will apply on a per household or per property basis, beyond that assistance is limited to no more than 6 months of assistance per household and costs must be reasonable.	

	<p>What are the outcome measures expected as a result of the method of distribution?</p>	<p>Based on the following calculations, we estimate serving <u>2,771,909</u> households</p> <ul style="list-style-type: none"> • Average Texas Mortgage Payment (including taxes) = \$1,492 • Estimated average months of assistance = 6 months • Total Cost for 6 months at Avg. FRM = \$8,952 • Allocation of \$28,516,134<u>19,644,435</u> minus 13% Subrecipient admin) = Estimated funds available for <u>rental-mortgage</u> assistance <u>\$24,809,036</u><u>17,090,658.45</u> <p>Estimated # of Households to be served: <u>2,771,909</u></p>
29	<p>State Program Name:</p> <p>Funding Sources:</p> <p>Describe the state program addressed by the Method of Distribution.</p> <p>Describe all of the criteria that will be used to select applications and the relative importance of these criteria.</p> <p>Describe how resources will be allocated among funding categories.</p> <p>Describe threshold factors and grant size limits.</p>	<p>CDBG-CV Food Bank Distribution Assistance</p> <p>CDBG-CV: <u>\$2130,000,000</u></p> <p>Funds dedicated to this activity will address statewide food and nutrition needs through Feeding Texas, a network of food banks and other hunger-relief organizations covering the entire state in both Entitlement and Non-Entitlement Communities. TDHCA will contract with Feeding Texas who will work through a network of 21 member food banks and address the needs of all 254 Texas counties with a priority given to non-entitlement communities within the state. serve as state match for FEMA eligible activities related to food bank distribution. The Texas Department of Emergency Management (TDEM) has expended approximately \$133 million in food distribution activities to address food and nutrition needs statewide in response to the pandemic, of which the state was required to cover 25% (approximately \$33 million). These CDBG funds will cover approximately \$21 million of that match requirement, based upon a review of the CDBG eligibility of the incurred costs.</p> <p>This activity will be accomplished through the execution of an Interagency Agreement between TDHCA and TDEM. Upon execution, funds can be paid. It is estimated that funds can be distributed to TDEM within approximately 3 months from the time the Plan is accepted by HUD</p> <p>Not applicable.</p> <p>Not applicable.</p> <p>Not applicable.</p>

	What are the outcome measures expected as a result of the method of distribution?	Match for eligible CDBG food expenses already incurred by the State. <u>Number of persons assisted overall in both Entitlement and Non-Entitlement Communities.</u>
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30	State Program Name:	CDBG-CV Assistance for Group Home Providers of Persons with Disabilities
	Funding Sources:	CDBG-CV: \$5,000,000
	Describe the state program addressed by the Method of Distribution.	These funds will be made available to housing providers of assistance to persons with disabilities (to be defined in subsequent documents but intended to include group homes) to allow those entities to receive reimbursement for a series of eligible COVID-related expenses (not having been paid or is available to be paid for by another pandemic-specific funding source).
	Describe all of the criteria that will be used to select applications and the relative importance of these criteria.	TDHCA intends to allow eligible providers to include both nonprofit and for profit entities. However, for-profit entities may be more limited in the assistance they can receive which may be determined, in part, by their ownership structure and access to other resources.
	Describe how resources will be allocated among funding categories.	This activity will cover the cost of salaries/wages for employees hired or retained specifically to provide COVID related assistance; hotel or room costs for expenses incurred in keeping PWD clients quarantined; costs of purchasing Personal Protection Equipment (PPE) for staff and PWD clients; and costs of holding beds for clients who are temporarily relocated because of COVID but cannot be made available to a new client if determined allowable by HUD.
	Describe threshold factors and grant size limits.	A maximum amount of assistance by category type and per provider will be implemented.
	What are the outcome measures expected as a result of the method of distribution?	Providers assisted (unknown number at this time).
31	State Program Name:	CDBG-CV Legal Services for Persons With Disabilities
	Funding Sources:	CDBG-CV: \$250 445,000
	Describe the state program addressed by the Method of Distribution.	Funds will be directed to Disability Rights Texas to provide unique legal services to persons with disabilities. This will be accomplished through a contract with Disability Rights Texas to administer the funds.

Describe all of the criteria that will be used to select applications and the relative importance of these criteria.	Not Applicable
Describe how resources will be allocated among funding categories.	Not Applicable
Describe threshold factors and grant size limits.	Not Applicable
What are the outcome measures expected as a result of the method of distribution?	Legal Services provided to Persons with Disabilities

<u>32</u>	<u>State Program Name:</u>	<u>CDBG-CV Community Resiliency Program</u>
	<u>Funding Sources:</u>	<u>CDBG-CV: \$38,180,317.03</u>
	<u>Describe the state program addressed by the Method of Distribution.</u>	<u>Funds will be made available as grants through an open Notice of Funding Availability prioritizing applicants who are non-entitlement communities or are organizations willing to serve non-entitlement communities. Priority will be given to those applicants with readiness to proceed.</u>
	<u>Describe all of the criteria that will be used to select applications and the relative importance of these criteria.</u>	<u>Eligible activities to receive consideration include acquisition, rehabilitation, and/or construction projects. Projects must also prevent, prepare for, or respond to COVID 19 currently or with future pandemics.</u>
	<u>Describe how resources will be allocated among funding categories.</u>	<u>Funding dedicated to this activity will prioritize assistance to non-entitlement communities or organizations willing to serve non-entitlement communities, but applicants in entitlement communities may apply for funds. Eligible development activities will be related to, but not limited to, homelessness, victims of domestic violence, health clinics, emergency medical stations, or senior centers. Additional activities may be considered.</u>
	<u>Describe threshold factors and grant size limits.</u>	<u>The amount of funds to be awarded will be determined by allocating the \$38.1 M in this category among type of project and readiness to proceed. Projects must provide a “tieback” to COVID 19 and address a gap and need in the community to be served.</u>

<u>What are the outcome measures expected as a result of the method of distribution?</u>	<u>Beneficiaries assisted (unknown number at this time).</u>
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AP-35 Projects – (Optional)

Introduction:

Per the IDIS Desk Guide, Project-level detail is not required for a state grantees Annual Action Plan. Once a state grantee has allocated funding via its Method of Distribution, the state grantee will use the Projects sub-menu in IDIS Online to add its projects for the program year. However, in order for accomplishments to associate to the goals listed in the plan, projects must be entered in the Action Plan template. Although not typically required, Texas is amending the Action Plan to make changes to the initial relating to CDBG-CV. This does require that the ESG, HOPWA, and CDBG funds programmed in this plan are included in the AP-35 as separate ESG, HOPWA, and CDBG projects as outlined in this section.

TDHCA will receive \$9,127,824 in ESG, DSHS will receive \$4,422,464 under the 2019 HOPWA allocation. TDHCA has been allocated an additional \$97,792,616 in 2020 ESG-CV funds, and \$141,846,258 in CDBG-CV funds and DSHS has been allocated an additional \$724,936 under the CARES Act, outlined as ESG20 Texas, CV- and CV-COVID-19 respectively for the purposes of this plan, and the use of these funds is further described below.

#	Project Name
26	CDBG-CV Mortgage Assistance for Rural and Small Metro Areas
27	CDBG-CV Rental Assistance for Entitlement Communities with Existing Rental Assistance Programs
28	CDBG-CV Mortgage Assistance for Balance of State Coverage
29	CDBG-CV Food Bank Distribution Assistance
30	CDBG-CV Relief Assistance for Providers of Persons with Disabilities
31	CDBG-CV Legal Services for Persons With Disabilities
<u>32</u>	<u>CDBG-CV Community Resiliency Program</u>

Table 2 – Project Information

Describe the reasons for allocation priorities and any obstacles to addressing underserved needs

Reasons for allocation priorities and other obstacles to addressing underserved needs can be found in the description of CDBG-CV projects above. Actions to meeting underserved needs are found in Action Plan Section 85.

AP-38 Project Summary
Project Summary Information

26	Project Name	CDBG-CV Mortgage Assistance for Rural and Small Metro Areas
	Target Area	State of Texas
	Goals Supported	Funds will be awarded competitively to units of general local governments (UGLGs) in the state of Texas for rental/utility assistance. If there are insufficient applicants, the Department may request UGLGs to hold a public hearing for the state to administer these funds on behalf of the UGLG.
	Needs Addressed	Mortgage Payment Assistance
	Funding	CDBG-CV: \$40,000,8865,879,690
	Description	Funds will be awarded competitively to units of general local governments (UGLGs) in the state of Texas for mortgage assistance funds.
	Target Date	9/30/2022
	Estimate the number and type of families that will benefit from the proposed activities	3,887,592 Households
	Location Description	N/A
	Planned Activities	Mortgage Assistance
27	Project Name	CDBG-CV Rental Assistance for Entitlement Communities with Existing Rental Assistance Programs
	Target Area	State of Texas
	Goals Supported	Fund will be directly committed to those entitlement communities already having rental assistance programs that applied to TDHCA by December 28, 2020. This will allow those larger cities and counties to quickly channel funds through their current programs.
	Needs Addressed	Rental Assistance
	Funding	CDBG-CV: \$37,400,000 <u>33,212,577.97</u>

	Description	Fund will be directly committed to those entitlement communities already having rental assistance programs that applied to TDHCA by December 28, 2020. This will allow those larger cities and counties to quickly channel funds through their current programs.
	Target Date	9/30/2022
	Estimate the number and type of families that will benefit from the proposed activities	4,113,651 Households
	Location Description	N/A
	Planned Activities	Rental Assistance
28	Project Name	CDBG-CV Mortgage Assistance for Balance of State Coverage
	Target Area	State of Texas
	Goals Supported	Mortgage Assistance
	Needs Addressed	Mortgage Assistance
	Funding	CDBG-CV: \$28,516,134,19,644,435
	Description	The funds within each region not allocated for non-entitlement awardees approximately \$28.519.6 million - will be used to fund mortgage assistance to one or more of the following: 1) entitlement communities, 2) local or regional nonprofit organizations, 3) and/or regional organizations to cover the balance of an area within a region. If no organizations apply to serve a given area, the state may provide assistance to the balance of the area within that region. <u>Also, funding from this category may be used to assist households in non-entitlement communities and will be tracked accordingly.</u>
	Target Date	9/30/2022
	Estimate the number and type of families that will benefit from the proposed activities	2,771,887 households served
	Location Description	Not applicable
	Planned Activities	Mortgage Assistance
29	Project Name	CV- Food Bank Distribution Assistance
	Target Area	State of Texas
	Goals Supported	CDBG-CV Feeding Texans Pandemic Response Program

	Needs Addressed	Public Services
	Funding	CDBG-CV: \$2130 ,000,000
	Description	<p>Funds dedicated to this activity will address statewide food and nutrition needs through Feeding Texas, a network of food banks and other hunger-relief organizations covering the entire state in both Entitlement and Non-Entitlement Communities. serve as state match for FEMA eligible activities related to food bank distribution. The Texas Department of Emergency Management (TDEM) has expended approximately \$133 million in food distribution activities to address food and nutrition needs statewide in response to the pandemic, of which the state was required to cover 25% (approximately \$33 million). These CDBG funds will cover approximately \$21 million of that match requirement, based upon a review of the CDBG eligibility of the incurred costs.</p> <p>This activity will be accomplished through the execution of an Interagency Agreement between TDHCA and TDEM. Upon execution, funds can be paid. It is estimated that funds can be distributed to TDEM within approximately 3 months from the time the Plan is accepted by HUD.</p>
	Target Date	9/30/2022
	Estimate the number and type of families that will benefit from the proposed activities	Not applicable Unknown at this time
	Location Description	Not applicable
	Planned Activities	FEMA match for Food distribution Provide food and nutrition activities.
30	Project Name	CDBG-CV Relief to Providers of Persons with Disabilities
	Target Area	State of Texas
	Goals Supported	Providers assisted
	Needs Addressed	Public Services
	Funding	CDBG-CV: \$5,000,000

Description	These funds will be made available to housing providers of assistance to persons with disabilities (to be defined in subsequent documents but intended to include group homes) to allow those entities to receive reimbursement for a series of eligible COVID-related expenses (not having been paid or is available to be paid for by another pandemic-specific funding source).
Target Date	9/30/2022
Estimate the number and type of families that will benefit from the proposed activities	Unknown at this this time
Location Description	Not applicable
Planned Activities	Relief to Providers of Persons with Disabilities

31	Project Name	CDBG-CV Legal Services for Persons With Disabilities
	Target Area	State of Texas
	Goals Supported	Legal Services for Persons with Disabilities
	Needs Addressed	Public Services
	Funding	CDBG-CV: \$250445 ,000
	Description	Funds will be directed to Disability Rights Texas to provide unique legal services to persons with disabilities
	Target Date	9/30/2022
	Estimate the number and type of families that will benefit from the proposed activities	Unknown at this time
	Location Description	Not applicable
	Planned Activities	Provision of legal services to Persons with Disabilities
32	<u>Project Name</u>	<u>CDBG-CV Community Resiliency Program</u>
	<u>Target Area</u>	<u>State of Texas</u>
	<u>Goals Supported</u>	<u>Public Facilities and Improvements</u>
	<u>Needs Addressed</u>	<u>Public Services</u>
	<u>Funding</u>	<u>CDBG-CV: \$38,180,317.03</u>
	<u>Description</u>	<u>Funds will be prioritized for rural and small metro communities in addressing gaps in their ability to respond to future pandemics or other disasters.</u>
	<u>Target Date</u>	<u>12/31/2022</u>
	<u>Estimate the number and type of families that will benefit from the proposed activities</u>	<u>Unknown at this time</u>
	<u>Location Description</u>	<u>Statewide in Non-Entitlement Communities</u>
	<u>Planned Activities</u>	<u>Acquisition, Rehabilitation, and/or Construction</u>

9b

BOARD ACTION ITEM
MULTIFAMILY FINANCE DIVISION
JULY 8, 2021

Presentation, discussion, and possible action on timely filed scoring appeals under the Department's Multifamily Program Rules for Application 21116 Sweetwater Station

RECOMMENDED ACTION

WHEREAS, the appeal relates to Competitive Housing Tax Credit (HTC) Application 21116 Sweetwater Station, which was submitted to the Department by the Full Application Delivery Date;

WHEREAS, a notification of scoring adjustment was provided to the Applicant identifying points that the Applicant elected but that staff determined the Application did not qualify to receive under 10 TAC §11.9;

WHEREAS, the Applicant timely filed an appeal; and

WHEREAS, the Executive Director denied the appeal;

NOW, therefore, it is hereby

RESOLVED, that the scoring appeal for 21116 Sweetwater Station is hereby denied.

BACKGROUND

The Competitive HTC Selection Criteria in 10 TAC §11.9 identifies the scoring criteria used in evaluating and ranking Applications. It includes those items required under Tex. Gov't Code, Chapter 2306, §42 of the Internal Revenue Code (the Code), and other criteria established in a manner consistent with Chapter 2306 and §42 of the Code.

The Application proposes the New Construction of 52 Units for the elderly population in Sweetwater, of which all will be restricted.

Upon review, staff determined the Application did not qualify for points under 10 TAC §11.9(e)(3) related to Pre-Application Participation under the 2021 Qualified Allocation Plan (QAP).

§10 TAC §11.8(b) related to Pre-Application Threshold Criteria provides:

(b) Pre-Application Threshold Criteria. Pursuant to Tex. Gov't Code §2306.6704(c) pre-applications will be terminated unless they meet the threshold criteria

described in subsection(a)of this section and paragraphs (1) and (2) of this subsection:

(1) Submission of the Competitive HTC pre-application in the form prescribed by the Department which identifies at a minimum:

(I) Disclosure of the following Neighborhood Risk Factors under §11.101(a)(3):

(ii) The Development Site is located within the attendance zone of an elementary school, a middle school or a high school that has a TEA Accountability Rating of D for the most recent year available prior to Application and an Improvement Required Rating for the most recent available year preceding or a TEA Accountability Rating of F for the most recent year available prior to Application and a Met Standard Rating by the Texas Education Agency for the most recent available year preceding.

Tex. Gov't Code §2306.6704(c) further provides:

Sec. 2306.6704. PREAPPLICATION PROCESS. (a) To prevent unnecessary filing costs, the department by rule shall establish a voluntary preapplication process to enable a preliminary assessment of an application proposed for filing under this subchapter.

(b) The department shall award in the application evaluation process described by Section 2306.6710 an appropriate number of points as an incentive for participation in the preapplication process established under this section.

...

(c) The department shall reject and return to the applicant any application assessed by the department under this section that fails to satisfy the threshold criteria required by the board in the qualified allocation plan.

Upon review, staff confirmed the Development Site is proposed for Elderly residents and is in the attendance boundary of Sweetwater Middle School. As acknowledged, this school received a Texas Education Agency (TEA) Accountability Rating of F in 2019 (the most recent year available) and Met Standard in 2018 (the most recent year preceding). Staff determined the Pre-Application should have completed the mandatory Pre-Application Neighborhood Risk Factor disclosure pursuant to 10 TAC §11.8(b)(1)(I)(ii). Staff issued an Administrative Deficiency during the course of its review to address the failure to disclose at Pre-Application.

The Applicant timely appealed, stating,

For the 2021 Application Cycle, TDHCA staff recognized that TEA Accountability Ratings would not be available for 2020 and decided that mitigation for a school like Sweetwater Middle School, which had a "Met Standard" rating in 2018 but an "F" rating in 2019 would not be required. This change received a great deal of attention in the written and oral staff presentations at the September 2020 and November 2020 Board meetings. What was not highlighted in the staff's written or oral presentations is the change to Section 11.101(a)(3)(B)(iv) with regard to Elderly Developments. Specifically, the 2020 QAP simply provided that an Elderly Development was exempt from mitigation. Staff modified the 2021 QAP to

provide that an Elderly Development was exempt from mitigation but was required to disclose the condition in the Pre-Application nevertheless. A search of the Board Books and Transcripts for the meetings in September 2020 and November 2020 contain no reference to this change, other than in the redline of the rule itself.

Unfortunately, when this change was made, no corresponding change was made to the Manual. This is how the statement in the Manual, which was consistent with the historical treatment of Elderly Developments, came to contradict the new provision in the 2021 QAP.

Staff and the Executive Director determined the discrepancy in the Multifamily Programs Application Procedures Manual did not negate the requirement to disclose under the QAP and statute. As such, 10 TAC §11.8(b)(1)(I) of the QAP, related to Pre-Application Threshold Criteria, and Tex. Gov't Code §2306.6704(c), mandate that the failure to satisfy the pre-application threshold criteria required by the board in the QAP is grounds for termination of the pre-application. Accordingly, the Executive Director determined the Pre-Application was appropriately terminated subject to the Applicant's ability to appeal.

Staff recommend the Board consider the appeal accordingly.

21116 Sweetwater Station
Status Letter/
Scoring Adjustment



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott
GOVERNOR

BOARD MEMBERS
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Kenny Marchant, Member
Ajay Thomas, Member
Sharon Thomason, Member

June 14, 2021

Writer's direct dial: 512/475-1676
Email: marni.holloway@tdhca.state.tx.us

Brian Kimes
Sweetwater Station, LP
206 Peach Way
Columbia, MO 65203

RE: STATUS OF 2021 HOUSING TAX CREDIT APPLICATION 21116
SWEETWATER STATION

Dear Mr. Kimes:

The Texas Department of Housing and Community Affairs (the Department) is in receipt of the Application described above. Per 10 TAC §11.10 of the 2021 Qualified Allocation Plan (QAP), the Department received a request for an Administrative Deficiency regarding the failure to disclose the school ratings of Sweetwater Middle School. Staff had previously identified this issued and issued an administrative deficiency on this matter, for which you timely responded. For the reasons stated below, the Pre-Application is terminated and the Application score adjusted, subject to your ability to appeal.

§10 TAC §11.8(b) related to Pre-Application Threshold Criteria provides:

(b) Pre-Application Threshold Criteria. Pursuant to Tex. Gov't Code §2306.6704(c) pre-applications will be terminated unless they meet the threshold criteria described in subsection(a)of this section and paragraphs (1) and (2) of this subsection:

(1) Submission of the Competitive HTC pre-application in the form prescribed by the Department which identifies at a minimum:

(i) Disclosure of the following Neighborhood Risk Factors under §11.101(a)(3):

(ii) The Development Site is located within the attendance zone of an elementary school, a middle school or a high school that has a TEA Accountability Rating of D for the most recent year available prior to Application and an Improvement Required Rating for the most recent available year preceding or a TEA Accountability Rating of F for the most recent year available prior to Application



and a Met Standard Rating by the Texas Education Agency for the most recent available year preceding.

Tex. Gov't Code §2306.6704(c) further provides:

Sec. 2306.6704. PREAPPLICATION PROCESS. (a) To prevent unnecessary filing costs, the department by rule shall establish a voluntary preapplication process to enable a preliminary assessment of an application proposed for filing under this subchapter.

(b) The department shall award in the application evaluation process described by Section 2306.6710 an appropriate number of points as an incentive for participation in the preapplication process established under this section.

...

(c) The department shall reject and return to the applicant any application assessed by the department under this section that fails to satisfy the threshold criteria required by the board in the qualified allocation plan.

Upon review, staff confirmed the Development Site is proposed for Elderly residents and is in the attendance boundary of Sweetwater Middle School. As acknowledged, this school received a Texas Education Agency (TEA) Accountability Rating of F in 2019 (the most recent year available) and Met Standard in 2018 (the most recent year preceding). Staff determined the Pre-Application should have completed the mandatory Pre-Application Neighborhood Risk Factor disclosure pursuant to 10 TAC §11.8(b)(1)(I)(ii). Staff issued an Administrative Deficiency during the course of its review to address the failure to disclose at Pre-Application.

In the response, you explained,

“We would like to clarify that we were following the procedures set out in the manual and proceeded accordingly. We are an elderly development and the 2021 Multifamily Programs Procedures Manual states on Page 5: Attachments and Certifications, Subsection 1, Subsection 3 (Neighborhood Risk Factors (Page 12 of 67), that “Elderly Developments ... are exempt and are not required to disclose for schools at Pre-Application.” (red and underlined for emphasis, as in the source document). We complied with the instructions in the procedures manual for pre-application and application by identifying the school as an F rated school in Tab 7 of the application and providing the TEA documentation on the school as instructed.”

Although staff initially permitted the deficiency response so as to continue with review, the discrepancy in the Multifamily Programs Application Procedures Manual does not negate the requirement to disclose under the QAP and statute. Pursuant to 10 TAC §11.8(b)(1)(I) of the QAP, related to Pre-Application Threshold Criteria, and Tex. Gov't Code §2306.6704(c), the failure to satisfy the pre-application threshold criteria required by the board in the QAP, is grounds for termination of the pre-application. Accordingly, the Pre-Application is hereby terminated subject to your ability to appeal.

For the reasons stated above, the Application no longer qualifies for the six points requested under 10 TAC §11.9(e)(3) related to Pre-Application Participation. The Application has been assigned a score of zero points under this scoring item, subject to your ability to appeal.

An appeal process exists for the Housing Tax Credit Program. The restrictions and requirements related to the filing of an appeal can be found in 10 TAC §11.902 of the QAP. Should you choose to appeal this decision to the Executive Director, you must file your appeal, in writing, with the Department not later than seven (7) calendar days after the date of this letter. If you are not satisfied with the decision of the Executive Director or if the Executive Director does not respond, you may file a further appeal with the Board of Directors of the Texas Department of Housing and Community Affairs. Please review §11.902 of the QAP for full instructions on the appeals process.

If you have any questions or concerns, please contact me at 512-475-1676 or by email at marni.holloway@tdhca.state.tx.us.

Sincerely,

Marni Holloway
Director of Multifamily Finance

cc: Jim Markel
Cynthia Bast

Applicant Appeal Documents



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June 21, 2021

Via Email

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

Re: Sweetwater Station, TDHCA No. 21116
Appeal for Deduction of Points

Dear Bobby:

We represent the Applicant¹ for the Development referenced above, which has applied for 2021 Housing Tax Credits. This letter appeals a scoring notice, dated June 14, 2021, stating that the Applicant is not entitled to six (6) points for its Pre-Application because it failed to include the Pre-Application Neighborhood Risk Factor Disclosure with regard to a school. The Development Site is in the attendance zone of Sweetwater Middle School, which received a “Met Standard” TEA Accountability Rating in 2018 and an “F” Accountability Rating in 2019. However, this is an Elderly Development, and certain exemptions for Elderly Developments have historically applied. As described below, the 2021 Multifamily Programs Application Procedures Manual (the “**Manual**”) directed the Applicant that disclosure was not required, and the Application should not be penalized on this basis.

The Rules and the Manual

Section 11.101(a)(3)(A) of the QAP establishes the groundwork for Neighborhood Risk Factors:

If the Development Site has any of the characteristics described in subparagraph (B) of this paragraph, the Applicant must disclose the presence of such characteristics in the Application submitted to the Department. For Competitive HTC Applications, an Applicant must disclose at pre-application as required by §11.8(b) of this chapter.

¹ Capitalized terms used but not defined herein shall have the meanings given them in the 2021 Qualified Allocation Plan.

Section 11.8(b)(I)(ii) with regard to threshold requirements for a Pre-Application confirms that a Development Site in the attendance zone of a school that has received a TEA Accountability Rating of “Met Standard” in 2018 and “F” in 2019 should be disclosed.

Section 11.101(a)(3)(B)(iv) of the QAP says:

Elderly Developments . . . are exempt and are not required to provide mitigation for this subparagraph, but are still required to provide rating information in the Application and disclose the presence of the Neighborhood Risk Factor.

However, the Manual says:

Remember: The Neighborhood Risk Factors related to crime and schools **MUST be disclosed at Pre Application.** Elderly Developments . . . are exempt and are not required to disclose for schools at Pre-Application. (emphasis in original)

This statement is in direct contradiction of the QAP.

While the Applicant acknowledges that the Manual is not a rule, the fact is that all Applicants use the Manual as a primary tool when preparing the Application. The Manual acknowledges and encourages this use, with an opening paragraph that states:

The purpose of this manual is to provide a brief and general description of each tab in the Application, high level guidance as to the Department’s submission requirements and what staff would generally view as acceptable supporting documentation. . . . While this guide cannot and will not contemplate all situations, we hope that the information provides a foundation upon which you may build your Application **in accordance with the Rules.** (emphasis added)

Examining the Contradiction

The language in the Manual regarding exemption of Elderly Developments from disclosure has been effectively the same since 2019. How, then, did the Manual come to contradict the QAP? The contradiction stemmed from a change to Section 11.101(a)(3)(B)(iv) of the QAP as a result of the COVID-19 pandemic. For the 2021 Application Cycle, TDHCA staff recognized that TEA Accountability Ratings would not be available for 2020 and decided that mitigation for a school like Sweetwater Middle School, which had a “Met Standard” rating in 2018 but an “F” rating in 2019 would not be required. This change received a great deal of attention in the written and oral staff presentations at the September 2020 and November 2020 Board meetings. What was not highlighted in the staff’s written or oral presentations is the change to Section 11.101(a)(3)(B)(iv) with regard to Elderly Developments. Specifically, the 2020 QAP simply provided that an Elderly Development was exempt from mitigation. Staff modified the 2021 QAP to provide that an Elderly Development was exempt from mitigation but was required to disclose the condition in the Pre-Application nevertheless. A search of the Board Books and Transcripts for the meetings in September 2020 and November 2020 contain no reference to this change, other than in the redline of the rule itself.

Unfortunately, when this change was made, no corresponding change was made to the Manual. This is how the statement in the Manual, which was consistent with the historical treatment of Elderly Developments, came to contradict the new provision in the 2021 QAP.

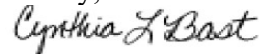
Further, it should be noted that, because of the impact of COVID-19, all Applicants in 2021 are exempt from mitigation of neighborhood risk factors related to school performance. So even if the disclosure is made, the information is not used for any material purpose in threshold or scoring. Denying an Applicant points for failure to disclose an item that has no impact on the eligibility of the Application for an award, because of an unfortunate failure to modify the Manual, makes little sense.

Conclusion and Request

The Applicant relied upon the Manual for completion of its Pre-Application and Application and did not realize there had been a change in the 2021 QAP. This Board has tried to apply equity consistently when errors have occurred in Application forms and other TDHCA-produced materials. For these reasons, we respectfully ask you to grant the appeal and restore the six (6) Pre-Application points.

Thank you for consideration of this request.

Sincerely,



Cynthia L. Bast

cc: Applicant

TDHCA

Appeal Response



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

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June 30, 2021

Brian Kimes
Sweetwater Station, LP
206 Peach Way
Columbia, MO 65203

RE: STATUS OF 2021 HOUSING TAX CREDIT APPLICATION 21116
SWEETWATER STATION

Dear Mr. Kimes:

The Texas Department of Housing and Community Affairs (the Department) received your appeal on June 21, 2021 for the application indicated above. Following the receipt of a Third Party Request for Administrative Deficiency, Staff determined the Application was not eligible to receive the six points requested under 10 TAC §11.9(e)(3) related to Pre-Application Participation. Staff issued a Status Letter providing notice of the scoring adjustment, subject to your ability to appeal. For the reasons discussed in this letter, I am affirming the Staff determination and denying your appeal.

§10 TAC §11.8(b) related to Pre-Application Threshold Criteria provides:

(b) Pre-Application Threshold Criteria. Pursuant to Tex. Gov't Code §2306.6704(c) pre-applications will be terminated unless they meet the threshold criteria described in subsection(a) of this section and paragraphs (1) and (2) of this subsection:

(1) Submission of the Competitive HTC pre-application in the form prescribed by the Department which identifies at a minimum:

- (i) Disclosure of the following Neighborhood Risk Factors under §11.101(a)(3):
 - (ii) The Development Site is located within the attendance zone of an elementary school, a middle school or a high school that has a TEA Accountability Rating of D for the most recent year available prior to Application and an Improvement Required Rating for the most recent available year preceding or a TEA Accountability Rating of F for the most recent year available prior to Application and a Met Standard Rating by the Texas Education Agency for the most recent available year preceding.



Tex. Gov't Code §2306.6704(c) further provides:

Sec. 2306.6704. PREAPPLICATION PROCESS. (a) To prevent unnecessary filing costs, the department by rule shall establish a voluntary preapplication process to enable a preliminary assessment of an application proposed for filing under this subchapter.

(b) The department shall award in the application evaluation process described by Section 2306.6710 an appropriate number of points as an incentive for participation in the preapplication process established under this section.

...

(c) The department shall reject and return to the applicant any application assessed by the department under this section that fails to satisfy the threshold criteria required by the board in the qualified allocation plan.

Upon review, staff confirmed the Development Site is proposed for Elderly residents and is in the attendance boundary of Sweetwater Middle School. As acknowledged, this school received a Texas Education Agency (TEA) Accountability Rating of F in 2019 (the most recent year available) and Met Standard in 2018 (the most recent year preceding). Staff determined the Pre-Application should have completed the mandatory Pre-Application Neighborhood Risk Factor disclosure pursuant to 10 TAC §11.8(b)(1)(I)(ii). Staff issued an Administrative Deficiency during the course of its review to address the failure to disclose at Pre-Application.

You timely appealed, stating,

For the 2021 Application Cycle, TDHCA staff recognized that TEA Accountability Ratings would not be available for 2020 and decided that mitigation for a school like Sweetwater Middle School, which had a "Met Standard" rating in 2018 but an "F" rating in 2019 would not be required. This change received a great deal of attention in the written and oral staff presentations at the September 2020 and November 2020 Board meetings. What was not highlighted in the staff's written or oral presentations is the change to Section 11.101(a)(3)(B)(iv) with regard to Elderly Developments. Specifically, the 2020 QAP simply provided that an Elderly Development was exempt from mitigation. Staff modified the 2021 QAP to provide that an Elderly Development was exempt from mitigation but was required to disclose the condition in the Pre-Application nevertheless. A search of the Board Books and Transcripts for the meetings in September 2020 and November 2020 contain no reference to this change, other than in the redline of the rule itself.

Unfortunately, when this change was made, no corresponding change was made to the Manual. This is how the statement in the Manual, which was consistent with the historical treatment of Elderly Developments, came to contradict the new provision in the 2021 QAP.

As previously explained in the Status Letter, the discrepancy in the Multifamily Programs Application Procedures Manual does not negate the requirement to disclose under the QAP and statute. As such, 10 TAC §11.8(b)(1)(I) of the QAP, related to Pre-Application Threshold Criteria, and Tex. Gov't Code §2306.6704(c), mandate that the failure to satisfy the pre-application threshold criteria required by the board in the QAP is grounds for termination of the pre-application. Accordingly, the Pre-Application was appropriately terminated subject to your ability to appeal. I find staff were correct in determining the Application no longer qualifies for the six points requested under 10 TAC §11.9(e)(3) related to Pre-Application Participation. The Status Letter with notice of scoring adjustment assigning the Application a score of zero points under this scoring item is affirmed and your appeal is denied.

If you are not satisfied with this decision, you may file a further appeal with the Governing Board of the Texas Department of Housing and Community Affairs. Please review §11.902 of the QAP for full instruction on the appeals process. Please note that §11.902(f) of the QAP and Tex. Gov't Code §2306.6715(c) limit Board review of an Application on appeal to the original Application and those documents contained within the Application. If you have any questions or require further information, please contact Alena R. Morgan, Competitive Tax Credit Program Administrator, at alena.morgan@tdhca.state.tx.us or by phone at 512-936-7834.

Sincerely,

A handwritten signature in blue ink that reads "R D Wil II".

Bobby Wilkinson
Executive Director

cc: Jim Markel
Cynthia Bast

BOARD ACTION ITEM
MULTIFAMILY FINANCE DIVISION
JULY 8, 2021

Presentation, discussion, and possible action on timely filed scoring appeals under the Department's Multifamily Program Rules for Application 21230 Calle del Norte Apartments

RECOMMENDED ACTION

WHEREAS, the appeal relates to Competitive Housing Tax Credit (HTC) Application 21230 Calle del Norte Apartments, which was submitted to the Department by the Full Application Delivery Date;

WHEREAS, a notification of scoring adjustment was provided to the Applicant identifying points that the Applicant elected but that staff determined the Application did not qualify to receive under 10 TAC §11.9;

WHEREAS, the Applicant timely filed an appeal; and

WHEREAS, the Executive Director denied the appeal;

NOW, therefore, it is hereby

RESOLVED, that the scoring appeal for 21230 Calle del Norte Apartments is hereby denied.

BACKGROUND

The Competitive HTC Selection Criteria in 10 TAC §11.9 identifies the scoring criteria used in evaluating and ranking Applications. It includes those items required under Tex. Gov't Code, Chapter 2306, §42 of the Internal Revenue Code (the Code), and other criteria established in a manner consistent with Chapter 2306 and §42 of the Code.

The Application proposes the New Construction of 55 Units for the general population in Laredo, of which all will be income restricted.

Staff determined the Application was not eligible to receive the six points requested under 10 TAC §11.9(e)(3) related to Pre-Application Participation. Staff issued a Status Letter providing notice of the scoring adjustment, subject to the ability to appeal.

§10 TAC §11.8(b) related to Pre-Application Threshold Criteria provides:

(b) Pre-Application Threshold Criteria. Pursuant to Tex. Gov't Code §2306.6704(c) pre-applications will be terminated unless they meet the threshold criteria

described in subsection (a) of this section and paragraphs (1) and (2) of this subsection: (2) Evidence in the form of a certification provided in the pre-application, that all of the notifications required under this paragraph have been made and that a reasonable search for applicable entities has been conducted. (§2306.6704).

(B) Notification Recipients. No later than the date the pre-application is submitted, notification must be sent to all of the entities prescribed in clauses (i) – (viii) of this subparagraph...

(ii) Superintendent of the school district in which the Development Site is located [.] See, 10 TAC §11.8(b)(2)(B)(ii)(relating to Notification Recipients).

Tex. Gov't Code §2306.6704 further provides:

Sec. 2306.6704. PREAPPLICATION PROCESS. (a) To prevent unnecessary filing costs, the department by rule shall establish a voluntary preapplication process to enable a preliminary assessment of an application proposed for filing under this subchapter...

(b-1) The preapplication process must require the applicant to provide the department with evidence that the applicant has notified the following entities with respect to the filing of the application [...]

(2) the superintendent and the presiding officer of the board of trustees of the school district containing the development;

Lastly, 10 TAC §11.9(e)(3)(H) related to Pre-Application Participation requires:

(3) Pre-application Participation. (§2306.6704) An Application may qualify to receive up to six (6) points provided a pre-application was submitted by the Pre-Application Final Delivery Date. Applications that meet all of the requirements described in subparagraphs (A) - (H) of this paragraph will qualify for six (6) points:

(H) The pre-application met all applicable requirements.

As detailed in the Status Letter dated June 28, 2021, staff previously conducted a limited review of the information available at the time, including the explanatory details submitted with the initial request for a limited review. The request disclosed that an error occurred in the pre-

application notification of the superintendent for the correct school district in which the Development Site is located. In conducting its search for the correct entity, the third party websites used by the Applicant incorrectly identified the school district for the proposed Site. The applicant's search appeared to have resulted in identifying the incorrect school district when inputting the Site's zip code into the National Center for Education Statistics database. Overall, the information submitted appeared to support staff's initial conclusion that the Applicant conducted a reasonable search for the appropriate entity, and timely notified recipients within the Laredo ISD. An RFAD was submitted, which included documents generated from inputting the address of the Development Site into a Texas Education Agency online tool, and the resulting map and school assignments within the United ISD.

Following a request by the Governing Board, staff conducted a more recent review of the issue as it pertained to a Request for an Administrative Deficiency pursuant to 10 TAC §11.10 of the QAP. As staff detailed in its letter, the Applicant had appropriately notified the correct recipient once identifying its error. Nevertheless, the Applicant still failed to notify the correct recipient at pre-application, as required pursuant to 10 TAC §§11.8(b)(2)(B) and 11.9 related to Pre-Application Threshold Criteria and Participation. Because the Pre-Application failed to meet all applicable requirements, and due to the fact that neither the QAP nor the applicable statutory provision contain an exception or mitigation for identifying an incorrect party despite what might be considered a reasonable search, the Application had been assigned a pre-application score of (0) points under 10 TAC §11.9(e)(3) of the QAP, subject to the ability to appeal.

The Applicant timely appealed, stating,

The matter initially at issue was whether Applicant notified the correct Superintendent and presiding officer of the board of trustees as required under 10 TAC 11.8(b)(2)(B). This issue was brought to Staff's attention twice before the June 17, 2021 Board meeting, and in both instances, based on information provided by the Applicant (under a Limited Review request) and its competitor (under an RFAD), staff determined that "the Applicant would be considered compliant with its responsibilities under §11.8(b)(2)(B)(ii) of the QAP, relating to Notification Recipients,". Importantly, the Limited Review process did **not** result "in the identification of an issue that requires correction or clarification," a possible outcome in accordance with 10 TAC §11.201(8).

The failure by Applicant's competitor to meet the RFAD requirements under 10 TAC §11.10 of the QAP is critical to this appeal and the overall understanding of the matter at hand...

In regards to the matter at hand, the appeal further claims,

If staff and/or the Board overturn staff's original decision, to our knowledge this would be the first time that a staff decision resulting from the Limited Review process would have been overturned (including because of an RFAD). Historically,

staff's decisions resulting from the RFAD process have also been upheld. To our knowledge, should this appeal not be granted, this would also be the first time that a staff decision resulting from the RFAD process would be overturned. This is a perfect example of the "gotcha" situations that all parties, staff, the Board, and the development community, would like to minimize to the greatest extent possible. To that effect, staff and the Board have that opportunity to uphold staff's original decision.

Regardless of the concerns of the appellant regarding misuse of the RFAD process in the future, notification of the correct recipient at pre-application is a threshold requirement for the Application to receive a score under 10 TAC §11.9(e)(3) of the QAP. Accordingly, staff recommends denial of the appeal.

21230 Calle del Norte Apartments
Status Letter/
Scoring Adjustment



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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Sharon Thomason, *Member*

June 28, 2021

Writer's direct dial: 512/475-1676
Email: marni.holloway@tdhca.state.tx.us

Justin Zimmerman
Calle del Norte Apartments, LP
1320 East Lark Street
Springfield, MO 65804

RE: STATUS OF 2021 9% HTC APPLICATION 21230, CALLE DEL NORTE

Dear Mr. Zimmerman:

The Texas Department of Housing and Community Affairs (the Department) is in receipt of the 2021 Competitive (9%) Housing Tax Credit (HTC) Application indicated above. For the reasons stated below, the Application has been assigned a score of zero (0) points under 10 TAC §11.9(e)(3) related to Pre-Application Participation of the 2021 Qualified Allocation Plan (QAP).

10 TAC §11.8(b)(2)(B) of the QAP, relating to Notification Recipients, most relevantly provides:

(B) Notification Recipients. No later than the date the pre-application is submitted, notification must be sent to all of the entities prescribed in clauses (i) – (viii) of this subparagraph...

(ii) Superintendent of the school district in which the Development Site is located [.] See, 10 TAC §11.8(b)(2)(B)(ii)(relating to Notification Recipients).

Tex. Gov't Code §2306.6704 further provides:

Sec. 2306.6704. PREAPPLICATION PROCESS. (a) To prevent unnecessary filing costs, the department by rule shall establish a voluntary preapplication process to enable a preliminary assessment of an application proposed for filing under this subchapter...



(b-1) The preapplication process must require the applicant to provide the department with evidence that the applicant has notified the following entities with respect to the filing of the application: [. . .]

(2) the superintendent and the presiding officer of the board of trustees of the school district containing the development;

Lastly, 10 TAC §11.9(e)(3)(H) related to Pre-Application Participation further provides:

(3) Pre-application Participation. (§2306.6704) An Application may qualify to receive up to six (6) points provided a pre-application was submitted by the Pre-Application Final Delivery Date. Applications that meet all of the requirements described in subparagraphs (A) - (H) of this paragraph will qualify for six (6) points:

(H) The pre-application met all applicable requirements.

Staff previously conducted a limited review of the information available at the time, including the explanatory details submitted with the initial request for a limited review. The request disclosed that an error occurred in the pre-application notification of the superintendent for the correct school district in which the Development Site is located. In conducting its search for the correct entity, the third party websites used by the Applicant incorrectly identified the school district for the proposed Site. The applicant's search appeared to have resulted in identifying the incorrect school district across multiple online search tools, including when inputting the Site's zip code into the Texas Education Agency's (TEA) School District Locator tool. Overall, the information appeared to support staff's initial conclusion that the Applicant conducted a reasonable search for the appropriate entity and timely notified the recipient of its search.

Following a request by the Governing Board, staff conducted a complete review of the issue as it pertained to a Request for an Administrative Deficiency pursuant to 10 TAC §11.10 of the QAP. Although the Applicant appropriately re-notified the correct recipient once identifying its error, the Applicant still failed to notify the correct recipient at pre-application, as required pursuant to 10 TAC §§11.8(b)(2)(B) and 11.9 related to Pre-Application Threshold Criteria and Participation. Because the Pre-Application failed to meet all applicable requirements, and neither the QAP nor the applicable statutory provision contains an exception or mitigation for identifying an incorrect party despite what might be considered a reasonable search, the Application has been assigned a pre-application score of (0) points under 10 TAC §11.9(e)(3) of the QAP, subject to your ability to appeal.

An appeal process exists for the Housing Tax Credit Program. The restrictions and requirements related to the filing of an appeal can be found in 10 TAC §11.902 of the QAP. Should you choose to appeal this decision to the Executive Director, you must file your appeal, in writing, with the Department not later than seven (7) calendar days after the date of this letter. If you are not satisfied with the decision of the Executive Director or if the Executive Director does not respond, you may file a further appeal

Status of 2021 9% HTC Application 21230, Calle del Norte Apartments

June 28, 2021

Page 3

with the Governing Board of the Texas Department of Housing and Community Affairs. Please review §11.902 of the QAP for full instructions on the appeals process.

If you have any questions or concerns, please contact me at 512-475-1676 or by email at marni.holloway@tdhca.state.tx.us.

Sincerely,

Marni Holloway
Director of Multifamily Finance

cc: Melissa Forster
Andrew Sinnott

Applicant Appeal Documents



A LIMITED LIABILITY PARTNERSHIP
ATTORNEYS & COUNSELORS

Michelle J. Snedden
9201 N. Central Expressway
Fourth Floor
Dallas, Texas 75231
(214) 780-1413 (Direct)
(214) 780-1401 (Fax)
msnedden@shackelford.law

June 30, 2021

Via Email: bobby.wilkinson@tdhca.state.tx.us

Bobby Wilkinson, Executive Director
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701-2410

RE: Appeal of Status of 2021 9% HTC Application 21230, Calle del Norte Apartments

Dear Mr. Wilkinson:

Our law firm represents Calle del Norte Apartments, LP (“Applicant”), and I have been requested by Justin Zimmerman, authorized representative of Applicant, to appeal the decision by staff to reverse its prior two decisions, once under its Limited Review process, the second time following an RFAD, and deduct Applicant’s pre-application participation points under 10 TAC §11.9(e)(3) for the Calle del Norte Apartments (the “Project”).

The matter initially at issue was whether Applicant notified the correct Superintendent and presiding officer of the board of trustees as required under 10 TAC 11.8(b)(2)(B). This issue was brought to Staff’s attention twice before the June 17, 2021 Board meeting, and in both instances, based on information provided by the Applicant (under a Limited Review request) and its competitor (under an RFAD), staff determined that “the Applicant would be considered compliant with its responsibilities under §11.8(b)(2)(B)(ii) of the QAP, relating to Notification Recipients.”. Importantly, the Limited Review process did **not** result “in the identification of an issue that requires correction or clarification,” a possible outcome in accordance with 10 TAC §11.201(8).

The failure by Applicant’s competitor to meet the RFAD requirements under 10 TAC §11.10 of the QAP is critical to this appeal and the overall understanding of the matter at hand. We contend that this RFAD and the testimony by Ms. Rickenbacker at the Board meeting triggered the Board’s request that staff conduct an additional review of the same issue. Specifically, and as discussed and confirmed by Ms. Holloway at the June 17th Board meeting (detailed below): (i) an RFAD may not be used to question a decision made by staff during its review process, which includes a decision made as part of the Limited Review process and (ii) an RFAD must contain new information. The RFAD in question not only failed to contain any new information not already known to staff, it (along with the discussion at the Board meeting surrounding that RFAD) was used to question staff’s decision made during the Limited Review process.

Shackelford, Bowen, McKinley & Norton, LLP

Dallas Nashville Austin Fort Worth Frisco Houston Baton Rouge

Of concern is staff's inexplicable reversal of its two prior decisions when the Board merely requested staff to conduct a third review and in no way did the Board instruct expressly or impliedly that staff should reverse its two prior decisions.

FACTS

A. On March 15, 2021, Applicant submitted a request for Limited Review pursuant to 10 TAC §11.201 of the QAP (see attached Exhibit "A"). The Limited Review request did not involve a scoring item, it was requested specifically by Applicant to request that staff review and confirm that the Applicant conducted a **reasonable search** (the threshold required by 10 TAC §11.8(b)(2)) for the appropriate superintendent and presiding officer of the board of trustees of the school district and, if so, that Applicant satisfied 10 TAC 11.8(b)(2)(B) of the QAP relating to Notification Recipients.

B. Staff determined that Applicant did conduct a reasonable search and that the notification requirements were met. Specifically, on April 23, 2021, staff completed its review process and responded to the Limited Review request (see attached Exhibit "B") that the information provided by Applicant supported the conclusion that ***"Applicant conducted a search for the appropriate entity and timely notified the recipient of its search."*** Moreover, because the Applicant appropriately re-notified the correct recipient once identifying its error, the second recipient has acknowledged the notification. Further, Staff determined that ***"...the Applicant would be considered compliant with its responsibilities under 10 TAC §11.8(b)(2)(B)(ii) of the QAP, relating to Notification Recipients."***

C. On May 3, 2021, Marque Real Estate Consultants, LLC submitted the RFAD in question (see attached Exhibit "C"). The RFAD did not include any new information not already known to staff and disclosed by Applicant under the Limited Review process. Therefore, this did not change staff's conclusion based on the information presented in the RFAD. Additionally, staff did not deem it necessary to issue an Administrative Deficiency based on the information, or lack thereof, provided in the RFAD.

D. At the Board meeting on June 17, 2021, the Board requested that staff take another look at the issue as it pertained to the RFAD. It seems that this request was the direct result of an RFAD (and related testimony by Ms. Rickenbacker) that did not comply with 10 TAC §11.10. The RFAD (i) should not have been used to question a decision made by staff during its review process, and (ii) did not contain any new information. Therefore, we believe that the reversal of staff's Limited Review decision should be overturned as the RFAD, which triggered the reversal, did not comply with 10 TAC §11.10 of the QAP. Furthermore, a requestor cannot appeal the result of an RFAD, which in this case was staff's decision not to act on the RFAD.

E. Please refer to Exhibit "D" which contains excerpts from the June 17th Board meeting in which Ms. Holloway discusses other applications and related RFAD's, specifically that staff had determined certain assertions in an RFAD question the determinations already addressed through the review process and that an RFAD must contain new information. The RFAD

submitted by Marque should be held to the same standard and not the basis of questioning the integrity of staff's decision under the review process of this Project.

Specifically, 10 TAC §11.10 of the QAP provides:

- The purpose of the Third-Party Request for Administrative Deficiency (RFAD) process is to allow an unrelated person or entity to ***bring new, material information about an application to staff's attention.***
 - Requestor did not “***bring new, material information about the Application to staff's attention***”. The RFAD was submitted almost two (2) months after Applicant submitted the same information in its own request to staff for a Limited Review. Staff was already made aware, by the Applicant, about the confusion surrounding notice to the Superintendent and staff already reviewed, agreed with Applicant, and made its decision. No new information was provided in the RFAD, so it failed to meet the key purpose of the RFAD process.
- If the assertion(s) in the RFAD have been addressed through the Application review process, and the RFAD does not contain new information, staff will ***not review or act on it.***
 - As noted by Ms. Holloway at the June 17, 2021, Board meeting, “***we have already previously evaluated and addressed the question regarding notification through a Limited Review process.***” Staff was not required to review or act on the RFAD from Requestor because, as noted by Ms. Holloway, the assertions in the RFAD had already been addressed. Furthermore, the assertions in the RFAD did not contain any new information.
- The RFAD may not be used to appeal staff decisions regarding competing Applications (§2306.6715(b)).
 - As noted above and by Ms. Holloway, the assertions in the RFAD had already been addressed via the Limited Review process. Therefore, the Requestor cannot appeal this Limited Review decision via the RFAD process. The testimony provided by Ms. Rickenbacker at the June 17, 2021, Board effectively appealed Staff's decision under the Limited Review process and was a “back-door” way to appeal the result of the RFAD (which Staff had no reason to review or act on because it did not contain and new information).

To allow a competitor of any applicant to question staff's decision under the review process not only fails to comply with 10 TAC §11.10, but it also provides (which we contend has occurred in this instance) a "back-door" mechanism for a competitor to appeal the result of an RFAD, even if that RFAD did not contain any new information. It is a slippery slope, which we fear would set an unintended precedent and open the door to appeals and challenges (of staff's review/decision process and RFAD's) in what is already an extremely competitive process, which is exactly what 10 TAC §11.10 is intended to prevent. If staff's current decision to deduct points stands, then developers and consultants will take another shot at their competitors during public comment when Ms. Holloway or whomever makes a RFAD report to the Board. Essentially, the restitution on no appeal of staff's RFAD decision will be at best circumvented or at worst emasculated.

If staff and/or the Board overturn staff's original decision, to our knowledge this would be the first time that a staff decision resulting from the Limited Review process would have been overturned (including because of an RFAD). Historically, staff's decisions resulting from the RFAD process have also been upheld. To our knowledge, should this appeal not be granted, this would also be the first time that a staff decision resulting from the RFAD process would be overturned. This is a perfect example of the "gotcha" situations that all parties, staff, the Board, and the development community, would like to minimize to the greatest extent possible. To that effect, staff and the Board have that opportunity to uphold staff's original decision.

CONCLUSION

As is evidenced by staff's Limited Review response, determining the school district for this development site was difficult and easily confused based on the information and resources available. Applicant certified at the time of pre-application that it had conducted a "reasonable search" for the applicable entities, and after review, staff agreed that Applicant's search was indeed reasonable as evidenced by the Limited Review process.

Despite not being required to notify both Laredo ISD's and United ISD's superintendents and presiding officers of the boards of trustees, both school districts' officials have been notified. All four school officials have offered their unconditional support for Calle del Norte Apartments.

Based upon the foregoing, we respectfully request that the pre-application points be reinstated, and staff's two prior decisions first under the Limited Review process, and the second after the RFAD was filed, stand. Not only was staff correct in its initial review and decision regarding the notice to the Superintendent, the RFAD submitted by Applicants competitor was incorrectly used at the June 17th Board meeting to (i) appeal a decision of staff in its review process (ii) did not contain any new information as required by 10 TAC §10.11 and (iii) was a "back-door" effort to appeal staff's correct decision not to act on the RFAD given its failure to meet (i) and (ii) above.

TDHCA
June 30, 2021
Page 5

On behalf of Applicant, we respectfully request that this appeal be granted by you as the Executive Director. If your decision, however, is to deny this appeal, then Applicant further hereby respectfully requests this matter be appealed to the Board for consideration at the next Board meeting scheduled on July 8, 2021.

Sincerely,



Michelle Snedden

cc: Beau Eccles, Esq. (via email)
Marni Holloway (via email)
Jeff Beckler (via email)
Justin Zimmerman (via email)
John Shackelford (via email)

R:\SHACKLAW\30090\Calle del Norte\Appeal Letter_21230 (002).shackelford.final.docx

EXHIBIT A

Calle del Norte Apartments, LP

1329 East Lark Street
Springfield, MO 65804

March 15, 2021

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

RE: #21230 - Calle del Norte Apartments: Limited Review Request

Dear Ms. Holloway:

Pursuant to 10 TAC §11.201(8)(A), Calle del Norte Apartments, LP respectfully requests a limited review of application #21230 to clarify an issue that the Department would only have access to through Applicant disclosure.

Before the pre-application for the above-referenced Development was submitted, we researched various websites and made several calls to determine the officials required to be notified in accordance with 10 TAC §11.8(b)(2)(B). We entered the zip code – 78041 – for the Development Site into a search engine and the search results identified Laredo Independent School District (ISD) as the school district that served our Development site. Exhibit 1 shows our search results.

The Applicant notified both the Superintendent and the School Board president of the Laredo ISD on January 4, 2021. Proof of these notifications and their receipt are attached as Exhibit 2.

Shortly after pre-applications were submitted, we determined that the Development Site is within the boundaries of United ISD and not Laredo ISD. As shown in the map attached as Exhibit 3, the proposed location is approximately one mile away from the northern boundary of Laredo ISD. This map also shows that the zip code for the Development Site includes both Laredo ISD and the correct school district, United ISD. With both school districts existing within this zip code, and district lines being within a mile of each other, it is easy to make this kind of misinterpretation.

As soon as this realization was made, we began working to notify the United ISD. We reached out to the Superintendent via video conference on February 2. Directly after the video conference, the Superintendent was so excited, he sent a letter of support for the proposed development. We also met with the School Board president via video conference on February 3. We then followed up with written notification to all parties.

Superintendent Roberto J. Santos, school board president Ramiro Veliz III, and school board vice president Javier Montemayor Jr., whose district includes the proposed development site, of United ISD are in full support of Calle del Norte Apartments as shown by the support letters attached as Exhibit 4. These officials have also requested that this administrative oversight result in clarification by the Department that allows this application to continue moving forward as a competitive application. These officials have asked this administrative oversight not to be an item

Calle del Norte Apartments, LP

1329 East Lark Street
Springfield, MO 65804

that stops Laredo from receiving much needed housing in a City that has not received new affordable housing in many years.

Tex. Gov't. Code §2306.6704 states “**The preapplication process** must require the applicant to provide the department with evidence that the applicant was notified the following entities with respect to the filing of the application [...]” and goes on to list the officials that must be notified. Statute does not provide a deadline for notifying the required officials, including the superintendent and presiding officer of the board of trustees of the school district containing the development.

While we initially made an administrative oversight in notifying the superintendent and school board president of the adjacent school district, we worked quickly to ensure the correct school officials were notified well in advance of full applications being submitted. The mis-notification of school officials at pre-application was quickly rectified and is being brought to the Department’s attention in the interest of full transparency and a potentially quicker resolution to the matter than would otherwise occur.

Calle Del Norte Apartments, LP requests that staff perform a limited review of the materials included with this letter – including Tab 14 – Elected Officials of the full application that identifies the officials that have been notified – and clarify whether Pre-Application Requirements in 10 TAC §11.8 have been met. To the extent that staff makes a clarification that negatively impacts this application and an appeal to the Board becomes the next potential step in accordance with 10 TAC §11.902, please let this letter serve as our request to be placed on the agenda for the Board meeting of April 8, 2021.

If you have any questions or would like further information, please do not hesitate to contact me at asinnott@wilhoitproperties.com or by phone at (631) 241-3306.

Sincerely,

Andrew Sinnott

Andrew Sinnott
Representative of Calle del Norte Apartments, LP

EXHIBIT B



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott
GOVERNOR

BOARD MEMBERS
Leo Vasquez, *Chair*
Leslie Bingham, *Vice Chair*
Brandon Batch, Member
Paul A. Braden, Member
Ajay Thomas, Member
Sharon Thomason, Member

April 23, 2021

Writer's direct dial: 512/475-1676
Email: marni.holloway@tdhca.state.tx.us

Mr. Justin Zimmerman
Calle del Norte Apartments, LP
1329 East Lark Street
Springfield, MO 65804

RE: REQUEST FOR LIMITED STAFF PRE-DETERMINATION FOR APPLICATION 21230
CALLE DEL NORTE APARTMENTS

Dear Mr. Zimmerman:

The Texas Department of Housing and Community Affairs received your March 15, 2021, request for a limited staff pre-determination per 10 TAC §11.201(8) of the 2021 Qualified Allocation Plan (QAP). The request asks staff to determine, based on the information provided thus far, whether the pre-application notifications issued by the Applicant to the school districts will be considered compliant with its responsibility to provide notifications pursuant to 10 TAC §11.8(b)(2)(B) of the QAP, related to Notification Recipients.

To assess whether the Applicant is compliant, 10 TAC §11.8(b)(2)(B) of the QAP, relating to Notification Recipients, most relevantly provides:

(B) Notification Recipients. No later than the date the pre-application is submitted, notification must be sent to all of the entities prescribed in clauses (i) – (viii) of this subparagraph...

(ii) Superintendent of the school district in which the Development Site is located [.] See, 10 TAC §11.8(b)(2)(B)(ii)(relating to Notification Recipients).

Tex. Gov't Code §2306.6704 further provides:



Sec. 2306.6704. PREAPPLICATION PROCESS. (a) To prevent unnecessary filing costs, the department by rule shall establish a voluntary preapplication process to enable a preliminary assessment of an application proposed for filing under this subchapter...

(b-1) The preapplication process must require the applicant to provide the department with evidence that the applicant has notified the following entities with respect to the filing of the application [.]

Staff conducted a limited review of the information provided thus far, including the explanatory details submitted with this request. The request discloses that an error occurred in the pre-application notification of the superintendent for the correct school district in which the Development Site is located. In conducting its search for the correct entity, staff has determined that according to mapping on their respective websites, the Laredo Independent School District and the United Independent School District overlap in the area of the proposed Development. There is no apparent indication on either website that notification of two school districts may be required. Overall, the information supports the conclusion that the Applicant conducted a search for the appropriate entity and timely notified the recipient of its search. Moreover, because the Applicant appropriately re-notified the correct recipient once identifying its error, the second recipient has acknowledged the notification.

Per the limited staff pre-determination request, staff finds that based on the information provided thus far, the Applicant would be considered compliant with its responsibilities under §11.8(b)(2)(B)(ii) of the QAP, relating to Notification Recipients. Please note review at this stage is limited. The result of this pre-determination does not extend to all issues of eligibility, threshold, or documentation requirements.

Sincerely,

**Marni
Holloway**

Marni Holloway
Director of Multifamily Finance

Digitally signed by Marni
Holloway
Date: 2021.04.23
16:16:54 -05'00'

EXHIBIT C

Marque Real Estate Consultants, LLC

6300 West Loop South, Ste. 670

Bellaire, Texas 77401

(713) 560-0068 – p

(713) 583-8858 – f

Donna@MarqueConsultants.com

May 3, 2021

Via Electronic Mail

Texas Department of Housing and Community Affairs

221 East 11th Street

Austin, Texas 78701

Attn: Ms. Marni Holloway, Director of Multifamily Finance

Attn: Alena R. Morgan, JD, 9% HTC Program Administrator

Re: Calle del Norte Apartments, #21230

Third Party Request for Administrative Deficiency

Dear Ms. Holloway and Morgan,

On behalf of the Applicant for Dahlia Villas, #21069 (“Dahlia Applicant”), please allow this letter to serve as a Third Party Request for Administrative Deficiency (RFAD) in accordance with Section 11.10 of the 2021 QAP. The Dahlia Applicant is requesting that staff consider whether the matters described in this letter and supporting documentation should be the subject of one or more Administrative Deficiencies. A copy of this request has been delivered concurrently to the representative of Calle del Norte Apartments (“Calle Applicant”).

1. **Failure to Notify:**

Pursuant to §2306.6704(c) of the Tex. Gov’t Code, pre-applications ***will be terminated*** unless they meet the threshold criteria described in Section 11.8(b)-**Pre-Application Requirements** of the QAP, which, in part, requires the Applicant to notify **no later than the date the pre-application is submitted**, the following officials:

- a. Superintendent of the school district in which the Development Site is located;
and
- b. Presiding officer of the board of trustees of the school district in which the Development Site is located.

The Calle Del Norte Apartment site is located at 210 Calle del Norte Drive, Laredo, Texas (“Development Site”), and within the boundaries of the United ISD (“United ISD”). The Pre-Application shows that the Calle Applicant notified the Superintendent and Presiding Officer of the Laredo ISD. See attached **Exhibit “A”**-Notifications at Pre-Application. At Full Application, the Calle Applicant included maps correctly plotting the location of the ES, MS and HS within the boundary of the United ISD. See attached **Exhibit “B”**-School Support Documentation from Application. They also oddly recognized that there was a change of school officials from Pre-Application to Application. See **Exhibit “C”**-Tab 14-Elected Officials. There was no change in the school district boundaries between Pre-Application and Application or the school

Ms. Holloway & Ms. Morgan
TDHCA
May 3, 2021
Page -2-

officials. See attached **Exhibit "D"**-United ISD Boundary Map. Pursuant to an open records request, the Calle Applicant recognized their mistake and sought a support letter from United ISD ("Support Letter"). See attached **Exhibit "E"**-Support Letter. The Support Letter from United ISD clearly states that United ISD **was not made aware** of the proposed development until **after January 8, 2021**, the Pre-Application Delivery deadline. Based on the open records response, it does not appear that United ISD was properly notified by the Pre-Application Delivery Date or at any time after the mistake was recognized by the Calle Applicant. I also want to point out that several of the emails from the Calle Applicant seeking the Support Letter are dated after February 2, 2021, the date of the Support Letter (emphasis added). See attached **Exhibit "F"**-Open Records Response.

State Statute as outlined in the QAP clearly state that based on the above evidence Application No. 21230 should be terminated.

2. **Leveraging of Private, State, and Federal Resources.**

Section 11.9(e)(4) of the QAP allows an Applicant to qualify for 3-pts if, in part, the Housing Tax Credit funding request is **less than 9%** of the Total Housing Development Cost. Subparagraph (B) of this rule states that the calculation of the percentages will be based **strictly** on the figure listed in the Funding Request (emphasis added).

The Multifamily Programs Application Procedures Manual provides explicit directions that **"the rule calls for the funding request to be LESS THAN a certain percentage without rounding"**.

The Funding Request in the Application reflects 9.01% and therefore the Calle Applicant should not be eligible for the 3 points claimed. See **Exhibit "G"**-Leveraging.

Thank you for your consideration of these matters. If you require any further information or clarification, please feel free to contact us.

Sincerely,



Donna Rickenbacker

Cc: Steve Lollis – steve@texasgreyoaks.com
Texas Grey Oaks

Justin Zimmerman – jmzlandco@wilhoitproperties.com
Calle del Norte Applicant

Melissa Forster – mforster@wilhoitproperties.com
Calle del Norte Applicant

Ms. Holloway & Ms. Morgan

TDHCA

May 3, 2021

Page -3-

Exhibit "A" – Notification of Pre-Application

Exhibit "B" - School Support Maps

Exhibit "C" – Elected Officials

Exhibit "D" – United ISD Boundary Map

Exhibit "E" – Support Letter

Exhibit "F" – Open Records Response

Exhibit "G" - Leveraging

Texas Department of Housing and Community Affairs

Competitive 9% Housing Tax Credit Pre-Application

Application Number: 21230

Submitted Date: 1/7/2021 1:02PM

Submitted By: Jeff Beckler

Contact Information

Primary Contact: Jeff Beckler
1329 East Lark Street
Springfield, MO 65804

Phone: 417-883-1632
Email: jbeckler@wilhoitproperties.com

Secondary Contact: Jamie McDonald

Phone: 417-883-1632
Email: jmcdonald@wilhoitproperties.com

Consultant Contact:

Phone:
Email:

Development Information

Name of Proposed Entity: Calle del Norte Apartments, LP

Development Name: Calle del Norte Apartments

Development Type: New Construction

Secondary Type: None

Previous TDHCA #:

Initial Construction Year:

Units Demolished: 0

Units Reconstructed:

of Non-Contiguous Sites:

of Census Tracts: 1

Target Population: General

Development Address: 210 Calle del Norte
Laredo, TX 78041

ETJ?: N

County: Webb

Region: 11

Rural/Urban: Urban

Census Tracts: 48479001718

Total LI Units: 55

Total MR Units: 0

Total Units: 55

HTC Request: \$1,500,000.00

Pre-App Fee Due: \$550.00

**Has Fee already
been submitted?:** Yes

Name on Check: Zimmerman Properties, LLC

Check Number: 6863

Set-Aside Election: none

Notifications

U.S. Representative: Henry Cuellar

District: 28

State Senator: Judith Zaffirini

District: 21

State Representative: Richard Pena Raymond

District: 42

School Superintendent: Sylvia Guerra Rios
School District: Laredo ISD
School District Address: 1702 Houston Street
 Laredo, TX 78040

Presiding Officer of Board of Trustees: Hector Garcia
Address: 1702 Houston Street
 Laredo, TX 78040

Identified Laredo ISD

- | | | |
|---------------------------|---|---|
| Elected Officials: | Peter Saenz
Rudy Gonzalez
Vidal Rodriguez
Mercurio Martinez
Alberto Torres Jr
Ruben Gutierrez
Dr. Marte A Martinez
Vanessa Perez
Alyssa Cigarroa
Tano Tijerina
Jesse Gonzalez
Rosaura "Wawi" Tijerina
John Galo
Cindy Liendo | Mayor
City Council Member
City Council Member
City Council Member
Mayor Pro Tem
City Council Member
City Council Member
City Council Member
City Council Member
County Judge
County Commissioner
County Commissioner
County Commissioner
County Commissioner |
|---------------------------|---|---|

Neighborhood Organizations: None

Competitive Housing Tax Credit Selection Self-Score

Criteria Promoting Development of High Quality Housing

- Unit Sizes: 6
- Unit Features: 9
- Sponsor Characteristics: 2
- High Quality Housing Total: 17**

Criteria to Serve and Support Texans Most in Need

- Income Levels of Residents: 15
- Rent Levels of Residents: 11
- Resident Services: 11
- Opportunity Index: 7
- Underserved Area: 5
- Tenant Populations with Special Housing Needs: 3
- Proximity to Jobs: 4
- Serve and Support Texans Most in Need Total: 56**

Criteria Promoting Community Support and Engagement

- Commitment of Development Funding by Local Political Subdivision: 1
- Declared Disaster Area: 10
- Community Support and Engagement Total: 11**

Criteria Promoting Efficient Use of Limited Resources and Applicant Accountability

Financial Feasibility:	26
Cost of Development per Square Foot:	12
Pre-Application Participation:	6
Leveraging Private, State and Federal Resources:	3
Extended Affordability:	4
Historic Preservation:	0
Right of First Refusal:	1
Funding Request Amount:	1
Efficient Use of Limited Resources and Applicant Accountability Total:	53
Point Adjustment:	
Total Applicant Self-Score:	137

Intent to Request Points for Items not Included in the Applicant's Self-Score

Readiness to Proceed:	
Government Support:	17 points
Quantifiable Community Participation:	4 points
Community Support from a State Representative:	8 points
Input from Community Organizations:	4 points
Concerted Revitalization Plan:	0 points

Attachments and Certifications

Site Control Documentation: [Receipted Contract w.EM jm 1-7-21.pdf](#)

Census Tract Map: [LaredoCTMap.pdf](#)
[LaredoHUDCTMap.pdf](#)
[LaredoStreetMap.pdf](#)

Neighborhood Risk Factors:

Other Pertinent Information:

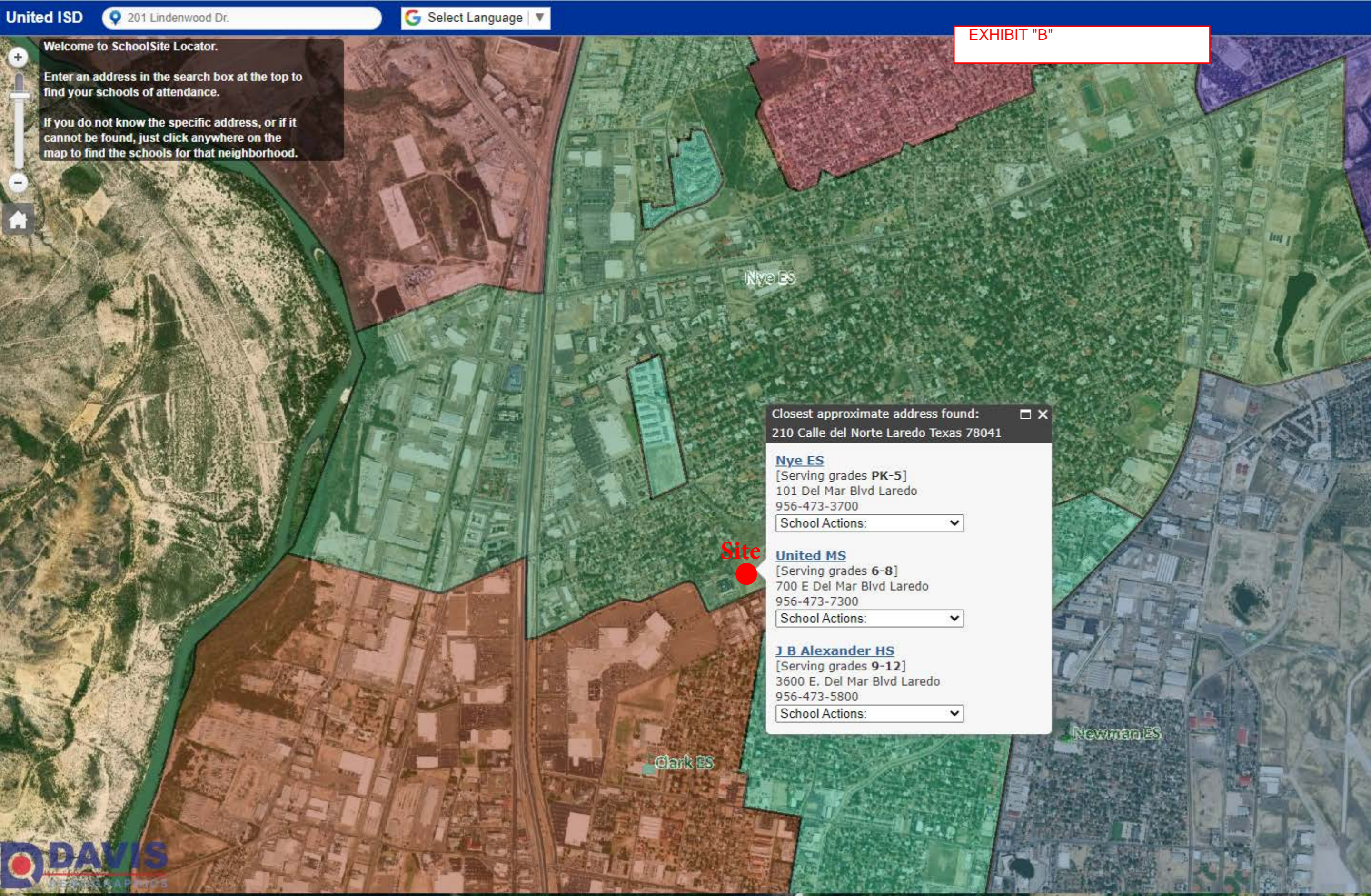
EXHIBIT "B"



Welcome to SchoolSite Locator.

Enter an address in the search box at the top to find your schools of attendance.

If you do not know the specific address, or if it cannot be found, just click anywhere on the map to find the schools for that neighborhood.



Nye ES

Clark ES

Newman ES

Site

Closest approximate address found: X
 210 Calle del Norte Laredo Texas 78041

Nye ES
 [Serving grades PK-5]
 101 Del Mar Blvd Laredo
 956-473-3700
 School Actions:

United MS
 [Serving grades 6-8]
 700 E Del Mar Blvd Laredo
 956-473-7300
 School Actions:

J B Alexander HS
 [Serving grades 9-12]
 3600 E. Del Mar Blvd Laredo
 956-473-5800
 School Actions:

Texas Education Agency
2018 Accountability Ratings Overall Summary
 NYE EL (240903103) - UNITED ISD

	Component Score	Scaled Score	Rating
Overall		90	Met Standard
Student Achievement		82	Met Standard
STAAR Performance	54	82	
College, Career and Military Readiness			
Graduation Rate			
School Progress		87	Met Standard
Academic Growth	79	88	Met Standard
Relative Performance (Eco Dis: 71.6%)	54	87	Met Standard
Closing the Gaps	98	98	Met Standard

Distinction Designations

ELA/Reading	Earned
Mathematics	Earned
Science	Earned
Social Studies	Not Eligible
Comparative Academic Growth	Earned
Postsecondary Readiness	Earned
Comparative Closing the Gaps	Earned

Texas Education Agency
2019 Accountability Ratings Overall Summary
 NYE EL (240903103) - UNITED ISD

Accountability Rating Summary

	Component Score	Scaled Score	Rating
Overall		90	A
Student Achievement		83	B
STAAR Performance	55	83	
College, Career and Military Readiness			
Graduation Rate			
School Progress		88	B
Academic Growth	76	82	B
Relative Performance (Eco Dis: 72.6%)	55	88	B
Closing the Gaps	97	94	A

Identification of Schools for Improvement

This campus is NOT identified for comprehensive support and improvement, targeted support and improvement, or additional targeted support.

Distinction Designations

ELA/Reading	Earned
Mathematics	Earned
Science	Earned
Social Studies	Not Eligible
Comparative Academic Growth	Earned
Postsecondary Readiness	Not Earned
Comparative Closing the Gaps	Earned

Texas Education Agency
2018 Accountability Ratings Overall Summary
UNITED MIDDLE (240903041) - UNITED ISD

	Component Score	Scaled Score	Rating
Overall		94	Met Standard
Student Achievement		90	Met Standard
STAAR Performance	61	90	
College, Career and Military Readiness			
Graduation Rate			
School Progress		91	Met Standard
Academic Growth	78	88	Met Standard
Relative Performance (Eco Dis: 51.2%)	61	91	Met Standard
Closing the Gaps	100	100	Met Standard

Distinction Designations

ELA/Reading	Earned
Mathematics	Earned
Science	Earned
Social Studies	Earned
Comparative Academic Growth	Earned
Postsecondary Readiness	Earned
Comparative Closing the Gaps	Earned

Texas Education Agency
2019 Accountability Ratings Overall Summary
 UNITED MIDDLE (240903041) - UNITED ISD

Accountability Rating Summary

	Component Score	Scaled Score	Rating
Overall		91	A
Student Achievement		91	A
STAAR Performance	64	91	
College, Career and Military Readiness			
Graduation Rate			
School Progress		91	A
Academic Growth	73	81	B
Relative Performance (Eco Dis: 51.0%)	64	91	A
Closing the Gaps	90	90	A

Identification of Schools for Improvement

This campus is NOT identified for comprehensive support and improvement, targeted support and improvement, or additional targeted support.

Distinction Designations

ELA/Reading	Earned
Mathematics	Earned
Science	Earned
Social Studies	Earned
Comparative Academic Growth	Earned
Postsecondary Readiness	Earned
Comparative Closing the Gaps	Earned

Texas Education Agency
2018 Accountability Ratings Overall Summary
 JOHN B ALEXANDER H S (240903003) - UNITED ISD

	Component Score	Scaled Score	Rating
Overall		90	Met Standard
Student Achievement		91	Met Standard
STAAR Performance	57	88	
College, Career and Military Readiness	75	94	
Graduation Rate	98.2	95	
School Progress		90	Met Standard
Academic Growth	68	78	Met Standard
Relative Performance (Eco Dis: 57.4%)	66	90	Met Standard
Closing the Gaps	91	88	Met Standard

Distinction Designations

ELA/Reading	Earned
Mathematics	Earned
Science	Earned
Social Studies	Not Earned
Comparative Academic Growth	Not Earned
Postsecondary Readiness	Earned
Comparative Closing the Gaps	Earned

Texas Education Agency
2019 Accountability Ratings Overall Summary
 JOHN B ALEXANDER H S (240903003) - UNITED ISD

Accountability Rating Summary

	Component Score	Scaled Score	Rating
Overall		91	A
Student Achievement		93	A
STAAR Performance	60	90	
College, Career and Military Readiness	85	96	
Graduation Rate	98.7	95	
School Progress		92	A
Academic Growth	73	83	B
Relative Performance (Eco Dis: 56.4%)	73	92	A
Closing the Gaps	86	86	B

Identification of Schools for Improvement

This campus is NOT identified for comprehensive support and improvement, targeted support and improvement, or additional targeted support.

Distinction Designations

ELA/Reading	Earned
Mathematics	Earned
Science	Earned
Social Studies	Earned
Comparative Academic Growth	Not Earned
Postsecondary Readiness	Earned
Comparative Closing the Gaps	Earned

Elected Officials

- Elected officials **were identified in the Pre-Application**, and there have been no changes. (If box above is checked, the rest of the form may be left **BLANK**.)
- Elected officials have **changed since the Pre-Application was submitted**, and information regarding notifications or re-notifications is entered below.
- No Pre-Application was submitted.**

Please identify all elected officials which represent the Development Site.

** US Representative	District

** While Applicants are not required to notify US Representatives, the Department is required to notify them. Therefore, Applicant must identify the appropriate US Representative of the district containing the Development.

State Senator	District
Support Letter	
City Mayor	

State Representative	District
Support Letter	
County Judge	

Roberto J. Santos	United ISD	rsantos@uisd.net
School Superintendent	District Name	Email
201 Lindenwood Dr	Laredo	78045
Address	City	Zip
Ramiro Veliz, III	Laredo	rveliz@uisd.net
Presiding officer of Board of Trustees		Email
201 Lindenwood Dr	Laredo	78045
Address	City	Zip

	District/Precinct	Email or Phone
	District/Precinct	Email or Phone
	District/Precinct	Email or Phone
	District/Precinct	Email or Phone
	District/Precinct	Email or Phone
	District/Precinct	Email or Phone
	District/Precinct	Email or Phone
	District/Precinct	Email or Phone

Elected Officials (Continued)

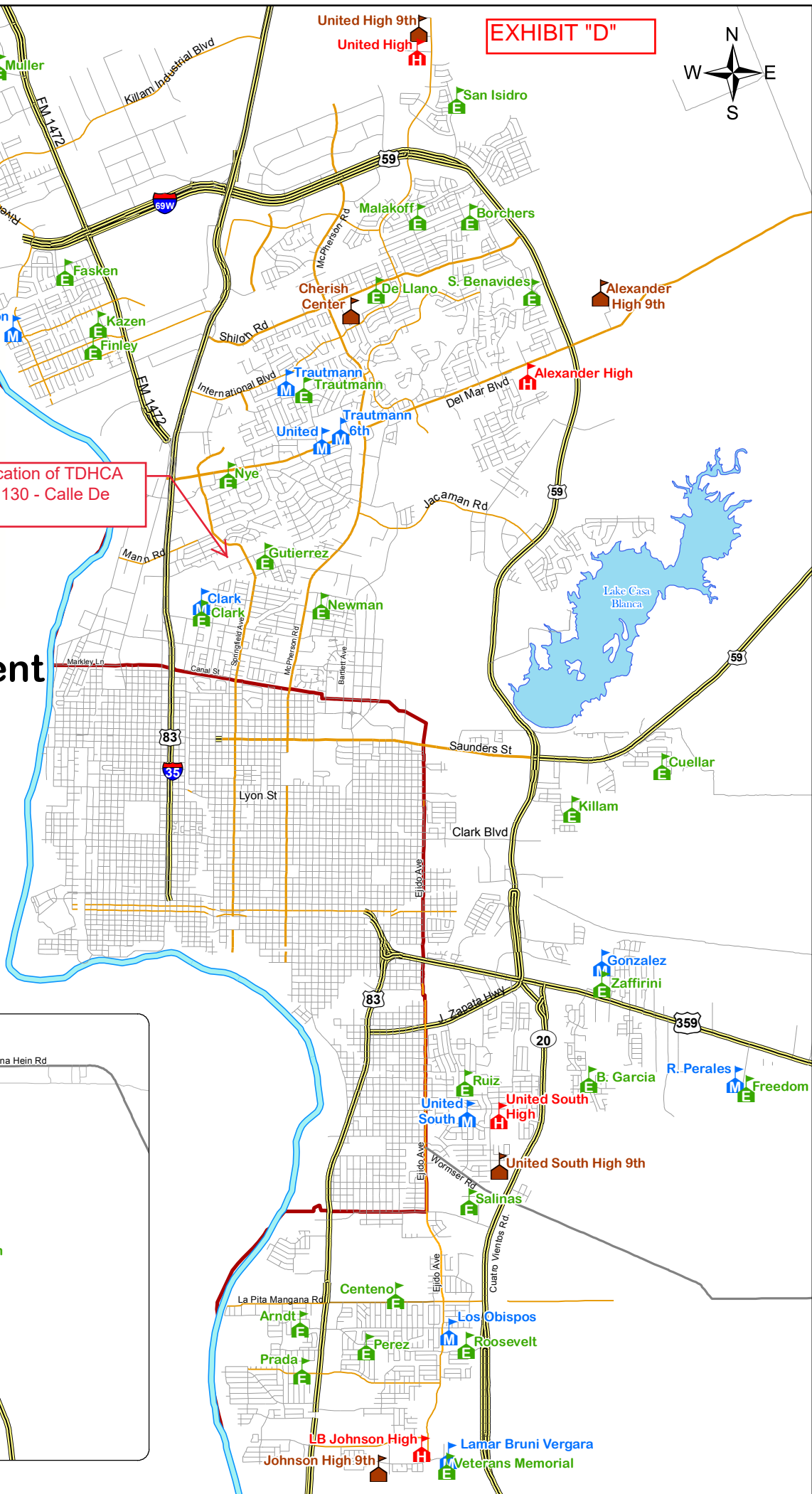
EXHIBIT "D"



Site Location of TDHCA
App. 12130 - Calle De Norte

United Independent School District 2019-2020

- Elementary Schools
- Middle Schools
- High Schools
- Other Schools
- District Boundary



UNITED INDEPENDENT SCHOOL DISTRICT



Board of Trustees

Ramiro Veliz, III
President
District 4

Javier Montemayor, Jr.
Vice-President
District 5

Ricardo "Rick" Rodriguez
Secretary
District 2

Ricardo Molina, Sr.
Parliamentarian
District 1

Aliza Flores Oliveros
Member
District 3

Juan Roberto Ramirez
Member
District 6

Francisco "Frank" Castillo
Member
District 7

February 2, 2021

Marni Holloway
Multifamily Finance Director
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701

RE: Letter of Support for TDHCA HTC Application #21230, Calle del Norte Apartments, 210 Calle del Norte Rd, Laredo, TX 78041

Dear Ms. Holloway,

Please allow this letter to serve as my full support for the Calle del Norte Apartments application, which is proposed to be built within the United Independent School District. We have been made aware of this proposed development and I have spoken with Mr. Beckler who represents Calle del Norte Apartments, LP.

This project will positively impact parents and students by addressing the shortage of available housing inside United Independent School District. **While we were made aware of the proposed development soon after January 8, 2021,** please do not let this administrative oversight stop critical quality affordable housing from being built for United Independent School District's student and their families.

Please allow this development to continue moving forward through the application process without any penalties related to pre-application participation.

Sincerely,

Roberto J. Santos
Superintendent
United Independent School District

Roberto J. Santos
Superintendent

201 Lindenwood Dr.
Laredo, Texas 78045

Daniela Medina

From: Alexandra Garcia <alexandra.garcia@uisd.net>
Sent: Monday, April 12, 2021 3:19 PM
To: Daniela Medina
Subject: Re: Public Information Request
Attachments: Superintendent Santos Support.pdf; Support Letter United ISD - Board President.docx; rvelizSupport Letter United ISD - Board President.docx; OpenRecords4_5_2021.pdf

Good afternoon Ms. Medina,

Attached is the information you requested through open records. Please confirm receipt of this email.

Thank you,



On Thu, Apr 8, 2021 at 1:54 PM Daniela Medina <daniela@dwrdevelopment.com> wrote:

Alexandra,

Is there any update on the requested PIR that we sent out and paid for already? Please send an update

Thank You,

From: Alexandra Garcia <alexandra.garcia@uisd.net>
Sent: Thursday, April 1, 2021 10:34 AM
To: Daniela Medina <daniela@dwrdevelopment.com>
Subject: Re: Public Information Request

Received, thank you.

ALEXANDRA GARCIA

PUBLIC INFORMATION SPECIALIST
956-473-6102
ALEXANDRA.GARCIA@UISD.NET

WE ARE UNITED
INDEPENDENT SCHOOL DISTRICT

**U BELONG
EVOLVE
ACHIEVE**

On Thu, Apr 1, 2021 at 9:34 AM Daniela Medina <daniela@dwrdevelopment.com> wrote:

Alexandra,

Please see delivered FedEx receipt along with a copy of the check and the invoice.

Thank You,

From: Alexandra Garcia <alexandra.garcia@uisd.net>
Sent: Monday, March 29, 2021 4:40 PM
To: Daniela Medina <daniela@dwrdevelopment.com>
Subject: Re: Public Information Request

Good afternoon,

Attached please find an invoice regarding your request.

Thank you,

ALEXANDRA GARCIA

PUBLIC INFORMATION SPECIALIST
956-473-6102
ALEXANDRA.GARCIA@UISD.NET

WE ARE UNITED
INDEPENDENT SCHOOL DISTRICT

**U BELONG
EVOLVE
ACHIEVE**

On Fri, Mar 26, 2021 at 9:21 AM Daniela Medina <daniela@dwrdevelopment.com> wrote:

I would like to request a public information request for All written correspondence to United ISD Superintendent and Board President in connection with Calle De Norte, a proposed affordable housing development to be located at 210 Calle del Norte, Laredo, TX 78041 dating back from 10/2020-3/2021

Thank You,

Daniela Medina

DWR Development Company

6300 West Loop South, Suite 670

Bellaire, TX 77401

C: (617) 895-8651

O: (832) 940-9940 ext. 104



--

You received this message because you are subscribed to the Google Groups "orr" group.
To view this discussion on the web visit

From: Roberto Santos <rsantos@uisd.net>
Sent: Friday, March 12, 2021 7:46 AM
To: Alejandra Salinas
Subject: Fwd: Support

----- Forwarded message -----
From: Javier <lawjm@sbcglobal.net>
Date: Thu, Feb 11, 2021 at 12:09 PM
Subject: Fwd: Support
To: Roberto Santos <rsantos@uisd.net>

Sent from my iPhone

Begin forwarded message:

From: Jeff Beckler <jbeckler@wilhoitproperties.com>
Date: February 3, 2021 at 9:56:20 AM CST
To: Lawjm@sbcglobal.net
Cc: martha@marthawright.net
Subject: Support

Javier,

I know I'm a broken record, but I'm very appreciative of your time and support. I've attached a letter for your review. Please let me know if you'd like any changes. I truly am hopeful of getting this done.

Sincerely,

Jeff

Jeff Beckler | Assistant VP of Development

Zimmerman Properties, LLC

Wilhoit Properties | Zimmerman Properties | Zimmerman Properties Construction

1329 East Lark Street * Springfield, MO 65804

Phone (417) 890-3234 | Fax (417) 883-6343

Email: jbeckler@wilhoitproperties.com Website <http://www.wilhoitproperties.com>

--

ROBERTO J. SANTOS

SUPERINTENDENT
956-473-6219
rsantos@uisd.net

WE ARE UNITED
INDEPENDENT SCHOOL DISTRICT

**U BELONG
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From: Jeff Beckler <jbeckler@wilhoitproperties.com>
Sent: Thursday, March 11, 2021 5:30 PM
To: lawjm@sbcglobal.net
Cc: rveliz@uisd.net; jm.uisd@gmail.com; martha@marthawright.net; Roberto Santos
Subject: Re: Support

Javier, just following up from this morning? Is Ramiro available to speak or sign tomorrow?

Thanks,

Jeff

Jeff Beckler | Assistant VP of Development

Zimmerman Properties, LLC
1329 E. Lark Street
Springfield, MO 65804

Phone: (417) 890-3234

Sent from my iPhone - Please excuse typos

On Mar 11, 2021, at 8:31 AM, lawjm@sbcglobal.net wrote:

Good morning Mr. Beckler. My email has been on the blink but I did speak with Martha yesterday. I assumed this had been taken care of already. My apologies. Can you please send me the draft you prepared, again?

Javier Montemayor

From: Jeff Beckler <jbeckler@wilhoitproperties.com>
Sent: Wednesday, March 10, 2021 4:34 PM
To: rveliz@uisd.net; Javier <lawjm@sbcglobal.net>; jm.uisd@gmail.com
Cc: martha@marthawright.net; Roberto Santos <rsantos@uisd.net>
Subject: FW: Support

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PLEASE let me know what you all think.

Jeff Beckler | Assistant VP of Development

Zimmerman Properties, LLC

<image001.jpg>

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Phone (417) 890-3234 | Fax (417) 883-6343

Email: jbeckler@wilhoitproperties.com Website <http://www.wilhoitproperties.com>

From: Jeff Beckler
Sent: Tuesday, February 23, 2021 5:46 PM
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<image001.jpg>

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Email: jbeckler@wilhoitproperties.com Website <http://www.wilhoitproperties.com>

From: Jeff Beckler
Sent: Tuesday, February 2, 2021 11:40 AM
To: rveliz@uisd.net
Cc: martha@marthawright.net
Subject: Support

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Email: jbeckler@wilhoitproperties.com Website <http://www.wilhoitproperties.com>

From: Jeff Beckler <jbeckler@wilhoitproperties.com>
Sent: Wednesday, March 10, 2021 9:16 PM
To: Roberto Santos
Cc: martha@marthawright.net
Subject: Support

Jeff Beckler has shared a OneDrive for Business file with you. To view it, click the link below.

 [Support Letter United ISD - Montemayor.docx](#)

Good evening Mr. Santos,

Thank you for taking Martha's call today. I'm sure she expressed the dire situation I find myself in. I apologize for getting this email out late, as my kids Wednesday church class made my night a little longer.

I'm trying all I can do to keep this project alive inside United's district. It starts with Javier and Ramiro's support. I've attached their draft letters of support ready for United letterhead. Martha, as always, is going to help me out chasing down their signatures tomorrow. I sincerely appreciate you putting these on the letterhead. Could you remind us what dealership Ramiro is employed at, as to speed up Martha's search?

One more question of interest. I want to show this state housing agency just how serious I/we are about not letting a simple typo effect United ISD. Would me getting every single Board member signature of support be possible on one letter? Would that require an agenda item on the next United board meeting? I'm willing to do that and speak as well. I'm purely talking about a single letter just like you and others will sign, except for everyone will sign; assuming willingness from those parties.

Again, just curious on that front. I'm so appreciative for any help. I can be in Laredo working for any of this Friday morning, I don't mind to travel down.

Please let me know of any feedback you have or require.

Best,

Jeff

From: Jeff Beckler <jbeckler@wilhoitproperties.com>
Sent: Wednesday, March 10, 2021 4:34 PM
To: rveliz@uisd.net; Javier; jm.uisd@gmail.com
Cc: martha@marthawright.net; Roberto Santos
Subject: FW: Support
Attachments: Support Letter United ISD - Board President.docx; Superintendent Santos Support.pdf

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Email: jbeckler@wilhoitproperties.com Website <http://www.wilhoitproperties.com>

From: Javier <lawjm@sbcglobal.net>
Sent: Thursday, February 11, 2021 12:10 PM
To: Roberto Santos
Subject: Fwd: Support
Attachments: image001.jpg; ATT00002.bin; Support Letter United ISD - Montemayor.docx; ATT00004.bin

Sent from my iPhone

Begin forwarded message:

From: Jeff Beckler <jbeckler@wilhoitproperties.com>
Date: February 3, 2021 at 9:56:20 AM CST
To: Lawjm@sbcglobal.net
Cc: martha@marthawright.net
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Sincerely,

Jeff

Jeff Beckler | Assistant VP of Development
Zimmerman Properties, LLC

From: Maria Salinas <axsalina@uisd.net>
Sent: Tuesday, February 2, 2021 11:22 AM
To: jbeckler@wilhoitproperties.com; martha@marthawright.net
Cc: Roberto Santos
Subject: Letter of Support

Good Morning,

Please see attached letter of support from UISD Superintendent, Mr. Roberto J. Santos.

If you have any questions or need additional information, please feel free to call our office.

Thank you,

--

ALEJANDRA SALINAS

SECRETARY TO SUPERINTENDENT
956-473-6219
AXSALINA@UISD.NET

WE ARE UNITED
INDEPENDENT SCHOOL DISTRICT

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Confidentiality Statement:

This email & attached documents may contain confidential information. All information is intended only for the use of the named recipient. If you are not the named recipient, you are not authorized to read, disclose, copy, distribute or take any action in reliance on the information and any action other than immediate delivery to the named recipient is strictly prohibited. If you have received this email in error, do not read the information and please immediately notify sender by telephone to arrange for a return of the original documents. If you are the named recipient you are not authorized to reveal any of this information to any other unauthorized person. If you did not receive all pages listed or if pages are not legible, please immediately notify sender by phone.

From: Roberto Santos <rsantos@uisd.net>
Sent: Tuesday, February 2, 2021 11:11 AM
To: Alejandra Salinas
Subject: Fwd: United ISD Support

----- Forwarded message -----

From: Jeff Beckler <jbeckler@wilhoitproperties.com>
Date: Mon, Feb 1, 2021 at 8:33 PM
Subject: United ISD Support
To: rsantos@uisd.net <rsantos@uisd.net>
Cc: martha@marthawright.net <martha@marthawright.net>

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Email: jbeckler@wilhoitproperties.com Website <http://www.wilhoitproperties.com>

From: Roberto Santos <rsantos@uisd.net>
Sent: Tuesday, February 2, 2021 8:54 AM
To: Jeff Beckler <jbeckler@wilhoitproperties.com>
Cc: martha@marthawright.net
Subject: Re: United ISD Support

I can meet today at eleven. Let me know.

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This is a staff email account managed by United Independent School District. This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the sender.

--

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Email: jbeckler@wilhoitproperties.com Website <http://www.wilhoitproperties.com>

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ROBERTO J. SANTOS

SUPERINTENDENT
956-473-6219
rsantos@uisd.net

WE ARE UNITED
INDEPENDENT SCHOOL DISTRICT

**U BELONG
EVOLVE
ACHIEVE**

This is a staff email account managed by United Independent School District. This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the sender.

From: Roberto Santos <rsantos@uisd.net>
Sent: Tuesday, February 2, 2021 8:54 AM
To: Jeff Beckler
Cc: martha@marthawright.net
Subject: Re: United ISD Support

I can meet today at eleven. Let me know.

On Mon, Feb 1, 2021 at 8:33 PM Jeff Beckler <jbeckler@wilhoitproperties.com> wrote:

Superintendent Santos,

My name is Jeff Beckler and I represent the Calle del Norte Apartments. I've been working closely with Martha Wright-Martinez can't express my full thanks for you entertaining my request for your support. Let me briefly explain what Martha and I have discussed.

I am trying to provide family housing in Laredo, and it happens to fall in United ISD's district. This housing will benefit so many families in Laredo. Calle del Norte Apartments will be 55 units of workforce family housing in Laredo. It is located at 210 Calle del Norte Rd. All of our multi-family units will be 2 and 3 bedroom units. It will serve all residents who earn 60% and below of Webb County Area Median Income. I'm really excited about it because Laredo and this area hasn't received a project like this in 6 years or so. I want to provide it.

Let me give you some background of what is going on. We had an administrative mistake. A typo might cost this project it's livelihood. I need your recommendation. I would love the opportunity to tell you all about it on a Zoom call. It sounds like Martha has done a tremendous job of letting you know what's going on. She has been a trailblazer of support for this project for Laredo.

Please see the attached as DRAFT support I need to show. I would welcome the opportunity to speak with you on Zoom and explain more of just what is going on. I apologize for the late email, but I wanted to get in front of this for the possibility to virtually talk tomorrow. This is important to me for Laredo and United, and I look forward to talking to you.

Sincerely,

Jeff

Jeff Beckler | Assistant VP of Development

Zimmerman Properties, LLC



Wilhoit Properties | Zimmerman Properties | Zimmerman Properties Construction

1329 East Lark Street * Springfield, MO 65804

Phone (417) 890-3234 | Fax (417) 883-6343

Email: jbeckler@wilhoitproperties.com Website <http://www.wilhoitproperties.com>

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Sent: Monday, February 1, 2021 8:33 PM
To: rsantos@uisd.net
Cc: martha@marthawright.net
Subject: United ISD Support
Attachments: Support Letter United ISD.docx

Superintendent Santos,

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Email: jbeckler@wilhoitproperties.com Website <http://www.wilhoitproperties.com>

Finance Scoring (for Competitive HTC Applications ONLY)

Self Score Total: 137

1. Commitment of Development Funding by Local Political Subdivision (§11.9(d)(2))

Name of the Local Political Subdivision providing the funding:

City of Laredo

- A letter from an official of the political subdivision stating that the political subdivision will provide a loan, grant, reduced fees or contribution of other value type, and the terms under which it will be provided is in the application.
- The dollar value of the contribution must be in the letter and must equal \$500 or more if Urban and \$250 or more if Rural or USDA.
- The commitment of development funding is reflected in the Application as a financial benefit to the Development, i.e. reported as a source of funds on the Sources and Uses Form and/or reflected in a lower cost in the Development Cost Schedule, such as notation of a reduction in building permits and related costs.

Total Points Claimed: 1

2. Financial Feasibility (§11.9(e)(1))

- Eligible Pro-Forma and letter from Third Party permanent lender stating the Development is financially feasible. 0
- Eligible Pro-Forma and letter from Third Party permanent lender stating Development **and** Principals are acceptable. 26
- Development is Supportive Housing (must meet §11.1(d)(122)(E)(i)) with eligible Pro-Forma and letter from Third Party construction lender stating Development **and** Principals are acceptable. 0
- Department is only permanent lender **and** the evaluation from a Request for Preliminary Determination submitted under §11.8(d) is included behind this Tab. 0

Total Points Claimed: 26

3. Leveraging of Private, State, and Federal Resources (§2306.6725(a)(3); §11.9(e)(4))

Percent of Units restricted to serve households at or below 30% of AMGI 11%

HTC funding request as a percent of Total Housing Development Cost 9.01%

Eligibility for points:

- Development Leverages CDBG Disaster Recovery, HOPE VI, RAD or Choice Neighborhood Funding 0
- Housing Tax Credit Request 0
- Housing Tax Credit Request 2
- Housing Tax Credit Request 1

* Be sure no more than 50% of Developer fees are deferred.

Total Points Claimed: 3

If a revised form is submitted during the application review process, indicate the date of submission at the bottom of the form.

❖ **Tab 32 – Financial Capacity, Owner Equity and Loan-to-Cost Requirements (Direct Loan Applications only)**

This tab is applicable for the Department’s Direct Loan Applications if: (1) the Direct Loan request is more than 50% of the Total Housing Development Cost, except for Developments also financed through the USDA-515 program, or (2) the Direct Loan is the only source of Department funding (no HTCs are being requested) for the Development. Place the documentation described in the tab behind the tab.

❖ **Tab 33 – Matching Funds (Direct Loan Applications only)**

This form is applicable for Multifamily Direct Loan Applications, only. Detail the type of Match, amount, and source in the appropriate columns. See the Match Guidance section of the tab page as well as 10 TAC §13.2(9) and the NOFA for information and requirements about Match. Match in the amount required by the applicable NOFA, must be documented.

❖ **Tab 34 – Finance Scoring (Competitive HTC Applications only)**

This form is divided into 3 parts and is only applicable to Competitive HTC Applications.

- **Part 1 – Commitment of Development Funding by Local Political Subdivision (LPS) (10 TAC §11.9(d)(2))** To request the point, enter the name of the Local Political Subdivision providing the funding in the highlighted box at the top of this part. Indicate in the following three check boxes that the letter meets each of these criteria. **The letter must indicate the dollar value of the contribution and the dollar value of the contribution must be reflected in the Application.** A resolution from governing body can take the place of a letter. If the contribution reduces costs, it must be noted on the Development Cost Schedule. If the contribution is in the form of a loan, grant or similar instrument, it must be included with the development sources and uses. Contributions must equal \$500 or more if the Application is Urban and \$250 if the Application is Rural or USDA. The letter committing the funding and naming the same Local Political Subdivision named in the top box of this scoring item must be present in the “Tab 35. Supporting Docs.” The total points claimed will auto-populate the score box only if the boxes above it have entries.
- **Part 2 – Financial Feasibility (10 TAC §11.9(e)(1))** Make only one selection from the options listed on the form in this section. The Total Points Claimed will auto-populate based on your selection. As support for these points, **submit both a 15-year pro forma itemizing all projected income and expenses, signed by the permanent or construction lender AND a lender letter indicating financial feasibility and/or acceptable Principals. A template exists for an acceptable letter but an alternative letter may be used, as long as it contains the same information as the template.**
- **Part 3 – Leveraging of Private, State, and Federal Resources (10 TAC §11.9(e)(4))**
 - At least 5% of the total Units must be restricted to 30% AMGI. The form will calculate the percentage based on the information reflected in the *Rent Schedule*.
 - If the Development leverages CDBG Disaster Recovery, HOPE VI, RAD, or Choice Neighborhoods funding, mark the appropriate box.
 - The form will calculate Housing Tax Credit funding request as a percent of Total Housing Development Cost based on information reflected in the *Development Narrative* and the *Development Cost Schedule*. **Note that the rule calls for the funding request to be LESS THAN A certain percentage without rounding.**
 - No more than 50% of the developer fee can be deferred to be eligible. **NOTE: This form does not perform this calculation.**
 - No supporting documentation is necessary unless claiming points based on a commitment of CDBG-DR, HOPE VI, RAD or Choice Neighborhood Funding.

If a revised form is submitted during the application review process, indicate the date of submission at the bottom of the form.

❖ **Tab 32 – Financial Capacity, Owner Equity and Loan-to-Cost Requirements (Direct Loan Applications only)**

This tab is applicable for the Department’s Direct Loan Applications if: (1) the Direct Loan request is more than 50% of the Total Housing Development Cost, except for Developments also financed through the USDA-515 program, or (2) the Direct Loan is the only source of Department funding (no HTCs are being requested) for the Development. Place the documentation described in the tab behind the tab.

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 - No more than 50% of the developer fee can be deferred to be eligible. **NOTE: This form does not perform this calculation.**
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EXHIBIT D

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

GOVERNING BOARD MEETING

VIA TELEPHONE AND WEB LINK

June 17, 2021
9:04 a.m.

MEMBERS:

LEO VASQUEZ, III, Chair
BRANDON BATCH, Member
PAUL A. BRADEN, Member
KENNY MARCHANT, Member
AJAY THOMAS, Member
SHARON THOMASON, Member

BOBBY WILKINSON, Executive Director

ON THE RECORD REPORTING
(512) 450-0342

1 Staff will consider the information provided
2 within the context of the priority status of the
3 application and the review process. We are not required to
4 take action on any RFAD. The request may not be used to
5 question a decision made by staff during their review of an
6 application.

7 Requesters must provide sufficient credible
8 evidence that if confirmed would substantiate the
9 deficiency request. Requesters are required to inform the
10 applicant of the request at the time it is submitted.

11 I'm going to give a brief description of each
12 RFAD received and the action that was taken in response.
13 This is a report item. The Board may accept or reject the
14 report or direct staff to reconsider our actions on any
15 application.

16 Any appeal taken on an application has been or
17 will be handled through a separate process which may result
18 in a Board action request at future meetings. A requester
19 may not appeal the staff's determination regarding an RFAD.

20 The first application is 21003 Tomball Senior
21 Village. The request asked the Department to review the
22 application's zoning documentation to determine whether the
23 application complies due to the age restrictions associated
24 with the proposed development.

25 Pursuant to the Housing for Older Persons Act of

1 proximity.

2 In regards to pre-application participation
3 points and related notification recipient requirements, a
4 separate Board item has been submitted for consideration at
5 this meeting. That was the waiver that we discussed
6 earlier.

7 Application 21061 Magnolia Lofts. The request
8 asked the Department to review the application to determine
9 whether staff properly reviewed the application in regards
10 to points related to a letter from the state
11 representative.

12 Staff determined that the assertion in the RFAD
13 questions that scoring determinations that have already
14 been addressed through the application review process, and
15 the RFAD did not contain new information.

16 Application 21069 Dahlia Villas. The request
17 asked the Department to review the application to determine
18 whether they should have disclosed the adjacent Pharr Water
19 Treatment Plant and Lab and oil pump as undesirable site
20 features.

21 This application does not have a competitive
22 score in the subregion and likely will not be eligible for
23 an award. The information provided in the request will be
24 considered if we proceed with a complete review of the
25 application.

1 Application 21185 Weslaco Village. The request
2 asked the Department to determine if the application has
3 overestimated development costs that would impact on
4 scoring related to leveraging and asked the Department to
5 determine whether the application provided sufficient
6 documentation of their eligibility to participate in the
7 at-risk set-aside.

8 Staff has determined that the application has a
9 non-competitive score and will not likely be eligible. If
10 we proceed with a complete review, we will consider this
11 information.

12 Application 21186 Palms at Blucher Park. The
13 request first asked the Department to determine whether the
14 applicant notified the appropriate state representative and
15 whether the development is eligible to claim an increase in
16 eligible basis.

17 We had previously identified and addressed the
18 pre-application notification requirements. The concern
19 regarding eligible basis has also been addressed through
20 the application review process.

21 Application 22189 Village at Boyer. The request
22 asked the Department to determine whether there is
23 sufficient documentation to be eligible for points under
24 concerted revitalization plan.

25 Staff review of the documentation indicates it

1 questioned scoring determinations that will be or have
2 already been addressed through the application review
3 process and the RFAD does not contain new information.

4 Application 21210 Hebron Village Supportive
5 Housing. Two requests asked the Department to determine
6 whether the application is eligible for the points related
7 to concerted revitalization plan, opportunity index, and
8 the pre-application participation, along with whether the
9 applicant should have disclosed the violent crime rate in
10 adjoining census tracts and the sufficiency of quantifiable
11 community participation document.

12 Staff notified the applicant of its failure to
13 meet multiple requirements that resulted in the denial of
14 points and termination of the application. Any related
15 appeal will be addressed at a subsequent meeting.

16 Application 21230 Calle del Norte. First, a
17 request asked the Department to determine the accuracy of
18 the operating expenses provided, particularly with regard
19 to debt coverage, expense ratio and the feasibility. The
20 second request asked the Department to determine whether
21 the applicant notified the appropriate school official.

22 We anticipate Real Estate Analysis staff will
23 address any reasonableness concerns during its review and
24 underwriting process prior to award, and we have previously
25 evaluated and addressed the question regarding notification

1 through a limited review process.

2 Application 21243 Metro Lofts. The request
3 asked the Department to review to determine whether they
4 would be considered ineligible due to one award per census
5 tract.

6 The second request claimed that the application
7 does not comply with the definition of development for
8 eligible scattered site. The third and fourth requests
9 state the application did not qualify for points under
10 opportunity index.

11 Staff addressed the tiebreaker request in our
12 submission log. As regards the eligibility of the
13 development, staff notified the applicant that the proposed
14 scattered-site development was ineligible under IRS Code.
15 Any appeals regarding this matter will be addressed at a
16 subsequent meeting.

17 21259 Jackson Place Apartments. Three requests
18 asked the Department to determine whether the application
19 is eligible for points selected under proximity to jobs
20 because they used the 2018 data set.

21 Staff was able to run a report using the correct
22 2017 data set, and we determined that the application does
23 not qualify for the four points selected but does qualify
24 for two points.

25 Application 21260, this is Mountain View Villas.

TDHCA

Appeal Response



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott
GOVERNOR

BOARD MEMBERS
Leo Vasquez, *Chair*
Paul A. Braden, *Vice Chair*
Brandon Batch, Member
Kenny Marchant, Member
Ajay Thomas, Member
Sharon Thomason, Member

July 2, 2021

Michelle Snedden
Shackelford, Bowem, McKinley & Norton LLP
c/o Calle del Norte Apartments LP
9201 N. Central Expressway, 4th Floor
Dallas, TX 75231

RE: STATUS OF 2021 HOUSING TAX CREDIT APPLICATION 21230
CALLE DEL NORTE APARTMENTS

Dear Ms. Snedden:

The Texas Department of Housing and Community Affairs (the Department) received your appeal dated June 30, 2021 for the application indicated above. Following the receipt of a Third Party Request for Administrative Deficiency, Staff determined the Application was not eligible to receive the six points requested under 10 TAC §11.9(e)(3) related to Pre-Application Participation. Staff issued a Status Letter providing notice of the scoring adjustment, subject to your ability to appeal.

§10 TAC §11.8(b) related to Pre-Application Threshold Criteria provides:

(b) Pre-Application Threshold Criteria. Pursuant to Tex. Gov't Code §2306.6704(c) pre-applications will be terminated unless they meet the threshold criteria described in subsection(a) of this section and paragraphs (1) and (2) of this subsection:

(2) Evidence in the form of a certification provided in the pre-application, that all of the notifications required under this paragraph have been made and that a reasonable search for applicable entities has been conducted. (§2306.6704).

(B) Notification Recipients. No later than the date the pre-application is submitted, notification must be sent to all of the entities prescribed in clauses (i) – (viii) of this subparagraph...



(ii) Superintendent of the school district in which the Development Site is located [.] See, 10 TAC §11.8(b)(2)(B)(ii)(relating to Notification Recipients).

Tex. Gov't Code §2306.6704 further provides:

Sec. 2306.6704. PREAPPLICATION PROCESS. (a) To prevent unnecessary filing costs, the department by rule shall establish a voluntary preapplication process to enable a preliminary assessment of an application proposed for filing under this subchapter...

(b-1) The preapplication process must require the applicant to provide the department with evidence that the applicant has notified the following entities with respect to the filing of the application [. . .]

(2) the superintendent and the presiding officer of the board of trustees of the school district containing the development;

Lastly, 10 TAC §11.9(e)(3)(H) related to Pre-Application Participation further provides:

(3) Pre-application Participation. (§2306.6704) An Application may qualify to receive up to six (6) points provided a pre-application was submitted by the Pre-Application Final Delivery Date. Applications that meet all of the requirements described in subparagraphs (A) - (H) of this paragraph will qualify for six (6) points:

(H) The pre-application met all applicable requirements.

As detailed in the Status Letter dated June 28, 2021, staff previously conducted a limited review of the information available at the time, including the explanatory details submitted with the initial request for a limited review. The request disclosed that an error occurred in the pre-application notification of the superintendent for the correct school district in which the Development Site is located. In conducting its search for the correct entity, the third party websites used by the Applicant incorrectly identified the school district for the proposed Site. The applicant's search appeared to have resulted in identifying the incorrect school district when inputting the Site's zip code into the National Center for Education Statistics database. Overall, the information submitted appeared to support staff's initial conclusion that the Applicant conducted a reasonable search for the appropriate entity and timely notified the recipient of its search. An RFAD was submitted, which included documents generated from inputting the address of the Development Site into a Texas Education Agency online tool, and the resulting map and school assignments within the United ISD.

Following a request by the Governing Board, staff conducted an additional review of the issue as it pertained to a Request for an Administrative Deficiency pursuant to 10 TAC §11.10 of the QAP. As staff detailed in its letter, the Applicant had appropriately re-notified the correct recipient once identifying its error. Nevertheless, the Applicant still failed to notify the correct recipient at pre-application, as required pursuant to 10 TAC §§11.8(b)(2)(B) and 11.9 related to Pre-Application Threshold Criteria and Participation. Because the Pre-Application failed to meet all applicable requirements, and due to the fact that neither the QAP nor the applicable statutory provision contain an exception or mitigation for identifying an incorrect party despite what might be considered a reasonable search, the Application had been assigned a pre-application score of (0) points under 10 TAC §11.9(e)(3) of the QAP, subject to your ability to appeal.

You timely appealed, stating

The matter initially at issue was whether Applicant notified the correct Superintendent and presiding officer of the board of trustees as required under 10 TAC 11.8(b)(2)(B). This issue was brought to Staff's attention twice before the June 17, 2021 Board meeting, and in both instances, based on information provided by the Applicant (under a Limited Review request) and its competitor (under an RFAD), staff determined that "the Applicant would be considered compliant with its responsibilities under §11.8(b)(2)(B)(ii) of the QAP, relating to Notification Recipients,". Importantly, the Limited Review process did not result "in the identification of an issue that requires correction or clarification," a possible outcome in accordance with 10 TAC §11.201(8).

The failure by Applicant's competitor to meet the RFAD requirements under 10 TAC §11.10 of the QAP is critical to this appeal and the overall understanding of the matter at hand...

Regardless of the RFAD process, notification of the correct recipient at pre-application is a threshold requirement for the Application to receive a score under 10 TAC §11.9(e)(3) of the QAP. Accordingly, I am referring this item to the Governing Board for further consideration at its upcoming meeting on July 8, 2021. Please review §11.902 of the QAP for full instruction on the appeals process. Please note that §11.902(f) of the QAP and Tex. Gov't Code §2306.6715(c) limit Board review of an Application on appeal to the original Application and those documents contained within the Application.

If you have any questions or require further information, please contact Alena R. Morgan, Competitive Tax Credit Program Administrator, at alena.morgan@tdhca.state.tx.us or by phone at 512-936-7834.

Sincerely,



Bobby Wilkinson
Executive Director

Appeal Response for 2021 Housing Tax Credit Application 21230

July 2, 2021

Page 4

cc: Justin Zimmerman
Melissa Forster
Andrew Sinnott