

**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

PROGRAMMATIC IMPACT

Fiscal Year 2021 (figures below through March 31, 2021)

Owner Financing and Down Payment

- 30-year, fixed interest rate mortgage loans
- Mortgage credit certificates
- Down payment, closing cost assistance
- Homebuyer education

Programs:

- Single Family Homeownership

Expended Funds: \$1,510,406,108
Total Households Served: 7,414

Energy Related Assistance

- Utility bill payment assistance
- Energy consumption education
- Weatherization for energy efficiency, TRR utility assistance

Programs:

- Comprehensive Energy Assistance Program (CEAP)
- Weatherization Assistance Program (WAP) ,

Expended Funds: \$89,927,916
Total Households Served: 55,336

Multifamily New Construction

- Affordable rental units financed and developed

Programs:

- 9% Housing Tax Credits (HTC)
- 4% Housing Tax Credits (HTC)
- Multifamily Bonds
- Multifamily Direct Loan Program*

Expended Funds: \$57,063,692
Total Households Served: 4,886

Homelessness Services

- Shelter building rehabilitation, conversion, operations
- Essential services e.g., health services, transportation, job training, employment services

Programs:

- Emergency Solutions Grant Program (ESG)
- Homeless Housing and Services Program (HHSP)

Expended Funds: \$7,747,715
Total Individuals Served: 13,054

Multifamily Rehab Construction

- Affordable rental units financed and rehabilitated

Programs:

- 9% Housing Tax Credits (HTC)
- 4% Housing Tax Credits (HTC)
- Multifamily Bonds

Expended Funds: \$43,958,306
Total Households Served: 1,168

Supportive Services

Provides administrative support for essential services for low income individuals through Community Action Agencies

Program:

- Community Services Block Grant Program (CSBG)

Expended Funds: \$34,867,160
Total Individuals Served: 191,183

Owner Rehabilitation Assistance

- Home rehabilitation, reconstruction
- Manufactured housing unit replacement
- Accessibility modifications e.g., ramp, grab bar installation

Programs:

- Homeowner Reconstruction Assistance Program (HRA)*
- Amy Young Barrier Removal Program

Expended Funds: \$6,947,247
Total Households Served: 121

Rental Assistance

- Short, long term rent payment help
- Assistance linked with services, Transitional assistance
- Security, utility deposits

Programs:

- Tenant-Based Rental Assistance (TBRA)*
- Section 8 Housing Choice Vouchers
- Section 811, CDBG Cares, Texas rent relief

Expended Funds: \$10,169,575
Total Households Served: 3,713

Single Family Development

- Single family development, reconstruction, rehabilitation
- NSP, Do-it-yourself, "sweat equity" construction (bootstrap), rehabilitation, Contract for Deed refinance

Programs:

- Single Family Development Program (SFD)*
- Contract for Deed (CFD)

Expended Funds: \$1,380,291
Total Households Served: 30

Total Expended Funds: 1,762,468,010
Total Households Served: 276,905

All FY2021 data as reported in TDHCA's 2021 performance measures.

Note: Some households may have been served by more than one TDHCA program. For some programs, allocation is used as a proxy for expenditures. Because of timing of funds request, the funds expended for the quarter may be readjusted substantially by year end.

* Administered through the federally funded HOME Investment Partnerships Program

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.

CONSENT AGENDA

1a

BOARD ACTION REQUEST

PROGRAMS DIVISION

JULY 8, 2021

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

RECOMMENDED ACTION

WHEREAS, Texas Gov't Code, §661.002(c) requires that state agencies adopt rules relating to the operation of their agency sick leave pool;

WHEREAS, staff recommends to the Board that there is a continuing need for this rule to exist, which is to ensure compliance with Texas Government Code §661.002; and

WHEREAS, the current rule relating to the Department's Sick Leave Pool required re-review, staff determined that the rule needed revisions, and such revisions were proposed through an amendment of the current rule which was made available for public comment and no comment was received;

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 action herein in the form presented to this meeting, to be published in the *Texas Register* for adoption, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing including any requested revisions to the preambles.

BACKGROUND

10 TAC Chapter 1, Subchapter A, General Policies and Procedures, §1.3, Sick Leave Pool, required revision to bring the rule compliant with current policy. Current policy requires that an employee exhaust all accrued paid leave prior to accessing the sick leave pool. The rule amendment was released for public comment as reflected in the preamble below and no comment was received. Staff recommends adoption of the rule amendment as proposed.

Attachment 1: Preamble, including required analysis, for adoption of amendment of 10 TAC Chapter 1, Subchapter A, General Policies and Procedures, §1.3, Sick Leave Pool

The Texas Department of Housing and Community Affairs (the Department) adopts the amendment of 10 TAC Chapter 1, Subchapter A, General Policies and Procedures, §1.3, Sick Leave Pool, without changes. The purpose of the amendment is to clarify the Department's policy for its sick leave pool.

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for action because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

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

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

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the amendment would be in effect:

1. The amendment does not create or eliminate a government program but relates to changes to the Department's sick leave pool policy.
2. The amendment does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The amendment does not require additional future legislative appropriations.
4. The amendment will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The amendment is not creating a new regulation.
6. The amendment does not repeal a rule.
7. The amendment will not increase or decrease the number of individuals subject to the rule's applicability.
8. The amendment will not negatively or positively affect the 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 the amendment and determined that the amendment 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 amendment 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 amendment as to its possible effects on local economies and has determined that for the first five years the amendment would be in effect there would 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 amendment is in effect, the public benefit anticipated as a result of the changed sections would be a clear policy relating to the Department's sick leave pool. There will not be economic costs to individuals required to comply with the amended section.

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 amendment is in effect, enforcing or administering the amendment does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENT. The public comment period was held between May 28, 2021, and June 28, 2021, to receive input on the proposed action. No comments were received.

STATUTORY AUTHORITY. The amendment is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the amended sections affect no other code, article, or statute.

§1.3, Sick Leave Pool

A sick leave pool is established to help alleviate hardship caused to an employee and employee's immediate family if a catastrophic illness or injury forces the employee to exhaust all accrued paid sick leave time earned by that employee and to lose compensation from the state.

(1) The Department's Human Resources Director is designated as the pool administrator.

(2) The pool administrator will recommend a policy, operating procedures, and forms for the administration of this section to the Executive Director for inclusion in the Department's Personnel Policies and Procedures Manual.

(3) Operation of the pool shall be consistent with ~~Texas~~ Tex. Gov't Code, Chapter 661, as amended.

1b

BOARD ACTION REQUEST

EXECUTIVE DIVISION

JULY 8, 2021

Presentation, discussion, and possible action on an order adopting new 10 TAC Chapter 5, Section 8 Housing Choice Voucher Program, §5.802, Waiting List

RECOMMENDED ACTION

WHEREAS, pursuant to Tex. Gov't Code §2306.053, the Texas Department of Housing and Community Affairs (the Department) is authorized to adopt rules governing the administration of the Department and its programs;

WHEREAS, the Department operates a Section 8 Housing Choice Voucher Program and anticipates that it will soon be in the position to open its waiting list in certain counties where it has jurisdiction;

WHEREAS, a transparent policy to direct the Department's opening of its waiting list is needed and was proposed as a new rule at 10 TAC §5.802; and

WHEREAS, the proposed new rule was released for public comment and no comment has been received;

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 new 10 TAC Chapter 5, Section 8 Housing Choice Voucher Program, §5.802, Waiting List, in the form presented to this meeting, to be submitted to *Texas Register* for adoption 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

The Department operates its Housing Choice Voucher Program with three general pools of vouchers:

- Project Access (PA) vouchers: PA vouchers are sourced from several streams of funds from HUD which allow persons exiting institutions to transition into a community setting. PA vouchers are offered available statewide and have a waiting list that is always open, meaning that the Department is always accepting applications for these vouchers.
- Special Purpose Vouchers: The Department currently operates project-based Veterans Administration Supportive Housing (VASH) vouchers at the Department's only project-based Section 8 property, Freedom's Path at Kerrville and a small number of tenant-based VASH vouchers in the Galveston area. These VASH vouchers have separate and distinct

open waiting lists only for those limited clientele. The Department has also been awarded Emergency Housing Vouchers, primarily to serve the homeless population, which will have one or more separate waiting lists for geographic and limited clientele.

- PHA Jurisdictional Vouchers: These are the bulk of the Department's permanent vouchers and are limited to certain geographic areas. The waiting list for these areas has not been opened in many years. This population of vouchers is the one that is the subject of this Board action.

Excluding Project Access and Special Purpose Vouchers, the Department has had a history of covering a mix of somewhat scattered counties, with those areas contracting or expanding through absorption over time. Since 2016 this list has been established with 34 counties (listed in Attachment 1).

For many years the Department operated multiple waiting lists from across those counties. While these waiting lists were closed years ago, remaining interested tenants awaiting a voucher were still retained on those lists and when a voucher became available it was offered to those tenants. Other areas within the Department's 34-county jurisdiction no longer had remaining tenants on a waiting list. As the lists have been depleted through gradual issuance of vouchers and each of those waiting lists has been exhausted, those areas have been combined into one area.

The Department is now reaching a point where it will be able to open its waiting list for its 34-county jurisdictional area (or current area at the time of opening the waiting list). As such, it is important to make sure that the policies associated with that waiting list being opened are transparent and open for public comment. Therefore staff is recommending the attached rule to codify the waiting list policy. The proposed rule will be released for public comment and returned to the Board for adoption.

The rule proposed addresses how the opening of the waiting list will be announced in the 34-county area, affirmative outreach and marketing, how the waiting list process will be operationalized, language access considerations, reasonable accommodations, how households will be issued vouchers from the list, and notifications to households.

It should be noted that the Department has a robust PHA Administrative Plan that provides quite granular detail in the program's operations and policies. This PHA Administrative Plan is approved by HUD and available on the Department's website.

This rule was made available for public comment and no comment was received. Staff is recommending adoption with no changes.

Attachment 1
TDHCA's PHA Jurisdictional Voucher List

The Department's jurisdiction list of 34 counties is identified for whole counties, with the exception that the Department will not serve a part of a county that is within another PHA's Section 8 Program jurisdiction, noted in the list below when such cases are applicable. Areas are subject to change if TDHCA no longer serves the denoted jurisdiction or is asked by HUD or another Housing Authority to serve another jurisdiction.

Atascosa County (excluding the jurisdiction of Pleasanton Housing Authority's Section 8 Program)
Austin County
Bandera County
Bosque County
Caldwell County
Chambers County
Colorado County
Comal County (excluding the jurisdiction of New Braunfels Housing Authority's Section 8 Program)
Comanche County
Crockett County
Denton County (excluding the jurisdiction of the City of Denton Housing Authority's Section 8 Program)
Ellis County
Erath County
Falls County
Fort Bend County (excluding the jurisdiction of Rosenberg Housing Authority's Section 8 Program)
Freestone County
Frio County (excluding the jurisdictions of Pearsall and Dilley Housing Authority's Section 8 Program)
Galveston County (excluding the jurisdiction of Texas City and City of Galveston Housing Authority's Section 8 Program)
Gillespie County
City of Navasota in Grimes County (excludes the jurisdiction outside of the City of Navasota which is served by the Brazos Valley Council of Government Housing Authority's Section 8 Program)
Guadalupe County (excluding the jurisdictions of Seguin and Schertz Housing Authority's Section 8 Program)
Johnson County (excluding the jurisdiction of City of Cleburne Housing Authority's Section 8 Program)
Karnes County (excluding the jurisdiction of Kennedy Housing Authority's Section 8 Program)
Kendall County (excluding the jurisdiction of Boerne Housing Authority's Section 8 Program)
Kerr County
Lee County
Llano County
McLennan County (excluding the jurisdiction of Waco Housing Authority's Section 8 Program)
McMullen County
Medina County (excluding the jurisdiction of Devine Housing Authority's Section 8 Program)
Waller County
Wharton County
Wilson County (excluding the jurisdiction of Floresville Housing Authority's Section 8 Program)
Wise County

Attachment 2: Preamble for adopting new 10 TAC Chapter 5, Section 8 Housing Choice Voucher Program, §5.802, Waiting List

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC Chapter 5, Section 8 Housing Choice Voucher Program, §5.802, Waiting List, without changes. The purpose of the rule is to provide how the Department, in its role as a public housing authority, will handle the waiting list in its 34-county jurisdiction including how the opening of the waiting list will be announced, affirmative outreach and marketing, how the waiting list process will be operationalized, language access considerations, reasonable accommodations, how households will be issued vouchers from the list, and notifications to households.

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 apply to the rule being adopted and no exceptions are applicable. While there are outreach and advertising costs associated with the opening of a PHA waiting list, these outreach and marketing steps are required by the U.S. Department of Housing and Urban Development (HUD) and are therefore necessary to ensure federal compliance. All costs are paid for by the federal administrative funds associated with the vouchers.

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 relates to the process used to accept applications for an existing program, the Section 8 Housing Choice Voucher (HCV) program.
2. 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, however it is not placing regulatory requirements on any other parties, but merely providing for the transparent process used in the existing HCV program.
6. The action will not repeal any rule.
7. The rule will not increase or decrease the number of individuals subject to the rule's applicability as the rule merely provides the methods by which an applicant can apply for a HCV voucher.
8. The proposed 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 proposed 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 the administration of the Department's waiting list. 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 action is in effect, enforcing or administering the rule has minimal implications related to costs or revenues of the state or local governments. There are outreach and advertising costs associated with the opening of a PHA waiting list which are required by HUD and necessary to ensure federal compliance. All costs are paid for by the federal administrative funds associated with the vouchers.

SUMMARY OF PUBLIC COMMENT. The public comment period was held from May 28, 2021, to June 28, 2021, to receive input on the proposed rule. No comments were received and the rule is adopted with no changes.

STATUTORY AUTHORITY. The rule is adopted pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the rule affect no other code, article, or statute.

§5.802, Waiting List

(a) Purpose.

The U.S. Department of Housing and Urban Development (HUD) requires that the Texas Department of Housing and Community Affairs (the Department), in its role as a public housing authority (PHA) administering a Housing Choice Voucher (HCV) program, adopt a clear approach to accepting applications, placing households on the waiting list, and selecting households from the waiting list. This rule provides the Department's policies for taking applications, managing the waiting list and selecting households for HCV assistance specifically for its 34-county jurisdictional area.

(b) Applicability.

(1) This rule is applicable only to the specific geographically limited jurisdiction of the Department. This jurisdictional area is comprised of discrete areas within counties (currently 34), but may be expanded or reduced upon action of the Board. The jurisdictional area reflected on the Department's website will serve as the jurisdictional area for the purpose of this rule.

(2) This rule does not apply to the waiting list for statewide Project Access vouchers which is addressed in §5.801 of this chapter. The rule does not address the specific waiting list process for project-based vouchers administered by the Department or for VASH vouchers administered by the Department. Should any special purpose vouchers be received by the Department that serve specific populations or geographic areas other than the geographically limited jurisdiction of the Department referenced in paragraph (1) of this subsection, these waiting lists policies are not required to be utilized. Additionally, certain households might be accepted into the HCV program if required by 24 CFR §982.203, or at the direction of HUD, as directed by a court of law, or as part of a TDHCA conciliation agreement.

(c) Definitions and HUD Regulations.

(1) While the HUD regulations in 24 CFR Parts 5, §§ 903 and 982 use the word "family," in order to be consistent with other rules in this Part, this rule will use the word "household." Both words are intended to have the same meaning.

(2) Nothing in this rule is intended to conflict with federal statutes or regulations that govern the HCV assistance. If HUD mandates a process or procedure to be used for application or waiting list management that is not identified in this rule, the Department will follow HUD's direction and will amend this rule as soon as practicable.

(d) Outreach and Affirmative Marketing.

(1) HUD regulations require that all households have an equal opportunity to apply for and receive housing assistance, and that the PHA affirmatively further fair housing goals in the administration of the program [24 CFR §982.53].

(2) The Department will conduct sufficient outreach to ensure that a sufficient number of applications will be received. HUD requires that at least 75% of the households served by the Department are extremely low-income households, and therefore the Department may need to conduct special outreach to ensure that an adequate number of extremely low-income households apply for assistance. All outreach will specify the number of households that will be accepted onto the waiting list.

(3) All outreach efforts relating to the opening of the waiting list will take place at least 7 calendar days prior to the first day of the application acceptance period, but no longer than 45 calendar days prior to the first day of the application acceptance period.

(4) Prior to performing outreach efforts for the opening of the waiting list, the Department will analyze the characteristics of the population being served by the program and the characteristics of the population as a whole in the PHA's jurisdiction to identify underserved populations. Targeted outreach efforts will be undertaken if a comparison suggests that certain populations are underrepresented in the program. Outreach materials will be provided in English, Spanish, and any other language as determined by a 4-factor analysis within each county service area.

(5) Outreach efforts will include:

(A) marketing through press releases to local newspapers, including minority newspapers;

(B) communicating with councils of governments, regional planning councils, and community action agencies, whose jurisdictions include any one of the counties in the jurisdiction of the Department, to:

(i) request that they distribute informational materials and flyers to their clients;

(ii) offer training so that they can assist households with submitting an online application;
and

(iii) request that they make available a computer or web interface for clients to apply.

(C) developing partnerships with other organizations that serve the low-income population and agencies that provide services to elderly persons, people with disabilities, and people with Limited English proficiency (LEP); and

(D) clear guidance on how a person with a disability can request a reasonable accommodation for the application process.

(6) The Department will maintain a designated telephone number where interested persons can receive specific directions on how and when to apply.

(e) Application.

(1) The Department will utilize an electronic application process available in multiple languages.

(2) Any household that wishes to receive HCV assistance must apply for admission to the program.

(3) All applications must be received through the Department's online application tool. Applications received in the mail or by hand delivery will not be considered.

(4) To be placed on the waiting list only an initial pre-application is required to be submitted. However, the Department may elect to skip the pre-application and use only the full application. Only when an applicant is being pulled from the waiting list to be offered a voucher will a full application submission be required. Form HUD-92006, Supplement to Application for Federally Assisted Housing, must be submitted as an attachment to the Department's full application. A household must submit the completed pre-application or application to ensure that the Department receives the information needed to determine the household's eligibility.

(5) Application Acceptance Period. Applications will be accepted for a 14 calendar day period.

(6) Individuals who have a disability which would prevent them from making an application online may call the Department to make special arrangements so that Department staff can complete their application in time to be included in the lottery process. A Telecommunications Device for the Deaf (TDD) is available for the deaf.

(f) Placement on Waiting List.

- (1) No applicant has a right or entitlement to be listed on the waiting list, or to any particular position on the waiting list [24 CFR §982.202(c)].
- (2) Placement on the waiting list does not indicate that the household is, in fact, eligible for assistance. A final determination of eligibility will be made when the household is selected from the waiting list.
- (3) Creation of Waiting List. The Department will establish a single waiting list for its jurisdictional area. The Department will announce in its outreach documents the total number of households it will place on its waiting list. Except for households on a project-based waiting list, all households that are on a special purpose waiting list at the beginning of the application acceptance period and that wish to live in the Department's jurisdictional area will be placed first on the jurisdictional waiting list based on the time they have been on the special purpose waiting list (i.e. oldest time on any special purpose waiting list gets assigned the first number). All other applications received during the application acceptance period will be assigned a number using a random number generator, called a lottery process. These applications will then be placed in numerical order according to that assigned number. The Department will then place applicants on the waiting list up to the number of households the Department announced it would accept on its waiting list in rising numerical order (inclusive of the households automatically placed on the jurisdictional waiting list because they were on a special purpose waiting list at the beginning of the application acceptance period). All other applications not within the number being accepted on the wait list will not be placed on the waiting list. All applications submitted will be notified in writing of having been added to the waiting list and their number ranking, or that they were not placed on the waiting list.
- (4) Ineligible for Placement on the Waiting List. If the Department can determine from the information provided that a household is ineligible, the household will not be placed on the waiting list or be able to participate in the lottery process described in this section for placement on the waiting list. Where a household is determined to be ineligible, the Department will send written notification of the ineligibility determination within 14 calendar days of receiving the complete application from the Department at the Department headquarters [24 CFR §982.201(f)]. The notice will specify the reasons for ineligibility, and will inform the household of its right to request an informal review and explain the process for doing so.
- (5) Applicants with Special Purpose Characteristics. The application for the jurisdictional waiting list will ask if the household qualifies for any of the open special purpose waiting lists that the Department maintains, except for a project-based waiting list or a waiting list in which a household may not directly apply. The applicant household, if qualified, may be added to one or more special purpose waiting lists at the end of the application acceptance period, but this will not impact their lottery number for the jurisdictional waiting list.
- (5) If the Department permanently absorbs vouchers from another housing authority and is reassigned the contract by HUD, the waiting list from the other housing authority will be maintained, in its existing order, but will not be further expanded. That waiting list will be treated as separate from the rest of the Department's waiting list until it has been depleted. If after absorption of that area, the Department opens its jurisdictional waiting list, applicants located in the absorbed area will be eligible to also apply to this waiting list.

(g) Selection of Households from the Waiting List

(1) The actual order in which households are selected from the waiting list can be affected if a household has certain characteristics designated by HUD or the Department to receive preferential treatment, such as being impacted by a particular declared disaster. Funding earmarked exclusively for households with particular characteristics may also alter the order in which households are served. HUD requires that extremely low-income (ELI) households make up at least 75% of the households admitted to the HCV program during the Department's fiscal year. ELI households are those with annual incomes at or below 30% of the area median income. To ensure this requirement is met, the Department may skip non-ELI household on the waiting list in order to select an ELI household. [24 CFR §982.201(b)(2)]. The skipped non-ELI household will retain its position on the waiting list. Low-income households admitted to the program that are "continuously assisted" under the 1937 Housing Act [24 CFR 982.4(b)], as well as low-income or moderate-income households admitted to the program that are displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing, are not counted for income targeting purposes [24 CFR §982.201(b)(2)(v)].

(3) When a voucher becomes available, the Department will select the household at the top of the waiting list. The order of admission from the waiting list IS NOT based on household size, or on the household unit size for which the household qualifies under the occupancy guidelines. If the Department does not have sufficient funds to subsidize the household unit size of the household at the top of the waiting list, the Department WILL NOT skip the top household to admit an applicant with a smaller household unit size. Instead, the household at the top of the waiting list will be admitted when sufficient funds are available. [24 CFR §982.204(d) and (e)].

(4) When a household comes to the top of the waiting list and the Department is ready to issue a voucher, the household will be notified and required to complete the full application. The household will also be required to complete a Personal Declaration Form. A household that does not respond to the request for full application more than three times will be sent a notice consistent with program policies removing them from the waiting list.

(5) A household's decision to apply for, receive, or refuse non-PHA federal, state, or local housing assistance will not affect the household's placement on the jurisdictional waiting list, or any preferences for which the household may qualify, except as specified in §5.801 of this chapter.

(h) Reporting Changes in Household Circumstances While On the Waiting List

While a household is on the waiting list, the household must immediately inform the Department of changes in contact information, including current residence, mailing address, and phone number. The changes must be submitted in writing. Failure to provide this information may prevent the Department from being able to reach a household if a voucher becomes available and may result in removal from the waiting list.

(i) Updating of the Waiting List and Removal from the Waiting List

(1) To insure that the Department's waiting list reflects the most current applicant information the waiting list may be updated no less than every twelve months.

(2) Process.

(A) To update the waiting list, the Department will send an update request to each household on the waiting list to determine whether the household continues to be interested in, and qualifies for, the program. This update request will be sent to the last address on record for the household and to any email address provided by the household.

(B) The update request will provide a deadline by which the household must respond, which will be approximately 10 days from the date the letter is sent, and will state that failure to respond will result in the applicant's name being removed from the waiting list.

(C) The household's response to the Department must be in writing and may be delivered, by mail, or by email. Responses should be postmarked or received by the Department no later than the deadline specified in the Department's letter.

(D) If the household fails to respond by the specified deadline, the household will be removed from the waiting list without further notice. If the notice is returned to the Department by the post office with no forwarding address, the applicant will be removed from the waiting list without further notice. If the notice is returned to the Department by the post office with a forwarding address, the notice will be re-sent to the address indicated. The household will have a new deadline specified by which to respond.

(3) Removal from the Waiting List.

(A) If a household is removed from the waiting list for failure to respond, the Department may reinstate the household to their former position on the waiting list if it determines that the lack of response was due to Department error, or to circumstances beyond the household's control. Greater flexibility in this criteria may be provided as a reasonable accommodation.

(B) If a household is removed from the waiting list because they have failed to respond to the Department's request for more information/updates or the Department has determined that they are no longer eligible for assistance, a notice will be sent to the household's address of record as well as to any alternate address or email address provided on the initial application. The notice will state the reasons the household was removed from the waiting list and will inform the household that they have 10 calendar days from the date of the written correspondence to request an informal review of the Department's decision [24 CFR §982.201(f)].

(C) If a household accepts a tenant-based public housing voucher from the Department, the household will be removed from all tenant-based public housing Department waiting lists.

ACTION ITEMS

3

ORAL PRESENTATION

4

**TO BE POSTED
NOT LATER THAN
THE THIRD DAY
BEFORE THE
DATE OF THE
MEETING**

5

BOARD ACTION REQUEST
HOUSING RESOURCE CENTER
JULY 8, 2021

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

RECOMMENDED ACTION

WHEREAS, Tex. Gov't Code §§2306.1115 and 2306.111(d) require that the Texas Department of Housing and Community Affairs (TDHCA or the Department) use a Regional Allocation Formula (RAF) to allocate its HOME Investment Partnerships (HOME) Program, Housing Tax Credit (HTC) Program, and under certain circumstances, Housing Trust Fund (HTF) Program funding;

WHEREAS, the proposed RAF Methodology utilizes appropriate statistical data to measure affordable housing needs, available housing resources, and other factors determined by the Department to be relevant to the equitable distribution of housing funds in the urban and rural areas of the 13 State Service Regions used for planning purposes; and

WHEREAS, the proposed RAF Methodology was approved by the Governing Board of the Department at the meeting of May 13, 2021, and was available for public comment through June 24, 2021, and no public comment was received;

NOW, therefore, it is hereby

RESOLVED, that the 2022 RAF Methodology for the HOME, HTC, and, as applicable, HTF programs, in the form presented at this meeting, is hereby approved.

BACKGROUND

The Regional Allocation Formula (RAF) utilizes appropriate statistical data to measure the affordable housing need and available resources in the 13 State Service Regions that are used for planning purposes. It also allocates funding to rural and urban areas within each region. The Department has flexibility in determining variables to be used in the RAF, per Tex. Gov't Code §2306.1115(a)(3), "the department shall develop a formula that...includes other factors determined by the department to be relevant to the equitable distribution of housing funds."

The RAF is revised annually to reflect current data, respond to public comment, and better assess regional housing needs and available resources. In prior RAF cycles the RAF Methodology was updated to refine the use of Metropolitan Statistical Areas (MSAs) by using "MSA counties with urban places" and "Non-MSA counties or counties with only rural places" instead of using just MSA and Non-MSA counties to allocate between urban and rural areas. This accounts for the fact that

even though a county may be a part of an MSA, all the places within that county may meet the definition of rural per Tex. Gov't Code §2306.004(28-a). Based on public comment in previous cycles, factors for lack of kitchen and plumbing facilities were added to the RAF Methodology to measure housing need for Single Family activities. An additional factor called the Regional Coverage Factor was added to the RAF Methodology during the 2016 RAF cycle for Single Family activities. The Regional Coverage Factor takes into account the smaller populations of rural areas as well as scattered locations of single family projects, instead of relying solely on population as an absolute.

The 2022 RAF Methodology explains the use of factors, in keeping with the statutory requirements, which include the need for housing assistance, the availability of housing resources, and other factors relevant to the equitable distribution of housing funds in urban and rural areas of the state.

The Single Family HOME, Multifamily HOME, HTC, and HTF program RAFs each use slightly different formulas because the programs have different eligible activities, households, and geographical service areas. For example, Tex. Gov't Code §2306.111(c) requires that 95% of HOME funding be set aside for non-participating jurisdictions (non-PJs). Therefore, the Single Family and Multifamily HOME RAFs only use need and available resource data for non-PJs.

The draft 2022 RAF Methodology was made available for public comment from Monday, May 24, 2021, through Thursday, June 24, 2021, at 5:00 p.m. Austin local time. A public hearing for the draft 2022 RAF Methodology was held on Wednesday, June, 2, at 2:00 p.m. via webinar. No public comment was received.

The following Attachments are provided:

- A. 2022 RAF Methodology
- B. Example 2022 HOME SF RAF
- C. Example 2022 HTF RAF
- D. Example 2022 HOME MF RAF
- E. Example 2022 HTC RAF

Staff recommends approving the 2022 RAF Methodology as presented at the board meeting of July 8, 2021. Once approved, the 2022 RAF Methodology will be published on the Department's website. **It should be noted with this action that the Board is approving the methodology, not specific allocation amounts. Total available program amounts will be applied to this adopted methodology and regional allocation amounts made available by each program.**

To the extent funds received/proposed to be used fall below the statutory minimum for any program/activity, or if the proposed activities fall into a statutory exception, the RAF will not be used for the program/activity in question.

2022 Regional Allocation Formula Methodology

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Introduction

Since 2000, the Texas Department of Housing and Community Affairs (TDHCA or the Department) has used a Regional Allocation Formula (RAF) to allocate funding at the regional and subregional level for multifamily and single-family activities. The RAF is required by Tex. Gov't Code §§2306.111 and 2306.1115. It allocates funding for the following programs:

Multifamily Programs:

Housing Tax Credit (HTC) Program

HOME Investment Partnerships Program (HOME) Multifamily (MF)

Single Family Programs:

Housing Trust Fund (HTF) Program*

HOME Single Family (SF)

* The RAF is not required to be utilized for HTF as authorized by Tex. Gov't Code §2306.111(d-1). HTF is funded through state general revenue and is not to be confused with the federally funded National Housing Trust Fund (NHTF).

The following methodology explains how the RAF meets statutory requirements by accounting for housing need, housing resource availability, and other factors relevant to the equitable distribution of housing funds in urban and rural areas of the state.

The methodology also includes example allocation spreadsheets for each of the four programs subject to the RAF. These spreadsheets demonstrate how the methodology affects each program. The provided spreadsheets utilize the following total allocation amounts:

Program	Example Total Allocation
HTC	\$65,000,000
HOME Multifamily	\$12,500,000
HTF	\$3,000,000
HOME Single Family	\$15,000,000

These allocation amounts are only examples. After approval of the RAF Methodology by the TDHCA Governing Board, Program area staff calculate the final allocation amounts according to the most recent information on funding availability. Other planning considerations may also alter the final allocations provided by the RAF. For example, certain HOME SF activities may not release funds subregionally using the RAF. In addition, per Tex. Gov't Code §2306.111(d-1)(3), if HTF funds administered by the Department (and not otherwise set aside) do not exceed \$3 million, then HTF funds are not required to be allocated using the RAF.

The draft 2022 RAF Methodology was presented at the May 13, 2021, TDHCA Board meeting for approval to be released for public comment. A public comment period was open from Monday, May 24, 2021, through Thursday, June 24, 2021 at 5:00 pm Austin local time. A virtual public hearing for the draft 2022 RAF Methodology was held at 2:00 p.m. Austin local time on Wednesday, June 2, 2021, over the GoToWebinar service. The draft 2022 RAF Methodology received no public comment.

Statutory Requirement

Tex. Gov't Code §§2306.111 and 2306.1115 require that TDHCA use a formula to allocate funding for the HOME, HTF, and HTC programs.

Tex. Gov't Code §2306.1115 states:

(a) To allocate housing funds under Section 2306.111(d), the department shall develop a formula that:

(1) includes as a factor the need for housing assistance and the availability of housing resources in an urban area or rural area;

(2) provides for allocations that are consistent with applicable federal and state requirements and limitations; and

(3) includes other factors determined by the department to be relevant to the equitable distribution of housing funds under Section 2306.111(d).

(b) The department shall use information contained in its annual state low income housing plan and other appropriate data to develop the formula under this section.

The methodology detailed in this document evaluates both housing need and housing availability in urban and rural areas, as required by statute for the HOME SF, HOME MF, HTF, and HTC programs. The methodology also includes a regional coverage factor for single family programs. This coverage factor utilizes an inverse population density function to help distribute single family program funding to more rural areas of the state in accordance with the statutory requirements.

Urban and Rural Areas

Tex. Gov't Code §2306.004 states:

(28-a) "Rural area" means an area that is located:

(A) outside the boundaries of a primary metropolitan statistical area or a metropolitan statistical area; or

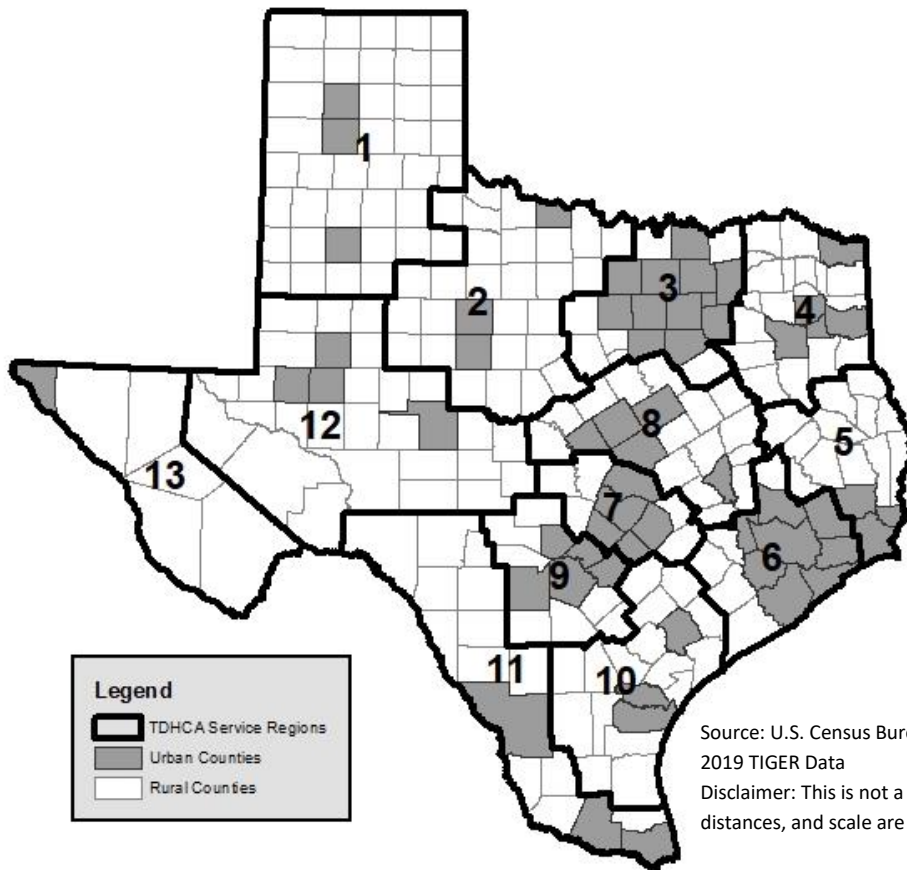
(B) within the boundaries of a primary metropolitan statistical area or a metropolitan statistical area, if the statistical area has a population of 25,000 or less and does not share a boundary with an urban area.

Tex. Gov't Code §2306.004(28-a) is applied to incorporated places and Census Designated Places, as defined by the U.S. Census Bureau, collectively referred to as places. Prior to the development of the RAF each year, the parameters outlined in Tex. Gov't Code are used to determine which of these places are urban and which are rural. Organizations applying for certain site-specific TDHCA-administered funds use the urban and rural place designations to determine which subregional allocation they are eligible to apply for. If the site is located in an urban place, then that organization applies for funds allocated to the urban subregion of their region, while organizations requesting funds for sites in rural places would apply for rural subregional funds. For non-site specific funds, if a place crosses county or regional boundaries, then that place's subregion (urban or rural) is determined by the county that contains the majority area and population of the place.

Additionally, the RAF must account for the statewide need for and availability of housing. If the RAF only analyzed data from places, many unincorporated parts of the state would not be included, which would significantly hinder the RAF’s utility as an equitable allocation tool. For this reason, the RAF uses county-level data to measure statewide housing need and to calculate subregional allocations. This allows for a more complete picture of the state’s demographics in determining allocations.

Even if a county contains a Metropolitan Statistical Area (MSA) per the U.S. Office of Management and Budget (OMB) definitions, it’s possible that all the places within that county meet the definition of a rural area per Tex. Gov’t Code §2306.004(28-a). Therefore, if an MSA county has no places designated as urban, the need and availability of the whole county will be counted toward the rural allocation (*i.e.*, the MSA county had no places with a population over 25,000 or places touching a boundary of a place with a population over 25,000). The allocation process outlined in this document refers to “MSA counties with urban places” as “urban counties” and “Non-MSA counties and counties with only rural places” as “rural counties.” The need and availability of “MSA counties with urban places” directs the allocation toward the urban places, and the need and availability of “Non-MSA counties and counties with only rural places” directs the allocation toward the rural places.

Map of Urban and Rural Counties in Texas by Region



Source: U.S. Census Bureau, 2015-2019 ACS Data, 2019 TIGER Data
 Disclaimer: This is not a survey product, boundaries, distances, and scale are approximate only

Methodology

For many of the RAF's variables, the Department uses the most recent American Community Survey (ACS) 5-Year Estimates data available. Land area data are not available in the annually released ACS; therefore, decennial census data must be used for the Regional Coverage Factor. The RAF currently uses the 2010 Decennial Census SF1 tables for land area.

Affordable Housing Need

For the purposes of developing an allocation formula, affordable housing need is measured through variables that correspond with the assistance provided by each specific TDHCA program. Despite HTF not currently utilizing the RAF, HTF is included in the RAF methodology description if funding levels or programmatic changes require the RAF to be utilized for this program.

Income

Income is the primary measurement of eligibility for housing assistance through TDHCA. HOME, HTC, and HTF serve households that earn less than or equal to 80% Area Median Family Income (AMFI). While eligibility for housing assistance is measured by AMFI, the Comprehensive Housing Affordability Strategy (CHAS) datasets that estimate the number of households in each AMFI category lag behind the poverty data included in the ACS by one year. In order to use the most up-to-date data, the RAF will incorporate ACS data for number of individuals at or below 200% of the poverty level to help calculate affordable housing need. Individuals at or below 200% of the poverty level will qualify for a majority of the housing assistance options offered through TDHCA's HOME, HTC, and HTF programs. The ACS collects income data by individual and housing data by household. Therefore, to ensure that data on *individuals* in poverty can be accurately weighted with data on cost burdened and overcrowded *households* to calculate affordable housing need, the income data must be converted to *households* at or below 200% of poverty. To do this, the number of individuals at or below 200% poverty in each subregion is divided by the average size of a household in Texas. The number of households at or below 200% poverty is included as a variable in all four program RAFs.

Cost Burden and Overcrowding

Renter and owner need for housing assistance is measured through cost burden and overcrowding conditions. The RAF defines a cost-burdened household as one that spends 30% or more of their monthly income on rent or homeowner costs (for homeowners with a mortgage), which is a common measure of unaffordable housing. The RAF considers an overcrowded housing unit to be one that contains more than one person per room, including the kitchen and bathroom. Areas with high cost burden or overcrowding may signify a need for assistance.

Many of TDHCA's programs aim to assist households that are cost-burdened or overcrowded. HTC and HOME MF both offer assistance for reduced-rent apartments. HOME SF offers Tenant-Based Rental Assistance, which pays a portion of a recipient's rent to their landlord. HTF offers the Amy Young Barrier Removal Program, which can serve both renters and homeowners. Therefore, variables representing renters who need assistance are included in the analysis for all four program RAFs.

HOME SF offers homebuyer assistance, home repair assistance, and single family development programs. For home repair, HOME SF offers grants and no-interest loans to homeowners to rehabilitate or reconstruct their homes. For single family development, typically the homes are built by Community Housing Development Organizations (CHDOs) and purchased by low-income homeowners. HTF offers the Amy Young Barrier Removal Program, which can be used for homeowners (as well as renters), and the Bootstrap Loan Program for potential homeowners who use “sweat equity” and low- to no-interest loans to build and secure ownership of their homes. Therefore, variables representing homeowners who need assistance are included in the HOME SF and HTF RAFs.

Lack of Kitchen and Plumbing Facilities

HOME SF offers homeowner rehabilitation or reconstruction assistance. HTF includes activities for the rehabilitation, such as the Amy Young Barrier Removal Program. Since TDHCA programs fund the rehabilitation of substandard housing, the RAF includes measures for substandard housing. Common definitions of substandard housing include lack of operable indoor plumbing, usable flush toilets, usable bathtub or shower, safe electricity, safe or adequate source of heat, or kitchen facilities. Data regarding total units lacking kitchen facilities or plumbing are the only data available on both an annual basis and at a county level. The count of occupied and unoccupied units lacking kitchen facilities and the count of occupied and unoccupied units lacking plumbing are utilized in the HOME SF and HTF RAFs.

Summary of Affordable Housing Need for Single Family and Multifamily Activities

The extent of Texans needing affordable housing is measured using five variables for single family activities:

- Cost burdened renter and owner households;
- Overcrowded renter and owner households;
- Housing units lacking kitchen facilities;
- Housing units lacking plumbing; and
- Individuals at or below 200% of the poverty rate.

The extent of Texans needing affordable housing is measured using three variables for multifamily activities:

- Cost burdened renter households;
- Overcrowded renter households; and
- Individuals at or below 200% of the poverty rate.

Housing Availability

Housing availability is included to measure where existing housing resources are located. Since this includes both market-rate and subsidized units, the RAF uses vacancies as a common measurement for housing availability. A high number of vacancies may indicate that a market has an adequate or a potentially abundant supply of housing. The HOME SF and HTF RAFs incorporate both units for rent and units for sale only into their housing availability measure, while the HOME MF and HTC RAFs only incorporate units for rent.

Regional Coverage Factor

The RAF uses inverse population density to generate a regional coverage factor. Population density measures the average number of people located in a defined area (i.e. persons per square mile). This is calculated by dividing the number of people in a geographic area by the area of the land in that area. In this way, population density can be used to compare the population size of geographic areas with different dimensions. A high population density means that a geographic area has higher population relative to its available land area. Contrarily, inverse population density measures the amount of land in a geographic area per person in that area (i.e. square miles per person). This is calculated by dividing the land area by the number of people that live in that area. A high inverse population density means that a geographic area has more land area relative to its population size. In this way, high population density generally corresponds to urban regions, while high inverse population generally corresponds to more rural regions.

Inverse population density is included in the HOME SF and HTF RAFs as a Regional Coverage Factor to consider the distance between scattered-site single family activities. This includes accounting for the dispersed population within the predominantly rural areas where HOME SF and HTF administrators provide assistance. TDHCA's multifamily programs generally focus development on a single site, so the Regional Coverage Factor is not as pertinent to multifamily program allocation. The Regional Coverage Factor assists in redistributing single family program funding from urban areas to more rural parts of the state. This better aligns funding availability with the statutory requirement that 95% of HOME funds be allocated for the benefit of those areas of the state that do not receive HOME funds directly from the U.S. Department of Housing and Urban Development (HUD), primarily smaller cities and rural areas (per Tex. Gov't Code §2306.111).

Summary of Variables

The following chart shows which need, availability, and other variables are used in the RAF Methodology for each of the four applicable programs.

		Multifamily Programs		Single Family Programs	
		HTC	HOME MF	HTF	HOME SF
Need Variables	<i>Cost Burdened Renter Households</i>	✓	✓	✓	✓
	<i>Cost Burdened Owner Households</i>			✓	✓
	<i>Overcrowded Renter Households</i>	✓	✓	✓	✓
	<i>Overcrowded Owner Households</i>			✓	✓
	<i>Units Lacking Kitchen Facilities</i>			✓	✓
	<i>Units Lacking Plumbing Facilities</i>			✓	✓
	<i>Individuals at or Below 200% of Poverty</i>	✓	✓	✓	✓
	<i>Vacant Units for Rent</i>	✓	✓	✓	✓

		Multifamily Programs		Single Family Programs	
		HTC	HOME MF	HTF	HOME SF
Availability Variables	<i>Vacant Units for Sale</i>			✓	✓
Other	<i>Regional Coverage Factor</i>			✓	✓

Exceptions to the RAF

Per Tex. Gov't Code §2306.111, there are certain instances in which the RAF requirement does not apply to HOME MF, HOME SF, HTC, or HTF funds.

Set-Asides

Specific set-asides will not be subject to the RAF per Tex. Gov't Code §2306.111(d-1), including set-asides for contract-for-deed activities and set-asides mandated by state or federal law, if these set-asides are less than 10% of the total allocation of funds or credits. Set-asides for funds allocated to serve persons with disabilities will not be subject to the RAF. The total amount available through the RAF will not include funds for at-risk developments for the HTC Program or other statutorily created set-asides. Also pursuant to Tex. Gov't Code §2306.111(d-1), programmed activities for HTF that do not exceed \$3 million are not subject to the RAF. It is due to these exceptions that the HTF funds, as currently programmed, do not utilize the RAF.

In addition, per Tex. Gov't Code §2306.111(c)(2), 5% of State HOME funds must be spent on activities that serve persons with disabilities in any area of the State. This portion of HOME is not subject to the RAF because it is set-aside for persons with disabilities.

In Tex. Gov't Code §2306.111(d-2), 5% of HTC funds must be allocated to developments that receive federal assistance through USDA. Any developments that receive federal assistance through USDA and HTC for rehabilitation may compete for funding separately under the "USDA Set-Aside." This funding is taken from the total tax credit ceiling prior to applying the RAF.

Participating Jurisdictions (PJs)

PJs refer to geographic areas that are under the jurisdiction of local government entities that receive HOME funding directly from HUD. In accordance with Tex. Gov't Code §§2306.111(c)(1), 95% of the funds for HOME must be spent outside of PJs. Since 95% of HOME funds cannot be spent within a PJ, the housing need, availability, and coverage variables of PJs are not counted toward the subregional allocations for the HOME SF and HOME MF RAFs.

PJ designations are subject to change annually depending on HUD funding. According to HUD's 2020 HOME allocation, 33 of the PJs are cities and eight of the PJs are counties. Five PJ cities fell completely within PJ counties, resulting in a total of 28 PJ cities and eight PJ counties that will be subtracted from the HOME SF and HOME MF RAFs.

Allocation Adjustments

The HOME SF and HTC RAFs have subregional allocation adjustments under certain conditions. Tex. Gov't Code §2306.111(d-3) requires that at least \$500,000 in housing tax credits be allocated to each urban and rural subregion. In the HTC Program's 2019 Qualified Allocation Plan (QAP), the Department adopted an increase to the \$500,000 figure establishing a \$600,000 minimum for each region. In a further effort to meet Tex. Gov't Code §§2306.111(c)(1) and (2), the HOME SF RAF has a minimum subregional allocation of \$100,000. Additional detail regarding the processes used to adjust allocations for the HOME SF RAF and the HTC RAF can be found in the single family and multifamily RAF examples.

Single Family RAF Example

Tables 1, 2, and 3 show the need variables, availability variables, and regional coverage factor used in the HOME SF RAF. The HTF RAF is very similar to the HOME SF RAF with the exception that the HTF RAF includes PJs. Example numbers are used for illustrative purposes only. The statewide average household size in the following example is 2.82.

Table 1: Example of Need Variables Used for HOME SF, by Subregion

	Region	Column A:	Column B:	Column C: Cost	Column D: Cost	Column E:	Column F:	Column G:	Column H:	Column I:
		Individuals at or below 200% Poverty without PJs	Households (HH) at or below 200% Poverty without PJs	Burdened Owners without PJs	Burdened Renters without PJs	Overcrowded Owners without PJs	Overcrowded Renters without PJs	Units Lacking Plumbing without PJs	Units Lacking Kitchen without PJs	Total Need Variables
MSA Counties with Urban Places	1	150,000	53,191	1,500	15,000	3,000	2,000	4,000	6,000	84,691
	2	100,000	35,461	2,500	16,000	3,500	2,500	3,000	5,000	67,961
	3	150,000	53,191	1,500	15,000	3,000	2,000	4,000	6,000	84,691
	4	100,000	35,461	2,500	16,000	3,500	2,500	3,000	5,000	67,961
	5	150,000	53,191	1,500	15,000	3,000	2,000	4,000	6,000	84,691
	6	100,000	35,461	2,500	16,000	3,500	2,500	3,000	5,000	67,961
	7	150,000	53,191	1,500	15,000	3,000	2,000	4,000	6,000	84,691
	8	100,000	35,461	2,500	16,000	3,500	2,500	3,000	5,000	67,961
	9	150,000	53,191	1,500	15,000	3,000	2,000	4,000	6,000	84,691
	10	100,000	35,461	2,500	16,000	3,500	2,500	3,000	5,000	67,961
	11	150,000	53,191	1,500	15,000	3,000	2,000	4,000	6,000	84,691
	12	100,000	35,461	2,500	16,000	3,500	2,500	3,000	5,000	67,961
	13	150,000	53,191	1,500	15,000	3,000	2,000	4,000	6,000	84,691
Non-MSA counties and counties with only rural places	1	80,000	28,369	6,000	8,000	2,000	2,000	5,000	5,000	56,369
	2	60,000	21,277	9,000	5,000	1,000	1,000	7,000	7,000	51,277
	3	80,000	28,369	6,000	8,000	2,000	2,000	5,000	5,000	56,369
	4	60,000	21,277	9,000	5,000	1,000	1,000	7,000	7,000	51,277
	5	80,000	28,369	6,000	8,000	2,000	2,000	5,000	5,000	56,369
	6	60,000	21,277	9,000	5,000	1,000	1,000	7,000	7,000	51,277
	7	80,000	28,369	6,000	8,000	2,000	2,000	5,000	5,000	56,369
	8	60,000	21,277	9,000	5,000	1,000	1,000	7,000	7,000	51,277
	9	80,000	28,369	6,000	8,000	2,000	2,000	5,000	5,000	56,369
	10	60,000	21,277	9,000	5,000	1,000	1,000	7,000	7,000	51,277
	11	80,000	28,369	6,000	8,000	2,000	2,000	5,000	5,000	56,369
	12	60,000	21,277	9,000	5,000	1,000	1,000	7,000	7,000	51,277
	13	80,000	28,369	6,000	8,000	2,000	2,000	5,000	5,000	56,369
		Col A Total	Col B Total	Col C Total	Col D Total	Col E Total	Col F Total	Col G Total	Col H Total	Col I Total
State Total		2,570,000	911,348	121,500	287,000	62,000	49,000	123,000	149,000	1,702,848

Table 2: Example of Availability Variables Used for HOME SF, by Subregion

MSA Counties with urban places	Region	Column J: Vacant Units For Sale without PJs	Column K: Vacant Units For Rent without PJs	Column L: Total Availability Variables
	1	1,500	2,000	3,500
	2	1,000	3,000	4,000
	3	1,500	2,000	3,500
	4	1,000	3,000	4,000
	5	1,500	2,000	3,500
	6	1,000	3,000	4,000
	7	1,500	2,000	3,500
	8	1,000	3,000	4,000
	9	1,500	2,000	3,500
	10	1,000	3,000	4,000
	11	1,500	2,000	3,500
	12	1,000	3,000	4,000
13	1,500	2,000	3,500	

Non-MSA counties and counties with only rural places	Region	Column J: Vacant Units For Sale without PJs	Column K: Vacant Units For Rent without PJs	Column L: Total Availability Variables
	1	1,500	2,000	3,500
	2	2,000	2,500	4,500
	3	1,500	2,000	3,500
	4	2,000	2,500	4,500
	5	1,500	2,000	3,500
	6	2,000	2,500	4,500
	7	1,500	2,000	3,500
	8	2,000	2,500	4,500
	9	1,500	2,000	3,500
	10	2,000	2,500	4,500
	11	1,500	2,000	3,500
	12	2,000	2,500	4,500
13	1,500	2,000	3,500	

	Column J Total	Column K Total	Column L Total
State Total	39,000	61,000	100,000

Table 3: Example of Regional Coverage Factor used for HOME SF, by Subregion

MSA Counties with urban places	Region	Column M: Land area without PJs	Column N: Total Population without PJs	Column O: Regional Coverage Factor
	1	3,000	350,000	0.009
	2	2,000	250,000	0.008
	3	3,000	350,000	0.009
	4	2,000	250,000	0.008
	5	3,000	350,000	0.009
	6	2,000	250,000	0.008
	7	3,000	350,000	0.009
	8	2,000	250,000	0.008
	9	3,000	350,000	0.009
	10	2,000	250,000	0.008
	11	3,000	350,000	0.009
	12	2,000	250,000	0.008
13	3,000	350,000	0.009	

Non-MSA counties and counties with only rural places	Region	Column M: Land area without PJs	Column N: Total Population without PJs	Column O: Regional Coverage Factor
	1	15,000	200,000	0.075
	2	13,000	300,000	0.043
	3	15,000	200,000	0.075
	4	13,000	300,000	0.043
	5	15,000	200,000	0.075
	6	13,000	300,000	0.043
	7	15,000	200,000	0.075
	8	13,000	300,000	0.043
	9	15,000	200,000	0.075
	10	13,000	300,000	0.043
	11	15,000	200,000	0.075
	12	13,000	300,000	0.043
13	15,000	200,000	0.075	

	Column M Total	Column N Total	Column O Total
State Total	216,000	7,150,000	0.893

Compounded Need

To allocate funds, the RAF compares each subregion's total need to the state's total need. All of the housing need variables are added together. Then, each subregion's total need is taken as a percentage of the amount of total need in the state. Table 1, Column I, illustrates how the Total Need Variables are derived: households at 200% of poverty, cost burdened owner and renter households, overcrowded owner and renter households, units lacking kitchen facilities, and units lacking plumbing facilities are added together, thereby compounding the need.

This compounding balances the relative importance of the variables; variables with very high or very small numbers are combined with the overall total of need. This prevents variables from being disproportionately weighted.

Weights

Examples of how the weights operate in the RAF are in Tables 4 and 5. The column header letters (A, B, C, etc.) will build off the previous table. If column letters are not in alphabetical order, the column header letter refers to a previous table.

To apply weights, first the subregional percentage (the subregional share of statewide need), housing availability, and regional allocation factor must be calculated. Table 4 demonstrates how the percentages are derived. Table 4 shows only Urban Region 1 and the statewide total in order to simplify the example.

Table 4: Percentages Taken

Area	Column I: Total Need Variables	Column P: Percent of State's Total Need	Column L: Total Availability Variables	Column Q: Percent of State's Total Availability	Column O: Regional Coverage Factor	Column R: Percent of State's Total Regional Coverage Factor
Urban Region 1	84,691	5.0%	3,500	3.5%	0.009	1.0%
State Total	1,702,848		100,000		0.893	

Note: Column I is from Table 1, Column L is from Table 2, and Column O is from Table 3.

A successful allocation formula will provide more funding for areas with high housing need and reduce funding for areas with an abundance of housing resources. Housing availability variables have a negative weight to reflect that an abundance of available units might reduce the need for assistance. The housing need variables and the regional coverage factor have positive weights to reflect that these factors may increase the need for assistance. Renter and owner components of a single need or availability category are added together, as they represent one variable for the purposes of weighting compounded need. The weight of each variable, whether need, availability, or regional coverage factor, must equal 100%; otherwise, the initial subregion allocation will not add up to the total example allocation. The formulas to determine variable weight for the Single Family RAF are as follows:

Total Need Variables = HH at or below 200% poverty + Cost Burden + Overcrowding + Units Lacking Plumbing + Units Lacking Kitchen

Total Availability Variables = Unoccupied Units for Sale or Rent

Regional Coverage Factor = Inverse Population Density

Total Need Variables – Total Availability Variables + Regional Coverage Factor = 100%

To put it simply (with x representing the weight of each variable): $5x-x+x=100\%$

As a result, each variable is weighted at 20% for Single Family programs, giving the appropriate relationship between funding and current availability of resources. The compounded need variables receive 100% weight. Table 5 shows the application of the weights based on a hypothetical statewide availability of \$2,500,000.

Table 5: Weight Application

Area	Column P: Percent of State's Total Need	Column S: Weight of Need Variables	Column T: Need Variable Allocation*	Column Q: Percent of State's Total Availability	Column U: Weight of Availability Variable	Column V: Availability Variable Allocation~	Column R: Percent of State's Total Regional Coverage Factor	Column W: Weight of Regional Coverage Factor	Column X: Regional Coverage Factor Allocation^	Column Y: Total Allocation*
Urban Region 1	5.0%	100%	\$ 124,338	3.5%	-20%	\$ (17,500)	1.0%	20%	\$4,799	\$ 111,637

Note: Column P, Q and R taken from Table 4.

*Column T is calculated as follows: Column P x Column S x statewide availability of funds.

~Column V is calculated as follows: Column Q x Column U x statewide availability of funds.

^ Column X is calculated as follows: Column W x Column R x statewide availability of funds.

*Column Y is calculated as follows: Column T + Column V + Column X.

HOME Subregional Allocation Adjustment

The HOME SF RAF has a subregional floor. This floor ensures sufficient funding to award at least one contract in each subregion. If the RAF results in a subregional funding amount that is less than \$100,000, that subregion’s funding amount is adjusted upward to provide for at least a minimum of \$100,000. The process does not reallocate funds from subregions with initial funding amounts in excess of \$100,000 to those subregions with initial funding amounts that are less than \$100,000. Funds used to enable the floor are not subject to RAF requirements and are added as a final adjustment to the subregional allocation amounts available for award. The final adjustment adds a supplemental allocation to bring all subregions to a minimum of \$100,000. The process is complete when each subregion has at least \$100,000.

Table 6 shows the process of supplementing funds to subregions that have initial funding amounts that are less than \$100,000. This table builds from the previous tables included in this methodology and Urban Regions 1 and 2 are included as examples of this adjustment. The column header letters build off previous tables, so if the letters are not in alphabetical order, the column letter refers to previous tables.

Table 6: Subregion amount under \$100,000

Area	Column Y: Initial Subregion amount	Column Z: Amount needed to reach \$100,000	Column AA: Final Subregion Allocation
Urban Region 1	\$111,637	\$-	\$111,637
Urban Region 2	\$84,255	\$15,745	\$100,000

Note: Column Y is from Table 5.

Since the Urban Region 1 initial Subregion amount exceeds \$100,000, no adjustment is made to this sub-allocation. However, because the Urban Region 2 initial Subregion amount is less than \$100,000, a supplemental allocation amount is added to bring the subregion allocation up to the final allocation amount of \$100,000.

Multifamily RAF Example

Table 7 shows the need and availability variables used in the HTC RAF. The HTC RAF is very similar to the HOME MF RAF with the exception that the HTC RAF includes PJs. Example numbers are used for clarity. The statewide average household size in the following example is 2.80.

Table 7: Example of Need and Availability Variables used for HTC, by Subregion

MSA Counties with urban places	Region	Column BB: Individuals at or below 200% Poverty	Column CC: HH at or below 200% Poverty	Column DD: Cost Burdened Renters	Column EE: Overcrowded Renters	Column FF: Vacant Units for Rent
	1	150,000	53,571	25,000	4,000	6,000
	2	100,000	35,714	20,000	2,000	4,000
	3	150,000	53,571	25,000	4,000	6,000
	4	100,000	35,714	20,000	2,000	4,000
	5	150,000	53,571	25,000	4,000	6,000
	6	100,000	35,714	20,000	2,000	4,000
	7	150,000	53,571	25,000	4,000	6,000
	8	100,000	35,714	20,000	2,000	4,000
	9	150,000	53,571	25,000	4,000	6,000
	10	100,000	35,714	20,000	2,000	4,000
	11	150,000	53,571	25,000	4,000	6,000
	12	100,000	35,714	20,000	2,000	4,000
	13	150,000	53,571	25,000	4,000	6,000
Non-MSA counties and counties with only rural places	Region	Column BB: Individuals at or below 200% Poverty	Column CC: HH at or below 200% Poverty	Column DD: Cost Burdened Renters	Column EE: Overcrowded Renters	Column FF: Vacant Units for Rent
	1	40,000	14,286	7,000	700	700
	2	25,000	8,929	2,000	400	500
	3	40,000	14,286	7,000	700	700
	4	25,000	8,929	2,000	400	500
	5	40,000	14,286	7,000	700	700
	6	25,000	8,929	2,000	400	500
	7	40,000	14,286	7,000	700	700
	8	25,000	8,929	2,000	400	500
	9	40,000	14,286	7,000	700	700
	10	25,000	8,929	2,000	400	500
	11	40,000	14,286	7,000	700	700
	12	25,000	8,929	2,000	400	500
	13	40,000	14,286	7,000	700	700
Column BB Total		Column CC Total	Column DD Total	Column EE Total	Column FF Total	
State Total		2,080,000	742,857	356,000	47,300	73,900

Compounded Need

To allocate funds, the RAF compares each subregion’s total need to the state’s total need. All of the housing need variables are added together. Then, each subregion’s total need is taken as a percentage of the amount of total need in the state. Table 8 illustrates how the Total Need Variables are derived: households at or below 200% of poverty, cost burdened renter households, and overcrowded renter households are added together, thereby compounding the need. Table 8 shows only Urban Region 1 and the statewide total, in order to simplify the example.

Table 8: Total Need Variables

Area	Column CC: HH at or below 200% Poverty	Column DD: Cost Burdened Renters	Column EE: Overcrowded Renters	Column GG: Total Need Variables
Urban Region 1	53,571	25,000	4,000	82,571
State Total	742,857	356,000	47,300	1,146,157

Note: Columns CC, DD and EE are from Table 7.

This compounding balances the relative importance of the variables; variables with very high or very small numbers are combined with the overall total of need. This prevents variables from being disproportionately weighted.

Weights

Examples of how the weights work in the RAF are in Tables 9 and 10. If the letters are not in alphabetical order, the column header letter refers to a previous table.

In order to apply weights, first the subregional percentage availability, and inverse population density must be calculated. Table 9 demonstrates how the percentages are derived.

Table 9: Percentages Taken

Area	Column GG: Total Need Variables	Column HH: Percent of State's Total Need	Column II: Vacant Units for Rent	Column JJ: Percent of State's Total Availability
Urban Region 1	82,571	7.2%	6,000	8.1%
State Total	1,146,157		73,900	

Note: Column GG is from Table 8.

A successful allocation formula will provide more funding for areas with high housing need and reduce funding for areas with an abundance of housing resources. The housing availability variable has negative weight to reflect that an abundance of available units might reduce the need for assistance, while housing need variables have positive weight to reflect that these factors may increase the need for assistance. Renter and owner components of a single need or availability category are added together, as they represent one variable for the purposes of weighting the variables. The weight of each variable, whether need, availability, or regional coverage factor, must equal 100%; otherwise, the initial subregion allocation will not add up to the total example allocation. The formulas to determine variable weight for the Multifamily RAF are as follows:

Total Need Variables = HH at or below 200% poverty + Renter Cost Burden + Renter Overcrowding

Availability Variable = Unoccupied Units for Rent

Total Need Variables – Availability Variable = 100%

Simply stated (with x representing the weight of each variable): $3x-x=100\%$

As a result, each variable is weighted at 50% for multifamily programs, giving the appropriate relationship between funding and current availability of resources. The compounded need variables receive 150% weight. Table 10 shows the application of the weights based on a statewide availability of \$40,000,000.

Table 10: Weight Application

Area	Column HH: Percent of State's Total Need	Column KK: Weight of Need Variables	Column LL: Need Variable Allocation*	Column JJ: Percent of State's Total Availability	Column MM: Weight of Availability Variable	Column NN: Availability Variable Allocation~	Column OO: Total Allocation+
Urban Region 1	7.2%	150%	\$ 4,322,519	8.1%	-50%	\$ (1,623,816)	\$ 2,698,703

Note: Column HH and JJ taken from Table 9.

*Column LL is calculated as follows: Column HH x Column KK x statewide availability of funds.

~Column NN is calculated as follows: Column JJ x Column MM x statewide availability of funds.

+Column OO is calculated as follows: Column LL + Column NN.

HTC Subregional Allocation Adjustment

Tex. Gov't Code §2306.111(d-3) is a requirement regarding funding and the RAF that applies only to HTC. This provision requires that TDHCA allocate at least 20% of housing tax credits to rural areas and that \$500,000 or more be available for each of the 26 subregions. In the 2019 QAP the Department adopted an increase to the \$500,000 figure establishing a \$600,000 minimum for each region. The overall state rural allocation of funds is ensured to satisfy the minimum of 20% of the credit ceiling amount in rural areas by making any needed adjustments at the time of award, if needed. Usually, the 20% allocation to rural areas occurs through the competitive process, but, if not, one or more applications from rural areas will be awarded from the statewide collapse of the RAF to ensure the requirement is met.

For the HTC RAF, the subregional funding amount is adjusted to a minimum of \$600,000 if needed. This is a final adjustment to the subregional allocation amounts available for award. The process proportionately takes funds from subregions with initial funding amounts in excess of \$600,000 and reallocates those funds to those subregions with initial funding amounts that are less than \$600,000. The process is complete when each subregion has at least \$600,000.

Tables 11 and 12 show the process of determining the amount to adjust from subregions with more than \$600,000. These tables build from the previous tables included in this methodology and Urban Region 1 and 2 and Rural Region 1 and 2 are included. The column header letters build off previous tables, so if the letters are not in alphabetical order, the column letter refers to previous tables.

These four subregions are examined because the most common movement for funds during the \$600,000 adjustment is from Urban Counties to Rural Counties. The first step in the \$600,000 adjustment process is to determine the amount by which each subregion is over or under \$600,000 for each subregion. This is illustrated in Table 11.

Table 11: Subregional amount over/under \$600,000

Area	Column OO: Initial Subregion amount	Column PP: Amount needed to reach \$600,000	Column QQ: Amount over \$600,000 that can be reallocated
Urban Region 1	\$2,698,703	\$-	\$2,098,703
Urban Region 2	\$1,938,732	\$-	\$1,338,732
Rural Region 1	\$961,482	\$-	\$361,482

Area	Column OO: Initial Subregion amount	Column PP: Amount needed to reach \$600,000	Column QQ: Amount over \$600,000 that can be reallocated
Rural Region 2	\$457,720	\$142,280	\$-
State Total	\$40,000,000	\$853,682.36	\$25,253,682.36

Note: Column OO is from Table 10.

Column QQ in Table 11 is the amount in Column OO minus \$600,000 if the amount in Column OO is over \$600,000. At least \$600,000 is maintained in each subregion before the adjustment process.

The next step in the adjustment process is to determine the percentage to be reallocated. The proportion of the total amount to be reallocated is in Column SS. Finally, Column OO is adjusted by Column SS to equal the final Sub-Amount in Column TT.

Table 12: Proportional adjustment

Area	Column RR: Percent of Total Amount that can be reallocated*	Column SS: Amount to be reallocated~	Column TT: Final Subregion Allocation ⁺
Urban Region 1	8.31%	\$ (70,945)	\$2,627,758
Urban Region 2	5.30%	\$ (45,255)	\$1,893,477
Rural Region 1	1.43%	\$ (12,220)	\$949,262
Rural Region 2	0.00%	\$142,280	\$600,000
State Total	100.00%	\$0	\$40,000,000

*Column RR is calculated as follows: if Column OO is over \$600,000, then $((\text{Column OO} - \$600,000) / (\text{Statewide total for Column QQ}))$

~Column SS is calculated as followed: if Column RR is a percentage, then $(\text{Column RR} * \$853,682.36)$; if Column RR is "-%", then Column SS equals Column PP.

⁺Column TT is calculated as follows: Column OO + Column SS.

Texas Department of Housing and Community Affairs
Example 2022 HOME SF Regional Allocation Formula

Table 1 - Raw Data

	Region	Individuals at or Below 200% Poverty	HH at or Below 200% Poverty	Cost-Burdened Owners	Cost-Burdened Renters	Over-crowded Owners	Over-crowded Renters	Total Units Lacking Plumbing	Total Units Lacking Kitchen	Vacant Units For Sale	Vacant Units For Rent	Land Area	Total Population	Inverse Population Density
MSA Counties with Urban Places	1	25,930	9,130	3,029	3,364	396	472	1,431	1,721	296	565	2,494	105,702	0.024
	2	17,787	6,263	2,046	1,878	278	147	1,911	1,767	450	413	2,293	59,974	0.038
	3	469,009	165,144	90,878	87,678	10,057	10,743	11,279	21,179	5,902	12,828	7,665	2,280,132	0.003
	4	129,816	45,710	11,320	14,444	2,328	2,112	8,906	7,809	1,766	2,156	3,453	365,421	0.009
	5	56,000	19,718	5,436	6,551	1,032	827	5,236	5,697	1,072	1,626	1,941	221,914	0.009
	6	125,928	44,341	14,866	18,059	3,333	2,424	4,499	5,277	2,253	3,241	2,606	459,483	0.006
	7	255,576	89,992	48,323	50,202	5,746	6,305	4,124	8,198	3,908	7,900	3,922	1,163,634	0.003
	8	129,070	45,447	13,598	19,921	2,091	2,524	4,429	6,414	1,476	3,778	4,202	439,460	0.010
	9	88,577	31,189	14,236	12,238	1,786	1,838	2,667	4,087	1,667	2,170	3,258	394,434	0.008
	10	72,898	25,668	5,258	9,199	1,405	2,053	4,545	5,737	805	2,404	2,256	194,877	0.012
	11	107,774	37,949	4,925	5,926	3,858	2,418	2,954	2,123	445	1,638	3,991	188,641	0.021
	12	59,320	20,887	6,615	8,553	1,676	2,894	1,840	2,455	482	1,486	4,136	232,648	0.018
	13	78,858	27,767	5,674	4,903	1,955	1,013	1,271	1,555	546	883	757	156,249	0.005
	Subtotal	1,616,543	569,205	226,204	242,916	35,941	35,770	55,092	74,019	21,068	41,088	42,975	6,262,569	0.166
Non-MSA Counties and Counties with Only Rural Places	1	119,385	42,037	5,949	8,961	2,570	2,388	10,286	14,511	1,534	2,972	36,633	310,465	0.118
	2	91,730	32,299	6,652	7,446	1,949	943	12,247	11,989	1,928	2,774	24,831	260,921	0.095
	3	87,272	30,730	8,140	10,681	1,801	1,561	4,078	6,251	1,668	2,472	5,417	261,132	0.021
	4	220,448	77,623	17,820	21,206	4,635	3,233	12,797	15,687	3,076	5,013	11,856	591,515	0.020
	5	154,296	54,330	9,947	17,174	3,446	2,409	12,323	11,308	2,157	3,333	9,910	382,372	0.026
	6	70,274	24,744	4,744	9,849	1,680	1,544	5,078	4,916	981	1,575	4,577	201,660	0.023
	7	36,382	12,811	4,544	3,435	972	626	2,639	3,741	701	552	4,217	121,254	0.035
	8	101,884	35,875	7,855	9,154	2,689	1,376	9,479	10,010	1,818	1,960	12,672	287,987	0.044
	9	74,163	26,114	6,385	6,649	2,370	1,734	4,699	4,820	1,285	1,364	6,857	234,634	0.029
	10	106,154	37,378	5,695	10,105	2,987	2,447	10,102	8,467	1,208	2,909	15,155	273,195	0.055
	11	152,853	53,821	5,099	9,087	4,213	3,597	7,906	7,257	902	2,499	18,214	278,142	0.065
	12	64,781	22,810	3,445	5,336	1,557	1,230	5,927	6,727	934	1,578	35,496	192,526	0.184
	13	11,726	4,129	364	1,113	258	230	1,719	1,622	228	449	20,687	25,076	0.825
	Subtotal	1,291,348	454,700	86,639	120,196	31,127	23,318	99,280	107,306	18,420	29,450	206,522	3,420,879	1.541
Total	2,907,891	1,023,905	312,843	363,112	67,068	59,088	154,372	181,325	39,488	70,538	249,496	9,683,448	1.706	

Variables from Participating Jurisdictions (PJs) are not counted for HOME Program RAFs.

Texas Average HH Size: 2.84

Texas Department of Housing and Community Affairs
 Example 2022 HOME SF Regional Allocation Formula

Table 2 - Weights

	Region	Total Need Variables	% of Total Need Variables	Weighted	Total Availability Variables	% of Total Availability Variables	Weighted	Regional Coverage Factor	% of Total Regional Coverage Factor	Weighted	Initial Subregion Allocation	% of Total Award
MSA Counties with Urban Places	1	19,543	0.9%	\$ 135,610	861	0.8%	\$ (23,476)	0.024	1.4%	\$ 41,473	\$ 153,607	1.02%
	2	14,290	0.7%	\$ 99,158	863	0.8%	\$ (23,531)	0.038	2.2%	\$ 67,213	\$ 142,840	0.95%
	3	396,958	18.4%	\$ 2,754,468	18,730	17.0%	\$ (510,697)	0.003	0.2%	\$ 5,910	\$ 2,249,680	15.00%
	4	92,629	4.3%	\$ 642,746	3,922	3.6%	\$ (106,938)	0.009	0.6%	\$ 16,613	\$ 552,420	3.68%
	5	44,497	2.1%	\$ 308,764	2,698	2.5%	\$ (73,564)	0.009	0.5%	\$ 15,375	\$ 250,575	1.67%
	6	92,799	4.3%	\$ 643,926	5,494	5.0%	\$ (149,801)	0.006	0.3%	\$ 9,971	\$ 504,096	3.36%
	7	212,890	9.8%	\$ 1,477,228	11,808	10.7%	\$ (321,960)	0.003	0.2%	\$ 5,925	\$ 1,161,193	7.74%
	8	94,424	4.4%	\$ 655,204	5,254	4.8%	\$ (143,257)	0.010	0.6%	\$ 16,810	\$ 528,757	3.53%
	9	68,041	3.1%	\$ 472,133	3,837	3.5%	\$ (104,621)	0.008	0.5%	\$ 14,522	\$ 382,034	2.55%
	10	53,865	2.5%	\$ 373,768	3,209	2.9%	\$ (87,498)	0.012	0.7%	\$ 20,350	\$ 306,621	2.04%
	11	60,153	2.8%	\$ 417,395	2,083	1.9%	\$ (56,796)	0.021	1.2%	\$ 37,197	\$ 397,796	2.65%
	12	44,920	2.1%	\$ 311,699	1,968	1.8%	\$ (53,660)	0.018	1.0%	\$ 31,254	\$ 289,294	1.93%
	13	44,138	2.0%	\$ 306,270	1,429	1.3%	\$ (38,964)	0.005	0.3%	\$ 8,522	\$ 275,829	1.84%
		Subtotal	1,239,147	57.3%	\$ 8,598,369	62,156	56.5%	\$ (1,694,763)	0.166	9.7%	\$ 291,135	\$ 7,194,742
Non-MSA Counties and Counties with Only Rural Places	1	86,702	4.0%	\$ 601,620	4,506	4.1%	\$ (122,862)	0.118	6.9%	\$ 207,432	\$ 686,190	4.57%
	2	73,525	3.4%	\$ 510,188	4,702	4.3%	\$ (128,206)	0.095	5.6%	\$ 167,302	\$ 549,284	3.66%
	3	63,242	2.9%	\$ 438,830	4,140	3.8%	\$ (112,882)	0.021	1.2%	\$ 36,470	\$ 362,417	2.42%
	4	153,001	7.1%	\$ 1,061,662	8,089	7.4%	\$ (220,557)	0.020	1.2%	\$ 35,237	\$ 876,342	5.84%
	5	110,937	5.1%	\$ 769,782	5,490	5.0%	\$ (149,692)	0.026	1.5%	\$ 45,562	\$ 665,652	4.44%
	6	52,555	2.4%	\$ 364,679	2,556	2.3%	\$ (69,693)	0.023	1.3%	\$ 39,904	\$ 334,890	2.23%
	7	28,768	1.3%	\$ 199,616	1,253	1.1%	\$ (34,165)	0.035	2.0%	\$ 61,134	\$ 226,586	1.51%
	8	76,438	3.5%	\$ 530,396	3,778	3.4%	\$ (103,012)	0.044	2.6%	\$ 77,356	\$ 504,741	3.36%
	9	52,771	2.4%	\$ 366,173	2,649	2.4%	\$ (72,228)	0.029	1.7%	\$ 51,375	\$ 345,320	2.30%
	10	77,181	3.6%	\$ 535,556	4,117	3.7%	\$ (112,255)	0.055	3.3%	\$ 97,520	\$ 520,820	3.47%
	11	90,980	4.2%	\$ 631,308	3,401	3.1%	\$ (92,733)	0.065	3.8%	\$ 115,124	\$ 653,700	4.36%
	12	47,032	2.2%	\$ 326,354	2,512	2.3%	\$ (68,493)	0.184	10.8%	\$ 324,123	\$ 581,984	3.88%
	13	9,435	0.4%	\$ 65,468	677	0.6%	\$ (18,459)	0.825	48.3%	\$ 1,450,326	\$ 1,497,334	9.98%
		Subtotal	922,566	42.7%	\$ 6,401,631	47,870	43.5%	\$ (1,305,237)	1.541	90.3%	\$ 2,708,865	\$ 7,805,258
	Total	2,161,713	100%	\$ 15,000,000	110,026	100%	\$ (3,000,000)	1.706	100.0%	\$ 3,000,000	\$ 15,000,000	100.00%

Variables from Participating Jurisdictions (PJs) are not counted for HOME Program RAFs.

Total Sample Allocation: \$15,000,000

Weight of Need Variables: 100%

Weight of Availability Variables: -20%

Weight of Regional Coverage Factor: 20%

Texas Department of Housing and Community Affairs
 Example 2022 HOME SF Regional Allocation Formula

Table 3 - Supplemental Allocation

	Region	Initial Subregion Amount	Supplemental Amount Needed to Reach Subregion Floor	Final Subregion Allocation	% of Total Award
MSA Counties with Urban Places	1	\$ 153,606.65	\$ -	\$ 153,606.65	1.02%
	2	\$ 142,839.55	\$ -	\$ 142,839.55	0.95%
	3	\$ 2,249,680.26	\$ -	\$ 2,249,680.26	15.00%
	4	\$ 552,420.35	\$ -	\$ 552,420.35	3.68%
	5	\$ 250,575.02	\$ -	\$ 250,575.02	1.67%
	6	\$ 504,095.86	\$ -	\$ 504,095.86	3.36%
	7	\$ 1,161,192.97	\$ -	\$ 1,161,192.97	7.74%
	8	\$ 528,756.59	\$ -	\$ 528,756.59	3.53%
	9	\$ 382,034.42	\$ -	\$ 382,034.42	2.55%
	10	\$ 306,620.74	\$ -	\$ 306,620.74	2.04%
	11	\$ 397,796.31	\$ -	\$ 397,796.31	2.65%
	12	\$ 289,293.72	\$ -	\$ 289,293.72	1.93%
	13	\$ 275,829.14	\$ -	\$ 275,829.14	1.84%
	Subtotal	\$ 7,194,741.57	\$ -	\$ 7,194,741.57	47.96%
Non-MSA Counties and Counties with Only Rural Places	1	\$ 686,190.41	\$ -	\$ 686,190.41	4.57%
	2	\$ 549,283.79	\$ -	\$ 549,283.79	3.66%
	3	\$ 362,416.97	\$ -	\$ 362,416.97	2.42%
	4	\$ 876,341.56	\$ -	\$ 876,341.56	5.84%
	5	\$ 665,652.09	\$ -	\$ 665,652.09	4.44%
	6	\$ 334,889.97	\$ -	\$ 334,889.97	2.23%
	7	\$ 226,585.76	\$ -	\$ 226,585.76	1.51%
	8	\$ 504,740.50	\$ -	\$ 504,740.50	3.36%
	9	\$ 345,319.61	\$ -	\$ 345,319.61	2.30%
	10	\$ 520,819.92	\$ -	\$ 520,819.92	3.47%
	11	\$ 653,699.64	\$ -	\$ 653,699.64	4.36%
	12	\$ 581,983.87	\$ -	\$ 581,983.87	3.88%
	13	\$ 1,497,334.34	\$ -	\$ 1,497,334.34	9.98%
	Subtotal	\$ 7,805,258.43	\$ -	\$ 7,805,258.43	52.04%
Total	\$ 15,000,000.00	\$ -	\$ 15,000,000.00	100.00%	

Variables from Participating Jurisdictions (PJs) are not counted for HOME Program RAFs.

Subregion Allocation Floor: \$100,000.00

Texas Department of Housing and Community Affairs
 Example 2022 HTF Regional Allocation Formula

**Table 1 - Raw
 Data**

	Region	Individuals at or Below 200%Poverty	HH at or Below 200% Poverty	Cost-Burdened Owners	Cost-Burdened Renters	Over-crowded Owners	Over-crowded Renters	Total Units Lacking Plumbing	Total Units Lacking Kitchen	Vacant Units For Sale	Vacant Units For Rent	Land Area	Total Population	Inverse Population Density
MSA Counties with Urban Places	1	197,995	69,717	16,103	40,555	2,658	4,769	4,682	7,924	2,140	8,761	2,716	558,508	0.005
	2	97,755	34,421	7,891	18,017	961	1,306	5,205	5,482	1,521	3,944	2,472	288,409	0.009
	3	2,182,357	768,436	261,737	462,033	40,856	78,713	28,399	58,991	18,064	85,673	9,603	7,451,677	0.001
	4	202,281	71,226	16,376	28,613	3,412	3,026	10,147	10,085	2,744	5,544	3,563	551,863	0.006
	5	129,750	45,687	9,427	19,598	1,764	1,657	8,378	8,694	1,785	3,089	2,101	395,174	0.005
	6	2,186,207	769,791	225,591	427,475	39,912	75,085	36,659	59,142	23,079	85,789	7,612	6,854,374	0.001
	7	526,529	185,398	79,746	145,102	9,082	20,876	5,984	13,357	6,159	22,821	4,220	2,114,441	0.002
	8	339,531	119,553	27,117	69,287	4,342	6,778	7,011	10,373	3,186	12,583	4,438	918,786	0.005
	9	787,026	277,122	77,789	134,203	11,599	18,708	13,838	21,472	7,331	24,976	4,498	2,347,277	0.002
	10	189,633	66,772	15,313	32,222	3,828	4,936	7,713	10,442	2,071	6,519	2,414	520,657	0.005
	11	855,710	301,306	43,833	68,209	27,531	24,323	19,919	15,371	4,704	13,378	5,823	1,550,368	0.004
	12	126,470	44,532	12,526	21,410	2,795	4,371	4,486	5,755	1,225	4,297	4,235	452,381	0.009
	13	378,519	133,281	30,010	47,530	5,802	7,858	3,688	6,750	3,090	12,075	1,013	836,062	0.001
	Subtotal	8,199,763	2,887,240	823,459	1,514,254	154,542	252,406	156,109	233,838	77,099	289,449	54,708	24,839,977	0.055
Non-MSA Counties and Counties with Only Rural Places	1	119,385	42,037	5,949	8,961	2,570	2,388	10,286	14,511	1,534	2,972	36,633	310,465	0.118
	2	91,730	32,299	6,652	7,446	1,949	943	12,247	11,989	1,928	2,774	24,831	260,921	0.095
	3	87,272	30,730	8,140	10,681	1,801	1,561	4,078	6,251	1,668	2,472	5,417	261,132	0.021
	4	220,448	77,623	17,820	21,206	4,635	3,233	12,797	15,687	3,076	5,013	11,856	591,515	0.020
	5	154,296	54,330	9,947	17,174	3,446	2,409	12,323	11,308	2,157	3,333	9,910	382,372	0.026
	6	70,274	24,744	4,744	9,849	1,680	1,544	5,078	4,916	981	1,575	4,577	201,660	0.023
	7	36,382	12,811	4,544	3,435	972	626	2,639	3,741	701	552	4,217	121,254	0.035
	8	101,884	35,875	7,855	9,154	2,689	1,376	9,479	10,010	1,818	1,960	12,672	287,987	0.044
	9	74,163	26,114	6,385	6,649	2,370	1,734	4,699	4,820	1,285	1,364	6,857	234,634	0.029
	10	106,154	37,378	5,695	10,105	2,987	2,447	10,102	8,467	1,208	2,909	15,157	273,195	0.055
	11	152,853	53,821	5,099	9,087	4,213	3,597	7,906	7,257	902	2,499	18,214	278,142	0.065
	12	64,781	22,810	3,445	5,336	1,557	1,230	5,927	6,727	934	1,578	35,496	192,526	0.184
	13	11,726	4,129	364	1,113	258	230	1,719	1,622	228	449	20,687	25,076	0.825
	Subtotal	1,291,348	454,700	86,639	120,196	31,127	23,318	99,280	107,306	18,420	29,450	206,524	3,420,879	1.541
	Total	9,491,111	3,341,940	910,098	1,634,450	185,669	275,724	255,389	341,144	95,519	318,899	261,232	28,260,856	1.596

Texas Average HH Size: 2.84

Texas Department of Housing and Community Affairs
Example 2022 HTF Regional Allocation Formula

**Table 2 -
Weights**

	Region	Total Need Variables	% of Total Need Variables	Weighted	Total Availability Variables	% of Total Availability Variables	Weighted	Regional Coverage Factor	% of Total Regional Coverage Factor	Weighted	Final Subregion Allocation	% of Total Award
MSA Counties with Urban Places	1	146,408	2.1%	\$ 63,248	10,901	2.6%	\$ (15,783)	0.005	0.3%	\$ 1,828	\$ 49,293	1.64%
	2	73,283	1.1%	\$ 31,658	5,465	1.3%	\$ (7,912)	0.009	0.5%	\$ 3,222	\$ 26,968	0.90%
	3	1,699,165	24.5%	\$ 734,042	103,737	25.0%	\$ (150,192)	0.001	0.1%	\$ 484	\$ 584,335	19.48%
	4	142,885	2.1%	\$ 61,726	8,288	2.0%	\$ (11,999)	0.006	0.4%	\$ 2,427	\$ 52,154	1.74%
	5	95,205	1.4%	\$ 41,129	4,874	1.2%	\$ (7,057)	0.005	0.3%	\$ 1,998	\$ 36,070	1.20%
	6	1,633,655	23.5%	\$ 705,742	108,868	26.3%	\$ (157,621)	0.001	0.1%	\$ 417	\$ 548,539	18.28%
	7	459,545	6.6%	\$ 198,524	28,980	7.0%	\$ (41,958)	0.002	0.1%	\$ 750	\$ 157,317	5.24%
	8	244,461	3.5%	\$ 105,608	15,769	3.8%	\$ (22,831)	0.005	0.3%	\$ 1,816	\$ 84,593	2.82%
	9	554,731	8.0%	\$ 239,645	32,307	7.8%	\$ (46,775)	0.002	0.1%	\$ 720	\$ 193,591	6.45%
	10	141,226	2.0%	\$ 61,010	8,590	2.1%	\$ (12,437)	0.005	0.3%	\$ 1,743	\$ 50,316	1.68%
	11	500,492	7.2%	\$ 216,214	18,082	4.4%	\$ (26,179)	0.004	0.2%	\$ 1,412	\$ 191,446	6.38%
	12	95,875	1.4%	\$ 41,418	5,522	1.3%	\$ (7,995)	0.009	0.6%	\$ 3,519	\$ 36,942	1.23%
	13	234,919	3.4%	\$ 101,486	15,165	3.7%	\$ (21,956)	0.001	0.1%	\$ 455	\$ 79,985	2.67%
	Subtotal	6,021,848	86.7%	\$ 2,601,450	366,548	88.4%	\$ (530,693)	0.055	3.5%	\$ 20,791	\$ 2,091,548	69.72%
Non-MSA Counties and Counties with Only Rural Places	1	86,702	1.2%	\$ 37,455	4,506	1.1%	\$ (6,524)	0.118	7.4%	\$ 44,353	\$ 75,284	2.51%
	2	73,525	1.1%	\$ 31,763	4,702	1.1%	\$ (6,808)	0.095	6.0%	\$ 35,772	\$ 60,728	2.02%
	3	63,242	0.9%	\$ 27,320	4,140	1.0%	\$ (5,994)	0.021	1.3%	\$ 7,798	\$ 29,124	0.97%
	4	153,001	2.2%	\$ 66,097	8,089	2.0%	\$ (11,711)	0.020	1.3%	\$ 7,534	\$ 61,919	2.06%
	5	110,937	1.6%	\$ 47,925	5,490	1.3%	\$ (7,948)	0.026	1.6%	\$ 9,742	\$ 49,718	1.66%
	6	52,555	0.8%	\$ 22,704	2,556	0.6%	\$ (3,701)	0.023	1.4%	\$ 8,532	\$ 27,536	0.92%
	7	28,768	0.4%	\$ 12,428	1,253	0.3%	\$ (1,814)	0.035	2.2%	\$ 13,072	\$ 23,685	0.79%
	8	76,438	1.1%	\$ 33,021	3,778	0.9%	\$ (5,470)	0.044	2.8%	\$ 16,540	\$ 44,092	1.47%
	9	52,771	0.8%	\$ 22,797	2,649	0.6%	\$ (3,835)	0.029	1.8%	\$ 10,985	\$ 29,947	1.00%
	10	77,181	1.1%	\$ 33,342	4,117	1.0%	\$ (5,961)	0.055	3.5%	\$ 20,855	\$ 48,237	1.61%
	11	90,980	1.3%	\$ 39,304	3,401	0.8%	\$ (4,924)	0.065	4.1%	\$ 24,616	\$ 58,995	1.97%
	12	47,032	0.7%	\$ 20,318	2,512	0.6%	\$ (3,637)	0.184	11.6%	\$ 69,304	\$ 85,985	2.87%
	13	9,435	0.1%	\$ 4,076	677	0.2%	\$ (980)	0.825	51.7%	\$ 310,106	\$ 313,202	10.44%
	Subtotal	922,566	13.3%	\$ 398,550	47,870	11.6%	\$ (69,307)	1.541	96.5%	\$ 579,209	\$ 908,452	30.28%
	Total	6,944,414	100%	\$ 3,000,000	414,418	100%	\$ (600,000)	1.596	100.0%	\$ 600,000	\$ 3,000,000	100.00%

Total Sample Allocation: \$3,000,000

Weight of Need Variables: 100%

Weight of Availability Variables: -20%

Weight of Regional Coverage Factor: 20%

Texas Department of Housing and Community Affairs
 Example 2022 HOME MF Regional Allocation Formula
 Table 1 - Raw Data

	Region	Individuals at or Below 200% Poverty	HH at or Below 200% Poverty	Cost-Burdened Renters	Overcrowded Renters	Vacant Units For Rent
MSA Counties with Urban Places	1	25,930	9,130	3,364	472	565
	2	17,787	6,263	1,878	147	413
	3	469,009	165,144	87,678	10,743	12,828
	4	129,816	45,710	14,444	2,112	2,156
	5	56,000	19,718	6,551	827	1,626
	6	125,928	44,341	18,059	2,424	3,241
	7	255,576	89,992	50,202	6,305	7,900
	8	129,070	45,447	19,921	2,524	3,778
	9	88,577	31,189	12,238	1,838	2,170
	10	72,898	25,668	9,199	2,053	2,404
	11	107,774	37,949	5,926	2,418	1,638
	12	59,320	20,887	8,553	2,894	1,486
	13	78,858	27,767	4,903	1,013	883
	Subtotal	1,616,543	569,205	223,697	33,687	39,834
Non-MSA Counties and Counties with Only Rural Places	1	119,385	42,037	8,961	2,388	2,972
	2	91,730	32,299	7,446	943	2,774
	3	87,272	30,730	10,681	1,561	2,472
	4	220,448	77,623	21,206	3,233	5,013
	5	154,296	54,330	17,174	2,409	3,333
	6	70,274	24,744	9,849	1,544	1,575
	7	36,382	12,811	3,435	626	552
	8	101,884	35,875	9,154	1,376	1,960
	9	74,163	26,114	6,649	1,734	1,364
	10	106,154	37,378	10,105	2,447	2,909
	11	152,853	53,821	9,087	3,597	2,499
	12	64,781	22,810	5,336	1,230	1,578
	13	11,726	4,129	1,113	230	449
	Subtotal	1,291,348	454,700	124,284	22,639	29,945
Total	2,907,891	1,023,905	347,981	56,326	69,779	

Variables from Participating Jurisdictions (PJs) are not counted for HOME Program RAFs.

Texas Average HH Size: 2.84

Texas Department of Housing and Community Affairs
 Example 2022 HOME MF Regional Allocation Formula

**Table 2 -
 Weights**

	Region	Total Need Variables	% of Total Need Variables	Weighted	Total Availability Variable	% of Total Availability Variable	Weighted	Final Subregion Allocation	% of Total Award
MSA Counties with Urban Places	1	12,966	0.9%	\$ 168,119	565	0.8%	\$ (50,062)	\$ 118,057.34	0.94%
	2	8,288	0.6%	\$ 107,461	413	0.6%	\$ (36,594)	\$ 70,867.67	0.57%
	3	263,565	18.2%	\$ 3,417,347	12,828	18.2%	\$ (1,136,621)	\$ 2,280,725.93	18.25%
	4	62,266	4.3%	\$ 807,330	2,156	3.1%	\$ (191,032)	\$ 616,298.69	4.93%
	5	27,096	1.9%	\$ 351,327	1,626	2.3%	\$ (144,071)	\$ 207,255.71	1.66%
	6	64,824	4.5%	\$ 840,497	3,241	4.6%	\$ (287,168)	\$ 553,329.05	4.43%
	7	146,499	10.1%	\$ 1,899,480	7,900	11.2%	\$ (699,977)	\$ 1,199,502.50	9.60%
	8	67,892	4.7%	\$ 880,281	3,778	5.4%	\$ (334,749)	\$ 545,531.96	4.36%
	9	45,265	3.1%	\$ 586,901	2,170	3.1%	\$ (192,272)	\$ 394,628.54	3.16%
	10	36,920	2.6%	\$ 478,704	2,404	3.4%	\$ (213,006)	\$ 265,697.85	2.13%
	11	46,293	3.2%	\$ 600,223	1,638	2.3%	\$ (145,135)	\$ 455,088.77	3.64%
	12	32,334	2.2%	\$ 419,242	1,486	2.1%	\$ (131,667)	\$ 287,575.73	2.30%
	13	33,683	2.3%	\$ 436,728	883	1.3%	\$ (78,238)	\$ 358,489.84	2.87%
		Subtotal	847,891	58.6%	\$ 10,993,640	41,088	58.2%	\$ (3,640,591)	\$ 7,353,049.57
Non-MSA Counties and Counties with Only Rural Places	1	53,386	3.7%	\$ 692,195	2,972	4.2%	\$ (263,333)	\$ 428,861.85	3.43%
	2	40,688	2.8%	\$ 527,559	2,774	3.9%	\$ (245,790)	\$ 281,769.28	2.25%
	3	42,972	3.0%	\$ 557,163	2,472	3.5%	\$ (219,031)	\$ 338,132.62	2.71%
	4	102,062	7.1%	\$ 1,323,316	5,013	7.1%	\$ (444,175)	\$ 879,140.19	7.03%
	5	73,913	5.1%	\$ 958,340	3,333	4.7%	\$ (295,320)	\$ 663,020.66	5.30%
	6	36,137	2.5%	\$ 468,552	1,575	2.2%	\$ (139,552)	\$ 328,999.63	2.63%
	7	16,872	1.2%	\$ 218,754	552	0.8%	\$ (48,910)	\$ 169,844.54	1.36%
	8	46,405	3.2%	\$ 601,676	1,960	2.8%	\$ (173,665)	\$ 428,010.95	3.42%
	9	34,497	2.4%	\$ 447,280	1,364	1.9%	\$ (120,857)	\$ 326,422.99	2.61%
	10	49,930	3.5%	\$ 647,388	2,909	4.1%	\$ (257,751)	\$ 389,636.49	3.12%
	11	66,505	4.6%	\$ 862,301	2,499	3.5%	\$ (221,423)	\$ 640,877.59	5.13%
	12	29,376	2.0%	\$ 380,888	1,578	2.2%	\$ (139,818)	\$ 241,069.62	1.93%
	13	5,472	0.4%	\$ 70,948	449	0.6%	\$ (39,784)	\$ 31,164.03	0.25%
		Subtotal	598,214	41.4%	\$ 7,756,360	29,450	41.8%	\$ (2,609,409)	\$ 5,146,950.43
	Total	1,446,105	100%	\$ 18,750,000	70,538	100%	\$ (6,250,000)	\$ 12,500,000.00	100.00%

Variables from Participating Jurisdictions (PJs) are not counted for HOME Program RAFs.

Total Sample Allocation: \$12,500,000
 Weight of Need Variables: 150%
 Weight of Availability Variables: -50%

Texas Department of Housing and Community Affairs
Example 2022 HTC Regional Allocation Formula

Table 1 - Raw Data

	Region	Individuals at or Below 200% Poverty	HH at or Below 200% Poverty	Cost-Burdened Renters	Overcrowded Renters	Vacant Units For Rent
MSA Counties with Urban Places	1	197,995	69,717	40,555	4,769	8,761
	2	97,755	34,421	18,017	1,306	3,944
	3	2,182,357	768,436	462,033	78,713	85,673
	4	202,281	71,226	28,613	3,026	5,544
	5	129,750	45,687	19,598	1,657	3,089
	6	2,186,207	769,791	427,475	75,085	85,789
	7	526,529	185,398	145,102	20,876	22,821
	8	339,531	119,553	69,287	6,778	12,583
	9	787,026	277,122	134,203	18,708	24,976
	10	189,633	66,772	32,222	4,936	6,519
	11	855,710	301,306	68,209	24,323	13,378
	12	126,470	44,532	21,410	4,371	4,297
	13	378,519	133,281	47,530	7,858	12,075
	Subtotal	8,199,763	2,887,240	1,514,254	252,406	289,449
Non-MSA Counties and Counties with Only Rural Places	1	119,385	42,037	8,961	2,388	2,972
	2	91,730	32,299	7,446	943	2,774
	3	87,272	30,730	10,681	1,561	2,472
	4	220,448	77,623	21,206	3,233	5,013
	5	154,296	54,330	17,174	2,409	3,333
	6	70,274	24,744	9,849	1,544	1,575
	7	36,382	12,811	3,435	626	552
	8	101,884	35,875	9,154	1,376	1,960
	9	74,163	26,114	6,649	1,734	1,364
	10	106,154	37,378	10,105	2,447	2,909
	11	152,853	53,821	9,087	3,597	2,499
	12	64,781	22,810	5,336	1,230	1,578
	13	11,726	4,129	1,113	230	449
	Subtotal	1,291,348	454,700	120,196	23,318	29,450
Total	9,491,111	3,341,940	1,634,450	275,724	318,899	

Texas Average HH Size: 2.84

Texas Department of Housing and Community Affairs
Example 2022 HTC Regional Allocation Formula

Table 2 - Weights

	Region	Total Need Variables	% of Total Need Variables	Weighted	Total Availability Variable	% of Total Availability Variable	Weighted	Initial Subregion Allocation	% of Total Award
MSA Counties with Urban Places	1	115,041	2.2%	\$ 2,135,607	8,761	2.7%	\$ (892,861)	\$ 1,242,746.14	1.91%
	2	53,744	1.0%	\$ 997,697	3,944	1.2%	\$ (401,945)	\$ 595,751.40	0.92%
	3	1,309,182	24.9%	\$ 24,303,583	85,673	26.9%	\$ (8,731,205)	\$ 15,572,378.50	23.96%
	4	102,865	2.0%	\$ 1,909,575	5,544	1.7%	\$ (565,006)	\$ 1,344,568.93	2.07%
	5	66,942	1.3%	\$ 1,242,701	3,089	1.0%	\$ (314,810)	\$ 927,891.29	1.43%
	6	1,272,351	24.2%	\$ 23,619,866	85,789	26.9%	\$ (8,743,027)	\$ 14,876,839.44	22.89%
	7	351,376	6.7%	\$ 6,522,918	22,821	7.2%	\$ (2,325,760)	\$ 4,197,158.60	6.46%
	8	195,618	3.7%	\$ 3,631,446	12,583	3.9%	\$ (1,282,373)	\$ 2,349,073.15	3.61%
	9	430,033	8.2%	\$ 7,983,109	24,976	7.8%	\$ (2,545,383)	\$ 5,437,726.02	8.37%
	10	103,930	2.0%	\$ 1,929,355	6,519	2.0%	\$ (664,372)	\$ 1,264,983.11	1.95%
	11	393,838	7.5%	\$ 7,311,196	13,378	4.2%	\$ (1,363,394)	\$ 5,947,801.85	9.15%
	12	70,313	1.3%	\$ 1,305,281	4,297	1.3%	\$ (437,921)	\$ 867,360.60	1.33%
	13	188,669	3.6%	\$ 3,502,448	12,075	3.8%	\$ (1,230,601)	\$ 2,271,847.26	3.50%
	Subtotal	4,653,900	88.6%	\$ 86,394,784	289,449	90.8%	\$ (29,498,658)	\$ 56,896,126.29	87.53%
Non-MSA Counties and Counties with Only Rural Places	1	53,386	1.0%	\$ 991,055	2,972	0.9%	\$ (302,886)	\$ 688,168.74	1.06%
	2	40,688	0.8%	\$ 755,336	2,774	0.9%	\$ (282,707)	\$ 472,628.50	0.73%
	3	42,972	0.8%	\$ 797,722	2,472	0.8%	\$ (251,929)	\$ 545,793.00	0.84%
	4	102,062	1.9%	\$ 1,894,665	5,013	1.6%	\$ (510,891)	\$ 1,383,774.82	2.13%
	5	73,913	1.4%	\$ 1,372,110	3,333	1.0%	\$ (339,677)	\$ 1,032,433.01	1.59%
	6	36,137	0.7%	\$ 670,852	1,575	0.5%	\$ (160,513)	\$ 510,339.12	0.79%
	7	16,872	0.3%	\$ 313,203	552	0.2%	\$ (56,256)	\$ 256,946.83	0.40%
	8	46,405	0.9%	\$ 861,454	1,960	0.6%	\$ (199,750)	\$ 661,703.88	1.02%
	9	34,497	0.7%	\$ 640,396	1,364	0.4%	\$ (139,010)	\$ 501,386.15	0.77%
	10	49,930	1.0%	\$ 926,901	2,909	0.9%	\$ (296,465)	\$ 630,435.91	0.97%
	11	66,505	1.3%	\$ 1,234,605	2,499	0.8%	\$ (254,681)	\$ 979,923.55	1.51%
	12	29,376	0.6%	\$ 545,339	1,578	0.5%	\$ (160,819)	\$ 384,519.63	0.59%
	13	5,472	0.1%	\$ 101,580	449	0.1%	\$ (45,759)	\$ 55,820.59	0.09%
	Subtotal	598,214	11.4%	\$ 11,105,216	29,450	9.2%	\$ (3,001,342)	\$ 8,103,873.71	12.47%
	Total	5,252,114	100.0%	\$ 97,500,000	318,899	100%	\$ (32,500,000)	\$ 65,000,000.00	100.00%

Total Sample Allocation: \$65,000,000
Weight of Need Variables: 150%
Weight of Availability Variables: -50%

Texas Department of Housing and Community Affairs
Example 2022 HTC Regional Allocation Formula

Table 3 - Reallocation

	Region	Initial Subregion Amount	Amount Needed to Reach Subregion Floor	Amount that can be Reallocated	% of Total Amount that can be Reallocated	Amount to be Reallocated	Final Subregion Allocation	% of Total Award
MSA Counties with Urban Places	1	\$ 1,242,746.14	\$ -	\$ 642,746.14	1.26%	\$ (18,657.16)	\$ 1,224,088.98	1.88%
	2	\$ 595,751.40	\$ 4,248.60	\$ -	0.00%	\$ 4,248.60	\$ 600,000.00	0.92%
	3	\$ 15,572,378.50	\$ -	\$ 14,972,378.50	29.43%	\$ (434,607.20)	\$ 15,137,771.30	23.29%
	4	\$ 1,344,568.93	\$ -	\$ 744,568.93	1.46%	\$ (21,612.80)	\$ 1,322,956.13	2.04%
	5	\$ 927,891.29	\$ -	\$ 327,891.29	0.64%	\$ (9,517.79)	\$ 918,373.51	1.41%
	6	\$ 14,876,839.44	\$ -	\$ 14,276,839.44	28.06%	\$ (414,417.61)	\$ 14,462,421.83	22.25%
	7	\$ 4,197,158.60	\$ -	\$ 3,597,158.60	7.07%	\$ (104,415.68)	\$ 4,092,742.92	6.30%
	8	\$ 2,349,073.15	\$ -	\$ 1,749,073.15	3.44%	\$ (50,770.81)	\$ 2,298,302.34	3.54%
	9	\$ 5,437,726.02	\$ -	\$ 4,837,726.02	9.51%	\$ (140,425.96)	\$ 5,297,300.06	8.15%
	10	\$ 1,264,983.11	\$ -	\$ 664,983.11	1.31%	\$ (19,302.64)	\$ 1,245,680.47	1.92%
	11	\$ 5,947,801.85	\$ -	\$ 5,347,801.85	10.51%	\$ (155,232.06)	\$ 5,792,569.79	8.91%
	12	\$ 867,360.60	\$ -	\$ 267,360.60	0.53%	\$ (7,760.75)	\$ 859,599.86	1.32%
	13	\$ 2,271,847.26	\$ -	\$ 1,671,847.26	3.29%	\$ (48,529.15)	\$ 2,223,318.11	3.42%
		Subtotal	\$ 56,896,126.29	\$ 4,248.60	\$ 49,100,374.89	96.51%	\$ (1,421,001.00)	\$ 55,475,125.28
Non-MSA Counties and Counties with Only Rural Places	1	\$ 688,168.74	\$ -	\$ 88,168.74	0.17%	\$ (2,559.30)	\$ 685,609.44	1.05%
	2	\$ 472,628.50	\$ 127,371.50	\$ -	0.00%	\$ 127,371.50	\$ 600,000.00	0.92%
	3	\$ 545,793.00	\$ 54,207.00	\$ -	0.00%	\$ 54,207.00	\$ 600,000.00	0.92%
	4	\$ 1,383,774.82	\$ -	\$ 783,774.82	1.54%	\$ (22,750.84)	\$ 1,361,023.98	2.09%
	5	\$ 1,032,433.01	\$ -	\$ 432,433.01	0.85%	\$ (12,552.35)	\$ 1,019,880.66	1.57%
	6	\$ 510,339.12	\$ 89,660.88	\$ -	0.00%	\$ 89,660.88	\$ 600,000.00	0.92%
	7	\$ 256,946.83	\$ 343,053.17	\$ -	0.00%	\$ 343,053.17	\$ 600,000.00	0.92%
	8	\$ 661,703.88	\$ -	\$ 61,703.88	0.12%	\$ (1,791.09)	\$ 659,912.79	1.02%
	9	\$ 501,386.15	\$ 98,613.85	\$ -	0.00%	\$ 98,613.85	\$ 600,000.00	0.92%
	10	\$ 630,435.91	\$ -	\$ 30,435.91	0.06%	\$ (883.47)	\$ 629,552.44	0.97%
	11	\$ 979,923.55	\$ -	\$ 379,923.55	0.75%	\$ (11,028.14)	\$ 968,895.41	1.49%
	12	\$ 384,519.63	\$ 215,480.37	\$ -	0.00%	\$ 215,480.37	\$ 600,000.00	0.92%
	13	\$ 55,820.59	\$ 544,179.41	\$ -	0.00%	\$ 544,179.41	\$ 600,000.00	0.92%
		Subtotal	\$ 8,103,873.71	\$ 1,472,566.20	\$ 1,776,439.91	3.49%	\$ 1,421,001.00	\$ 9,524,874.72
	Total	\$ 65,000,000.00	\$ 1,476,814.80	\$ 50,876,814.80	100.00%	\$ -	\$ 65,000,000.00	100.00%

Subregion Allocation Floor: \$600,000.00

6

**TO BE POSTED
NOT LATER THAN
THE THIRD DAY
BEFORE THE
DATE OF THE
MEETING**

7

BOARD ACTION REQUEST
COMMUNITY AFFAIRS DIVISION
JULY 8, 2021

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

RECOMMENDED ACTION

WHEREAS, on March 11, 2021, President Biden signed the American Rescue Plan Act of 2021 into law, which provides relief to address the continued impact of the COVID-19 pandemic;

WHEREAS, Section 3202 of the American Rescue Plan Act appropriates \$5,000,000,000 for new incremental Emergency Housing Vouchers (EHV) to be made available to eligible populations, which are persons experiencing homelessness; persons at risk of homelessness; persons fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking or human trafficking; or those who are recently homeless and for whom providing rental assistance will prevent the family's homelessness or those having high risk of housing instability;

WHEREAS, the EHV Program is administered by Public Housing Authorities operating in areas where the EHV's eligible populations have the greatest need and provides Public Housing Authorities (PHA) with service fees to support them in implementing and operating an effective EHV program;

WHEREAS, the Texas Department of Housing and Community Affairs (the Department) operates as a Public Housing Authority and is a designated recipient of EHV, as determined by the US Department of Housing and Urban Development (HUD);

WHEREAS, on May 10, 2021, HUD notified the Department of its eligibility for new EHV's and funding, and on May 24, 2021, the Department notified HUD that the Department would accept a full allocation of vouchers, plus more that may become available, after which the Department was notified of its revised award of a total of 798 vouchers;

WHEREAS, HUD requires participating PHAs to enter into a Memorandum of Understanding (MOU) with one or more a Continuum of Care (CoC) lead agency(ies) or other entities to make direct referrals to the PHA;

WHEREAS, the Department has identified a service area for this program that primarily includes the Department's current PHA jurisdiction plus other areas of the state where EHV vouchers were not received by PHAs, which include rural areas, within the limits of having local service providers willing and able to make referrals;

WHEREAS, a key component to the federal design of the EHV Program is the delivery of robust services, including required provision of housing navigation and location assistance to the tenants issued vouchers; and

WHEREAS, because of the size of the defined service area, and the need for the Department to enter into contracts with providers of the services and housing navigation assistance, the Department anticipates entering into contracts to provide payments to CoC lead agencies, contractors, and other housing or homeless service providers for eligible expenses in accordance with the HUD-defined Service Fee use policy;

NOW, therefore, it is hereby

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, in accordance with HUD requirements, to enter into contracts with CoC lead agencies and other entities for eligible activities using the EHV Program funds.

BACKGROUND

President Biden on March 11, 2021, signed the American Rescue Plan Act of 2021 into law which provides \$5 billion for new incremental Emergency Housing Vouchers (EHV). In addition to typical funds to cover the voucher, this program also provided fees for the cost of administering the EHV's and other eligible expenses, including significant service delivery funds to facilitate the leasing of the EHV's, such as security deposit assistance, housing location assistance, and other costs related to retention and support of participating owners.

Eligibility for these EHV's is limited to individuals and families who are (1) homeless; (2) at risk of homelessness; (3) fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking or human trafficking; or (4) recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability.

Staff determined which counties the Department's EHV program would serve based on the Department's current PHA jurisdiction; its ability to administer vouchers in the counties identified; interest in serving those areas not having received EHV from HUD, the presence and willingness of a local CoC lead agency or other entity that can make referrals; having a willing and able service provider in the area, and in response to HUD's requirement to ensure geographic diversity, including rural areas.

To facilitate and expedite leasing, the Department is allocated a one-time services fee in the amount of \$2,793,000 to support its efforts in implementing and operating the EHV program. The service fee amount is calculated by multiplying the number of vouchers awarded by \$3,500.

HUD has established a requirement that participating PHAs must enter into a Memorandum of Understanding (MOU) with CoC lead agencies that serve the areas that the Public Housing Authority (PHA) will serve with its EHV. The Continuum of Care (CoC) Program is designed to promote communitywide commitment to the goal of ending homelessness; provide funding for efforts by nonprofit providers, and is intended to be a mechanism through which State and local entities can quickly rehouse individuals and families who are experiencing homelessness. A CoC lead agency is the CoC collaborative applicant in the HUD CoC Program per 24 CFR §578.3. In addition, the Homeless Management Information System (HMIS) lead agencies will be included as CoC leads for the purpose of this action.

The Department is negotiating MOUs with CoC lead agencies and other entities in an effort to ensure all counties within the Department's EHV operating area have a partnership with the corresponding CoC or other entity to make referrals to the Department and potentially to provide services to the individuals and families (Households) receiving an EHV. However, services may be provided in whole or in part by entities independent from the CoC or other referring entity.

In addition to entering into MOUs with CoCs, the Department may seek separate agreements with other entities. To the extent that organizations the Department works with will provide services in addition to providing referrals, a contract will be utilized so that there is a mechanism through which to provide the service fee funds to the entity. An example would be a contract with local apartment locators to provide housing search assistance in some local markets. Housing search assistance is a required service and an eligible use of the services fee. The Department is in discussions with CoC lead agencies and other entities on how to most efficiently assist Households obtain and maintain housing. Housing search assistance may include activities such as helping Households identify and visit potentially available units, help a family identify a unit that meets the Household's disability-related needs, provide transportation and assist with the completion of rental applications. The Department may seek local Realtors who would be financially incentivized to secure housing for Households. This action authorizes the Department to enter into these agreements. Previous Participation will be evaluated on all parties that will receive funds via a Subrecipient contract and a Subrecipient entity would need to have a recommendation or a recommendation with conditions from EARAC. Entities that will receive funds as a contractor would need to meet a federal and state law requirements.

Individuals and families fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking or human trafficking are eligible for an EHV. The Department will ensure this population is served either by receiving referrals from CoCs, through direct referrals from victim service providers, or through other methods approved by HUD.

HUD is requiring that the Department enter into at least one MOU with a CoC lead agency or other service provider no later than July 31, 2021. Other agreements may be executed at a later date.

8

BOARD ACTION REQUEST

BOND FINANCE DIVISION

JULY 8, 2021

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

RECOMMENDED ACTION

Adopt attached resolution.

BACKGROUND

Staff works closely with the Department's Municipal Advisor and underwriting team to evaluate financing and refunding opportunities related to the Department's two single family indentures, the Single Family Mortgage Revenue Bond Indenture, and the Residential Mortgage Revenue Bond Indenture. Currently, market conditions are conducive to the issuance of tax-exempt, single family mortgage revenue bonds (SFMRBs) to finance the origination of mortgage loans to low, very low, and moderate income homebuyers. In addition, the Department's Single Family Indenture has two series of bonds eligible to be refunded, and for which a refunding makes economic sense. Combining the issuance of the new money bonds and the refunding bonds achieves certain economies of scale, and is economically compelling.

With this item, staff is seeking approval for the issuance of Texas Department of Housing and Community Affairs, 2021 Series A Single Family Mortgage Revenue Bonds (the 2021A Bonds) and 2021 Series B Single Family Mortgage Revenue Refunding Bonds (Taxable) (the 2021B Bonds).

2021A Bonds

The 2021A Bonds will be issued in a maximum par amount of \$150 million, and total bond proceeds (par amount of bonds plus bond premium) will not exceed \$162 million. Proceeds of the bonds will be used to purchase Ginnie Mae mortgage-backed securities (MBS) backed by tax-exempt eligible mortgage loans, to pay all or a portion of the costs of issuance related to the Bonds, and to finance a portion of the down payment assistance, lender compensation, and second loan servicing fees related to the underlying mortgage loans. The 2021A Bonds are expected to be offered as traditional SFMRBs, with serial bonds (including premium serial bonds), term bonds, and premium Planned Amortization Class (PAC) bonds. Depending on market conditions, proceeds of the 2021A Bonds may be invested in a Guaranteed Investment

Contract (GIC) until expended; otherwise, proceeds will be invested in overnight obligations that meet indenture requirements.

The 2021A Bonds are anticipated to be designated as “Social Bonds” and are expected to receive an Independent Second Party Opinion related thereto provided by Kestrel Verifiers. This will be the Department’s second issue of single family bonds designated as Social Bonds, with the primary benefit being a potential increase in investors for the Department’s bonds which may result in better pricing. This designation is primarily the result of an alignment between the Department’s single family bond program and the International Capital Markets Association (ICMA) Social Bond Principles.

2021A Mortgage Loans

Mortgage loans will be 30-year, fixed rate loans guaranteed by FHA, VA, or USDA and pooled into Ginnie Mae MBS. Initially, borrowers are expected to have the choice of four or five points of down payment assistance (DPA); those options may be modified in response to borrower demand or market conditions. DPA is provided through a 0% interest, non-amortizing, 30-year second mortgage loan that is due on sale or refinance of the first loan. The issuance of \$150 million of par amount of 2021A Bonds will provide for \$150 million in par amount of mortgage loans to be originated. The associated down payment assistance, lender compensation, and servicing fees for the second loans are expected to total approximately \$10.6 million.

2021B Bonds

The 2021B Bonds will be fixed rate, pass through bonds issued on a taxable basis. Total proceeds will not exceed \$24,830,000, and will be used to refund the Department’s 2004 Series B Single Family Variable Rate Mortgage Revenue Refunding Bonds (Commercial Paper Refunding) (the 2004B Bonds) and 2004 Series D Single Family Variable Rate Mortgage Revenue Bonds (the 2004D Bonds) (and together, the Refunded Bonds). As of July 1, 2021, these series have \$24,830,000 million of outstanding bonds, with fixed swap rates of 3.671% and 3.084%, respectively. Security for the 2021B Bonds will be Ginnie Mae and Fannie Mae MBS transferred from the Refunded Bonds and from the Surplus Revenues Fund of the Single Family Indenture. The par amount of MBS securing the 2021B Bonds will equal the par amount of 2021B Bonds. The Swaps associated with the 2004B Bonds and 2004D Bonds will be cancelled as of the date of redemption of the Refunded Bonds. This refunding is expected to generate savings of approximately \$2 million.

Timing

Key events are preliminarily scheduled as follows:

07/19/2021	Preliminary Official Statement is Released
07/27/2021	Bonds Priced and Bond Purchase Agreement is Executed
08/02/2021	Conditional Notice of Redemption Published for Refunded Bonds
08/04/2021	Official Statement is Released
09/01/2021	Bond Closing
09/01/2021	Redemption of Refunded Bonds and Cancellation of Associated Swaps

Department Contribution

The contribution by the Department will not exceed \$7.5 million, which will be used to fund a portion of the down payment and closing cost assistance and costs related to the acquisition of qualifying mortgage loans (including the payment of lender compensation and servicing fees for second mortgage loans) and to pay all or a portion of the costs of issuance of the Bonds. The contribution will be funded from amounts on deposit in the Single Family Indenture. Capitalized interest of up to \$4.5 million may be paid from the Single Family Indenture as necessary. As with prior transactions, these amounts are maximums; the actual contribution and capitalized interest expense are expected to be less than that approved by the Board.

Underwriting Team

Barclays will serve as senior manager, Jefferies, JP Morgan, and RBC Capital Markets are co-senior managers, and Morgan Stanley, Piper Sandler, and Ramirez & Co. are co-managers for this transaction.

Summary

Staff will continue to work with the Department's financing team to ensure the economic viability of the 2021A and 2021B Bonds. Depending on market conditions and other factors, the amount of bonds issued may be reduced, and it is possible that one series of the Bonds may be viable and the other not, in which case, we would move forward with the series that makes economic sense.

Exhibits

The Exhibits for Resolution 21-034 will be posted no later than Thursday, July 8, 2021, and can be found online at the Department's Board Meeting Information Center website: <http://www.tdhca.state.tx.us/board/meetings.htm>.

RESOLUTION NO. 21-034

RESOLUTION AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS SINGLE FAMILY MORTGAGE REVENUE BONDS, 2021 SERIES A AND SINGLE FAMILY MORTGAGE REVENUE REFUNDING BONDS, 2021 SERIES B (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

WHEREAS, the Texas Department of Housing and Community Affairs (the "Department") has been duly created and organized pursuant to and in accordance with the provisions of Chapter 2306, Texas Government Code (the "Act"), as amended from time to time, for the purpose of providing for the housing needs of individuals and families of low, very low, and extremely low income and families of moderate income (as described in the Act as determined by the Governing Board of the Department (the "Board") from time to time) at prices they can afford; and

WHEREAS, the Act authorizes the Department: (a) to issue revenue bonds, to provide money to (i) make and acquire mortgage loans or participations therein, (ii) fund or increase the Department's reserves or funds (iii) pay the costs and expenses of issuing the bonds and (iv) pay interest on the bonds; and (b) to pledge all or part of the revenues, income or resources of the Department, including the revenues to be received by the Department from the mortgage loans or participations therein, to secure the payment of the principal, interest or redemption premium on the bonds; and

WHEREAS, the Act further authorizes the Department to issue its revenue bonds for the purpose of refunding any Department bonds or other general or special obligations; and

WHEREAS, the Department and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"), have executed and delivered that certain Amended and Restated Single Family Mortgage Revenue Bond Trust Indenture dated as of June 1, 2017 (as amended and supplemented from time to time, the "Single Family Indenture"); and

WHEREAS, the Department has, pursuant to and in accordance with the provisions of the Act and the Single Family Indenture, issued, sold and delivered its Single Family Variable Rate Mortgage Revenue Refunding Bonds, 2004 Series B and Single Family Variable Rate Mortgage Revenue Bonds, 2004 Series D (collectively, the "Refunded Bonds"); and

WHEREAS, the Department has a single family mortgage purchase program (the "Program") to fund all or a portion of the Department's single family loan production; and

WHEREAS, pursuant to Resolution No. 17-003, the Board approved Program Guidelines setting forth the general terms of the mortgage loans to be originated under the Program (the

“Mortgage Loans”) and authorized execution and delivery of (i) a Mortgage Acquisition, Pooling and Servicing Agreement setting forth the terms under which Idaho Housing and Finance Association (the “Servicer”), will review, acquire, package and service the Mortgage Loans, and (ii) a Master Mortgage Origination Agreement in connection with the acceptance of new lenders in the Program; and

WHEREAS, Section 302 of the Single Family Indenture authorizes the issuance of additional Bonds for the purposes of acquiring Mortgage Loans or participations therein, payment of costs of issuance, funding of reserves, payments of certain Department expenses and refunding bonds; and

WHEREAS, the Board has determined to authorize the issuance of the Department’s Single Family Mortgage Revenue Bonds, to be known as its Single Family Mortgage Revenue Bonds, 2021 Series A (the “2021 Series A Bonds”) pursuant to the Single Family Indenture for the purpose of providing funds to make and acquire qualifying mortgage loans through the purchase of mortgage backed securities (“Mortgage Certificates”), to provide down payment and closing cost assistance and to pay a portion of the costs of issuance related thereto; and

WHEREAS, the Board desires to authorize the execution and delivery of the Seventieth Supplemental Single Family Mortgage Revenue Bond Trust Indenture (the “Seventieth Supplemental Indenture”) in substantially the form attached hereto relating to the 2021 Series A Bonds; and

WHEREAS, the Board has determined to authorize the issuance of the Department’s Single Family Mortgage Revenue Bonds, to be known as its Single Family Mortgage Revenue Refunding Bonds, 2021 Series B (Taxable) (the “2021 Series B Bonds,” and together with the 2021 Series A Bonds, the “Bonds”) pursuant to the Single Family Indenture for the purpose of providing funds to refund the Refunded Bonds and to pay a portion of the costs of issuance related thereto; and

WHEREAS, the Board desires to authorize the execution and delivery of the Seventy-First Supplemental Single Family Mortgage Revenue Bond Trust Indenture (the “Seventy-First Supplemental Indenture,” and together with the Seventieth Supplemental Indenture, the “Supplemental Indentures”) in substantially the form attached hereto relating to the 2021 Series B Bonds; and

WHEREAS, the Board has further determined that the Department should enter into a Bond Purchase Agreement relating to the sale of the Bonds (the “Bond Purchase Agreement”) with Barclays Capital Inc., as representative of the group of underwriters listed in the Bond Purchase Agreement (the “Underwriters”), in substantially the form attached hereto setting forth certain terms and conditions upon which the Underwriters will purchase the Bonds from the Department and the Department will sell the Bonds to the Underwriters; and

WHEREAS, the Board has determined to authorize the execution and delivery of a 2021 A/B Supplement to Depository Agreement relating to the Bonds (the “Depository Agreement”),

by and among the Department, the Trustee and the Texas Treasury Safekeeping Trust Company, in substantially the form attached hereto to provide for the holding, administering and investing of certain moneys and securities relating to the Bonds; and

WHEREAS, the Board has been presented with a draft of a preliminary official statement to be used in the public offering of the Bonds (the "Official Statement") and the Board desires to approve such Official Statement in substantially the form attached hereto; and

WHEREAS, the Board desires to authorize the execution and delivery of a Continuing Disclosure Agreement (the "Continuing Disclosure Agreement") relating to the Bonds in substantially the form attached hereto between the Department and the Trustee; and

WHEREAS, the Board has determined to authorize the investment of a portion of the proceeds of the 2021 Series A Bonds and any other amounts held under the Single Family Indenture with respect to the 2021 Series A Bonds in one or more guaranteed investment contracts (the "GICs") on or after the closing date or in such other investments as the authorized representatives named herein may approve; and

WHEREAS, the Board desires to approve the use of an amount not to exceed \$7,500,000 of Department funds for any purpose authorized under the Act and the Single Family Indenture, including to provide down payment and closing cost assistance, to make and acquire qualifying mortgage loans, including payment of lender compensation, through the purchase of Mortgage Certificates and to pay a portion of the costs of issuance; and

WHEREAS, the Board desires to authorize the use of an amount not to exceed \$4,500,000 of funds on deposit under the Single Family Indenture to fund capitalized interest on the 2021 Series A Bonds; and

WHEREAS, Chapter 1371, Texas Government Code, as amended ("Chapter 1371") and Chapter 1207, Texas Government Code, as amended ("Chapter 1207"), authorize the Department to take certain actions described in this Resolution related to the issuance of the Bonds; and

WHEREAS, the Board desires to approve the forms of the Supplemental Indentures, the Bond Purchase Agreement, the Depository Agreement, the Official Statement and the Continuing Disclosure Agreement and find the form and substance of such documents to be satisfactory and proper and the recitals contained therein to be true, correct and complete; and has determined to further its programs in accordance with such documents by authorizing the issuance of the Bonds, the execution and delivery of such documents and the taking of such other actions as may be necessary or convenient to carry out the purposes of this Resolution;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS:

ARTICLE 1
ISSUANCE OF BONDS; APPROVAL OF DOCUMENTS

Section 1.1 Issuance, Execution and Delivery of the Bonds. That the issuance of any or all of the Bonds is hereby authorized, all under and in accordance with the Single Family Indenture, and that, upon execution and delivery of the Supplemental Indentures, the Authorized Representatives of the Department named in this Resolution are each hereby authorized to execute, attest and affix the Department's seal to the Bonds and to deliver the Bonds to the Attorney General of Texas (the "Attorney General") for approval, the Comptroller of Public Accounts of the State of Texas (the "Comptroller") for registration and the Trustee for authentication, and thereafter to deliver the Bonds to or upon the order of the Underwriters.

Section 1.2 Authority to Determine Interest Rates, Principal Amounts, Maturities and Prices. That the Authorized Representatives of the Department are hereby authorized and empowered, in accordance with Chapter 1371, in the case of the 2021 Series A Bonds, and in accordance with Chapter 1207, in the case or the 2021 Series B Bonds, to fix and determine the interest rates, principal amounts and maturities of the Bonds, and the prices at which the Department will sell the Bonds to the Underwriters, all of which determinations shall be conclusively evidenced by the execution and delivery by an Authorized Representative of the Bond Purchase Agreement; provided, however, that: (a) the interest rate on each series of the Bonds shall not exceed 6.00% per annum; (b) the aggregate principal amount of the 2021 Series A Bonds shall not exceed \$150,000,000; (c) the aggregate principal amount of the 2021 Series B Bonds shall not exceed \$24,830,000; (d) the final maturity of the 2021 Series A Bonds shall occur not later than March 1, 2053; (e) the final maturity of the 2021 Series B Bonds shall occur not later than March 1, 2039; (f) the price at which the Bonds are sold to the Underwriters shall not exceed 108% of the aggregate principal amount thereof; and (g) the 2021 Series A Bonds shall be rated by a nationally recognized rating agency for municipal securities in one of the four highest rating categories for a long-term debt instrument. In no event shall the interest rate on the Bonds (including any default interest rate) exceed the maximum interest rate permitted by applicable law.

Section 1.3 Approval, Execution and Delivery of the Supplemental Indentures. That the form and substance of the Supplemental Indentures are hereby approved and that the Authorized Representatives are hereby authorized to execute, attest and affix the Department's seal to the Supplemental Indentures, and to deliver the Supplemental Indentures to the Trustee.

Section 1.4 Approval, Execution and Delivery of the Bond Purchase Agreement. That the sale of the Bonds to the Underwriters pursuant to the Bond Purchase Agreement is hereby approved and that the Authorized Representatives are hereby authorized to execute, attest and affix the Department's seal to the Bond Purchase Agreement and to deliver the Bond Purchase Agreement to the Underwriters.

Section 1.5 Official Statement. That the Official Statement, in substantially the form presented to the Board, is hereby approved; that prior to the execution of the Bond Purchase Agreement, the Authorized Representatives, acting for and on behalf of the Board, are hereby

authorized and directed to finalize the Official Statement for distribution by the Underwriters to prospective purchasers of the Bonds, with such changes therein as an Authorized Representative may approve in order to permit such Authorized Representative, for and on behalf of the Board, to deem the Official Statement final as of its date, except for such omissions as are permitted by Rule 15c2-12 of the Securities and Exchange Commission (“Rule 15c2-12”), such approval to be conclusively evidenced by the distribution of such Official Statement; and that within seven business days after the execution of the Bond Purchase Agreement, the Authorized Representatives, acting for and on behalf of the Board, shall cause the final Official Statement, in substantially the form of the Official Statement attached hereto, with such changes as an Authorized Representative may approve, such approval to be conclusively evidenced by such Authorized Representative’s execution thereof, to be provided to the Underwriters in compliance with Rule 15c2-12.

Section 1.6 Approval of Depository Agreement. That the form and substance of the Depository Agreement are hereby authorized and approved and that the Authorized Representatives are hereby authorized to execute, attest and affix the Department’s seal to the Depository Agreement and to deliver the Depository Agreement to the Trustee and to the Texas Treasury Safekeeping Trust Company.

Section 1.7 Approval of Continuing Disclosure Agreement. That the form and substance of the Continuing Disclosure Agreement are hereby authorized and approved and that the Authorized Representatives are hereby authorized to execute, attest and affix the Department’s seal to the Continuing Disclosure Agreement and to deliver the Continuing Disclosure Agreement to the Trustee.

Section 1.8 Redemption of Refunded Bonds. That the Executive Director or the Director of Bond Finance and Chief Investment Officer of the Department is hereby authorized and directed: (i) to instruct the Trustee to give notice of redemption and to redeem the outstanding Refunded Bonds with the proceeds of the 2021 Series B Bonds, and (ii) to take all other actions necessary to cause such redemption and refunding, and the termination of the interest rate swap transactions, liquidity facilities and other agreements relating to the Refunded Bonds, to occur. The Board has determined that the proposed refunding of the Refunded Bonds and termination of the interest rate swap transactions relating to the Refunded Bonds are in the best interest of the Department. The manner in which the Refunded Bonds are being refunded does not make it practicable to make the determination required by Section 1207.008(a)(2) of Chapter 1207.

Section 1.9 Approval of GIC Broker; Approval of Investment in GICs. That the Executive Director or the Director of Bond Finance and Chief Investment Officer of the Department is hereby authorized to select a GIC broker, if any, and that the investment of funds held under the Single Family Indenture in connection with the 2021 Series A Bonds in GICs is hereby approved and that the Executive Director or the Director of Bond Finance and Chief Investment Officer of the Department is hereby authorized to complete arrangements for such investment in GICs or such other investments as the Authorized Representatives may approve.

Section 1.10 Authority to Designate 2021 Series A Bonds as Social Bonds. That the Executive Director or the Director of Bond Finance and Chief Investment Officer of the Department is hereby authorized to designate the 2021 Series A Bonds as “social bonds,” and if such designation occurs, “(Social Bonds)” shall be added at the end of the name of the 2021 Series A Bonds.

Section 1.11 Execution and Delivery of Other Documents. That the Authorized Representatives are each hereby authorized to execute, attest, affix the Department’s seal to and deliver such other agreements, advance commitment agreements, assignments, bonds, certificates, contracts, documents, instruments, releases, financing statements, letters of instruction, notices of acceptance, written requests and other papers, and to take such other acts, whether or not mentioned herein, as may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution, the Single Family Indenture, the Bonds, the Supplemental Indentures, the Bond Purchase Agreement, the Depository Agreement and the Continuing Disclosure Agreement.

Section 1.12 Power to Revise Form of Documents. That, notwithstanding any other provision of this Resolution, the Authorized Representatives are each hereby authorized to make or approve such revisions in the form of the documents attached hereto as exhibits as, in the judgment of such Authorized Representative, or in the opinion of Bracewell LLP, Bond Counsel to the Department, may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution, such approval to be evidenced by the execution of such documents by the Authorized Representatives.

Section 1.13 Exhibits Incorporated Herein. That all of the terms and provisions of each of the documents listed below as an exhibit shall be and are hereby incorporated into and made a part of this Resolution for all purposes:

- Exhibit A – Supplemental Indentures
- Exhibit B – Bond Purchase Agreement
- Exhibit C – Official Statement
- Exhibit D – Depository Agreement
- Exhibit E – Continuing Disclosure Agreement

Section 1.14 Authorized Representatives. The following persons are each hereby named as authorized representatives of the Department for purposes of executing, attesting, affixing the Department’s seal to, and delivering the documents and instruments and taking the other actions referred to in this Article 1: the Chair or Vice Chair of the Board, the Executive Director of the Department, the Director of Administration of the Department, the Director of Financial Administration of the Department, the Director of Bond Finance and Chief Investment Officer of the Department, the Director of Texas Homeownership of the Department and the Secretary or Assistant Secretary to the Board. Such persons are referred to herein collectively as the “Authorized Representatives.” Any one of the Authorized Representatives is authorized to act individually as set forth in this Resolution.

Section 1.15 Department Contribution. That the contribution of Department funds in an amount not to exceed \$7,500,000 to be used for any purpose authorized under the Act, including to provide funds for the refunding of the Refunded Bonds, to provide down payment and closing cost assistance, to make and acquire qualifying mortgage loans, including payment of lender compensation, through the purchase of Mortgage Certificates and to pay all or a portion of the costs of issuance of the Bonds is hereby authorized.

Section 1.16 Use of Single Family Indenture Funds. That the use of an amount not to exceed \$4,500,000 of funds on deposit under the Single Family Indenture to fund capitalized interest on the 2021 Series A Bonds is hereby authorized.

ARTICLE 2

APPROVAL AND RATIFICATION OF CERTAIN ACTIONS

Section 2.1 Submission to the Attorney General of Texas. That the Board hereby approves the submission by the Department's Bond Counsel to the Attorney General of Texas, for his approval, of a transcript of the legal proceedings relating to the issuance, sale and delivery of the Bonds.

Section 2.2 Engagement of Other Professionals. That the Executive Director or the Director of Bond Finance and Chief Investment Officer of the Department is authorized to engage an accounting firm or firms to perform such functions, audits, yield calculations, verifications and subsequent investigations as necessary or appropriate to comply with the Bond Purchase Agreement and the requirements of the purchasers of the Bonds and Bond Counsel to the Department, provided such engagement is done in accordance with applicable State law.

Section 2.3 Certification of the Minutes and Records. That the Secretary and any Assistant Secretary to the Board are hereby authorized to certify and authenticate minutes and other records on behalf of the Department for its single family mortgage revenue bond program, the issuance of the Bonds and all other Department activities.

Section 2.4 Approval of Requests for Rating from Rating Agencies. That the Executive Director, the Director of Bond Finance and Chief Investment Officer of the Department and the Department's consultants are authorized to seek ratings from Moody's Investors Service, Inc. and S&P Global Ratings, a division of S&P Global Inc.

Section 2.5 Ratifying Other Actions. That all other actions taken or to be taken by the Executive Director and the Department's staff in connection with the issuance of the Bonds are hereby ratified and confirmed.

Section 2.6 Authorized to Invest Funds. That pursuant to Section 1371.102 of Chapter 1371 and the Act, the Executive Director or the Director of Bond Finance and Chief Investment Officer of the Department is hereby authorized to undertake all appropriate actions required under the Single Family Indenture and the Depository Agreement and to provide for investment

and reinvestment of all funds held under the Single Family Indenture in accordance with the Single Family Indenture.

**ARTICLE 3
CERTAIN FINDINGS AND DETERMINATIONS**

Section 3.1 Purpose of 2021 Series A Bonds. That the Board hereby determines that the purpose for which the Department may issue the 2021 Series A Bonds constitutes “public works” as contemplated by Chapter 1371.

**ARTICLE 4
GENERAL PROVISIONS**

Section 4.1 Limited Obligations. That the Bonds and the interest thereon shall be limited obligations of the Department payable solely from the trust estate pledged under the Single Family Indenture to secure payment of the bonds issued under the Single Family Indenture and payment of the Department’s costs and expenses for its single family mortgage revenue bond program thereunder and under the Single Family Indenture, and under no circumstances shall the Bonds be payable from any other revenues, funds, assets or income of the Department.

Section 4.2 Non-Governmental Obligations. That the Bonds shall not be and do not create or constitute in any way an obligation, a debt or a liability of the State or create or constitute a pledge, giving or lending of the faith or credit or taxing power of the State.

Section 4.3 Purposes of Resolution. That the Board has expressly determined and hereby confirms that the issuance of the Bonds and the furtherance of the purposes contemplated by this Resolution accomplish a valid public purpose of the Department by providing for the housing needs of individuals and families of low, very low and extremely low income and families of moderate income in the State.

Section 4.4 Notice of Meeting. That this Resolution was considered and adopted at a meeting of the Board that was noticed, convened, and conducted in full compliance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, and with Section 2306.032 of the Texas Government Code, and the March 16, 2020 action by the Governor of the State of Texas under Section 418.016, Texas Government Code, suspending certain provisions of the Texas Open Meetings Act, regarding meetings of the Board.

Section 4.5 Effective Date. That this Resolution shall be in full force and effect from and upon its adoption.

PASSED AND APPROVED this 8th day of July, 2021.

EXHIBITS

ALL DOCUMENTS REFERRED TO IN THE FOREGOING RESOLUTION ARE ATTACHED TO THE ORIGINAL COPY OF SAID RESOLUTION, WHICH IS ON FILE IN THE OFFICIAL RECORDS OF THE DEPARTMENT, AND EXECUTED COUNTERPARTS OF SUCH EXHIBITS ARE INCLUDED IN THE OFFICIAL TRANSCRIPT OF PROCEEDINGS RELATING TO THE BONDS.

9a

BOARD REPORT
MULTIFAMILY FINANCE DIVISION
JULY 8, 2021

2022-23 Qualified Allocation Plan (QAP) Planning Project Report

Two 2022-23 QAP Planning Focus Groups have been conducted virtually, with one on June 10, 2021, and the other June 14, 2021. Staff determined it would be necessary to hold two separate Focus Groups for each type of Sponsor Characteristics, to allow for easier discussion of the specific needs for changes to the QAP.

Discussion of changes in Sponsor Characteristics included Qualified Nonprofit Organizations and Historically Underutilized Businesses (HUBs). The conversation began with staff proposed changes to the language of the QAP that would separate both Qualified Nonprofit Organizations and HUB's into their own respective sections under 10 TAC §11.9(b)(2). The current language in the QAP combines them in the same section of the QAP, and separating them would allow for referencing specific sections under Sponsor Characteristics. This proposed separation will make it easier to make specific changes regarding either Qualified Nonprofit Organizations or HUB's, which is especially important considering the differences between the groups.

In the Focus Group with the Qualified Nonprofit Organizations, staff and stakeholders discussed how to distinguish non-profit vs for profit organizations, and the concerns of nonprofit housing providers that do not meet the definition of Qualified Nonprofit Organization because they are statewide or national organizations. Staff suggested language that would create a third category under §11.9(b)(2) Sponsor Characteristics. This third category would be distinguished by requiring the Applicant to provide a minimum of three additional points under 10 TAC §11.101(7) related to Resident Supportive Services, in addition to the points selected under 10 TAC §11.9(c)(3); an additional experience requirement; and a requirement for continued material participation. Stakeholders found the proposed language to be initially acceptable, and because it does not remove the current criteria for Qualified Nonprofit Organizations, that it expands opportunities for mission-driven nonprofit providers to participate.

In the Focus Group with HUB's, staff and stakeholders discussed how to ensure HUB's would be actively involved with the development process. Stakeholders suggested the possibility of TDHCA publishing a list of approved certified HUB's, similar to Market Analysts. Discussion included a template participation agreement for HUB's, and requirements for long term compliance. Staff and Stakeholders are continuing discussions for HUB's.

Any proposed changes to the 2022 QAP will be published in the staff draft this summer.

9b

The following items will be Supplemental Postings, to be posted not later than the third day before the date of the meeting

21116 - Sweetwater Station
21230 - Calle del Norte Apartments

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 21149 Residences at Alpha

RECOMMENDED ACTION

WHEREAS, the appeal relates to Competitive Housing Tax Credit (HTC) Application 21149 Residences at Alpha, which was submitted to the Department by the Full Application Delivery Date;

WHEREAS, a notice 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 21149 Residences at Alpha 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 100 Units for the elderly population in Dallas, of which 80 will be Restricted and 20 will be Market Rate Units.

The Department received a Third Party Request for Administrative Deficiency (RFAD) questioning whether the Application qualifies for points under 10 TAC §11.9(e)(3) related to Pre-Application Participation and 10 TAC §11.9(e)(4) related to Leveraging of Federal, State, and Private Resources. Upon further review, staff issued a Notice of Scoring Adjustment denying the points under both scoring items, pending the Applicant's ability to appeal. The Applicant appealed, and as detailed below, the Executive Director denied the appeal for both scoring items.

Pre-Application Participation

In the 2021 Qualified Allocation Plan (QAP) relating to Pre-application Participation, 10 TAC §11.9(e)(3)(F) most relevantly 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:

(F) The Development Site at Application is at least in part the Development Site at pre-application, and the census tract number listed at pre-application is the same at Application. The site at full Application may not require notification to any person or entity not required to have been notified at pre-application[.]

Staff determined that the change in Site Control location from Pre-Application to Application precluded eligibility for Pre-Application points under 10 TAC §11.9(e)(3) related to Pre-Application Participation. Specifically, staff confirmed the Pre-Application included Site Control documentation for a site in Houston while the full Application included documentation for a site in Dallas. On appeal, the Applicant claimed their inability to revoke the incorrect submission after 4:05 pm Central time on the date of the Pre-Application deadline was the cause for not providing the correct Site Control documentation. However, no other Applicants described technological difficulties with regard to the ability to revoke and resubmit prior to the end of the Pre-Application submission deadline. Staff also did not receive notification from the Applicant regarding the alleged error at the time of Pre-Application submission.

Accordingly, the Executive Director denied the appeal. Staff recommends the Board also deny the appeal.

Leveraging of Federal, State, and Private Resources

10 TAC §11.9(e)(4) of the QAP related to Leveraging of Federal, State, and Private Resources states:

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

(A) An Application may qualify to receive up to three (3) points if at least 5% of the total Units are restricted to serve households at or below 30% of AMGI (restrictions elected under other point items may count) and the Housing Tax Credit funding request for the proposed Development meet one of the levels described in clauses (i) - (iv) of this subparagraph:

- (i) the Development leverages CDBG Disaster Recovery, HOPE VI, RAD, or Choice Neighborhoods funding and the Housing Tax Credit Funding Request is less than 9% of the Total Housing Development Cost (3 points). The Application must include a commitment of such funding; or
- (ii) if the Housing Tax Credit funding request is less than 9% of the Total Housing Development Cost (3 points); or

- (iii) if the Housing Tax Credit funding request is less than 10% of the Total Housing Development Cost (2 points); or
- (iv) if the Housing Tax Credit funding request is less than 11% of the Total Housing Development Cost (1 point).

(B) The calculation of the percentages stated in subparagraph (A) of this paragraph will be based strictly on the figures listed in the Funding Request and Development Cost Schedule. Should staff issue an Administrative Deficiency that requires a change in either form, then the calculation will be performed again and the score adjusted, as necessary. **However, points may not increase based on changes to the Application. In order to be eligible for points, no more than 50% of the Developer Fee can be deferred.** Where costs or financing change after completion of underwriting or award (whichever occurs later), the points attributed to an Application under this scoring item will not be reassessed unless there is clear evidence that the information in the Application was intentionally misleading or incorrect. (Emphasis added).

Staff received a Third Party Request for Administrative Deficiency highlighting the ineligibility of this Application to earn points under this scoring item. Staff issued an Administrative Deficiency asking for clarification on the issue. In response, the Applicant stated:

Residences at Alpha's site has an existing commercial building on it. Part of this building will be demolished for the new project, but a portion will be retained. That is shown on the site plan in Tab 22 of the application. Exhibit D the Contract to Purchase and Sell under Tab 12 has a list of the commercial tenants, rents and lease expirations. The tenant in the portion of the building that will remain is Verizon. They have a lease that doesn't expire until 10/31/2027. It is the applicant's intention to retain Verizon at this location. The rent will be a minimum of \$5,925 per month and a short-term loan in the amount of \$350,000 will be obtained using the income from Verizon lease to pay the interest and principal. This loan will be made to the applicant as they will be the lessee and the proceeds will be used only to pay developer's fee, so the deferred developer's fee will be less than 50%. The attached revised Tab 31 - Schedule of Sources includes his loan and we are providing a letter from Bank of Oklahoma indicates the proposed terms. Tab 17 – Development Narrative has been attached with the information about the commercial building added.

This is a unique situation. This secondary financing is collateralized only by the Verizon lease. This commercial lease has only a six-year term remaining so can't be used to help amortize the permanent debt. It's not clear in the rules where to include this type of funds source or income in the application.

Despite the categorization of the potential receipt of funds related to a commercial building, the initial Application submission clearly showed \$1,353,548 of the \$2,504,000 total Developer Fee will be deferred (see Development Cost Schedule and Schedule of Sources and Uses). The status of the aforementioned funds ultimately had no merit with regard to the Application's ineligibility

to score points under 10 TAC §11.9(e)(4) related to Leveraging of Federal, State, and Private Resources. The rule explicitly precluded the Application from scoring points because the amount of Deferred Developer Fee exceeded 50% of the total Developer Fee. As staff determined, the original Application documents indicated approximately 54% of the Developer Fee would be deferred.

Accordingly, the Executive Director denied the appeal. Staff recommends the Board also deny the appeal.

21149 Residences at Alpha Scoring Adjustment



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

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GOVERNOR

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Kenny Marchant, *Member*
Ajay Thomas, *Member*
Sharon Thomason, *Member*

June 14, 2021

Writer's direct dial: (512) 936-7834
Email: alena.morgan@tdhca.state.tx.us

Gary Lacey
Alpha Dallas Housing Partners, LP
675 Town Square, Bldg. 1A, Ste. 200
Rowlett, TX 75088

RE: NOTICE OF SCORING ADJUSTMENT: 21149, RESIDENCES AT ALPHA

Dear Mr. Lacey:

The Texas Department of Housing and Community Affairs (the Department) is in receipt of the application indicated above. Per 10 TAC §11.10 of the 2021 Qualified Allocation Plan (QAP), staff issued an Administrative Deficiency regarding matters not already addressed by staff, for which you timely responded. For the reasons stated below, the Application score has been adjusted.

Using 10 TAC §11.201(7)(B) as a reference, staff determined the Application does not qualify for points under 10 TAC §11.9(e)(4) related to Leveraging of Private, State, and Federal Resources. In order to be eligible for points under this scoring item, §11.9(e)(4)(B) requires, "no more than 50% of the Developer Fee can be deferred." In response to the deficiency notice, you explained a short-term loan to the Applicant would be used to pay the developer's fee. You claimed this would keep the percentage of deferred developer fee from exceeding the maximum 50%.

Upon review, staff determined the short-term loan does not meet the requirements for permanent financing as proposed in the Application. Rather, the loan is being provided to the Applicant and can more accurately be characterized as a Contribution from the Developer. Thus it may not be used to pay down the deferred developer fee. Without taking the short-term loan into account, the deferred fee is 55% of the Total Developer Fee (\$1,353,548 of \$2,440,758 will be deferred). This exceeds the 50% permitted to be eligible for points under this scoring item. The Application has been assigned a score of zero (0) points under 10 TAC §11.9(e)(4) related to Leveraging of Private, State, and Federal Resources.

Additionally, staff determined the Application does not qualify for points under 10 TAC §11.9(e)(3) related to Pre-Application Participation because the Site Control documentation submitted



at Pre-Application was for a different site than that submitted at full Application. Specifically, the Pre-Application submission is for a site in Houston while the Application is for a site in Dallas. Accordingly, the Application has been assigned a score of zero (0) points under 10 TAC §11.9(e)(4)(Pre-Application Participation).

An appeals process exists for the Housing Tax Credit Program. The restrictions and requirements related to the filing of an appeal can be found in §11.902 of the QAP. If you wish to appeal this decision to the Executive Director, the appeal must be filed, in writing, with the Department not later than seven (7) calendar days after the date of this notification. 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 questions or require further information, please contact me.

Sincerely,

Alena R. Morgan, JD
Competitive HTC Administrator

Applicant Appeal Documents



800 North Point Parkway
Suite 125
Alpharetta, Georgia 30005
770-552-8070 telephone
770-552-8748 facsimile

ALPHA DALLAS HOUSING PARTNERS, LP

Via Electronic Mail

June 21, 2021

Mr. Bobby Wilkinson
Executive Director
TDHCA
221 East 11th Street
Austin, Texas 78701

**RE: NOTICE OF APPEAL OF SCORING ADJUSTMENT
21149, RESIDENCES AT ALPHA**

Dear Mr. Wilkinson:

As the manager for Alpha Dallas Housing Partners, LP, and on behalf of the applicant, this letter serves as notice that we wish to appeal the decisions made by TDHCA staff relating to the scoring of application 21149. The basis for the appeal are based upon the following facts:

1. PRE-APPLICATION POINTS

TDHCA staff states that we do not qualify for Pre-Application points under 10 TAC §11.9(e)(3) because the site control documentation submitted was for a property in Houston, and not the property applicable to this application. We do not dispute that the incorrect site control documentation was uploaded. However, a malfunction with TDHCA's server made it impossible for us to correct the error. Therefore, we should be allowed to correct this circumstance with an Administrative Deficiency and should not lose the points.

In accordance with TDHCA's instruction manual, we uploaded what we thought was the final Pre-Application to the FTP site on January 8, 2021 at 4:05pm central. In doing so, we received an automatic email from TDHCA informing us that we could access the Pre-Application via a URL link (see below):

From: NoReply@tdhca.state.tx.us [mailto:NoReply@tdhca.state.tx.us]
Sent: Friday, January 8, 2021 4:05 PM
To: Gary Lacey <GLacey@nurock.com>
Subject: TDHCA HTC Pre-Application Submission

You have successfully submitted Competitive HTC Pre-Application #21149 for the Residences at Alpha development. If you have not done so already, please submit your pre-application fee, which should be in the amount of 1000, along with a Multifamily Document and Payment Receipt including the pre-application number. Certain Qualified Nonprofits are eligible for a 10% discount, which should be taken at the time of payment and indicated on the Multifamily Document and Payment Receipt. Please see §11.901(1) of the Qualified Allocation Plan for more information. Pre-application fees must be received by 5:00 p.m., Austin local time, on Friday, January 08, 2021. Fees are refundable only if the pre-application is withdrawn.

The URL to access the HTC Pre-Application form is:
https://public.tdhca.state.tx.us/htc/t_htc_pre_app.app_entry.page1?p_init_nbr=21EZ835372MX52

In conducting an internal review of the Pre-Application from our office file, we noticed that the incorrect purchase contract was accidentally submitted. Under the Pre-Application instructions, we are allowed to withdraw the submission from the FTP site, if we find a mistake, and the link was supposed to allow us to do that. Multiple attempts were made to access the HTC Pre-Application form, but we were not to access the link so we could make the change to replace the contract prior to the deadline of 5:00pm. We were locked out. Had we been able to access the link and get to the FTP site, we would have uploaded a new version of the Pre-Application that included the correct site contract.

According to the [2021 Multifamily Programs Application Procedures Manual – Pre-application Delivery](#) - The browser will display a submission confirmation page, which includes a link to a printer-friendly version of the submitted pre-application. You can save a .pdf copy if you wish. [In the event that an error is identified after submission, the Applicant can revoke the submission, edit the form, and then resubmit prior to the submission deadline.](#) Review the posted pre-application webinar for more information.

We were never afforded the opportunity to revoke the submission per the Procedures Manual to replace the purchase contract and re-upload the submission to the FTP site, due to this technical difficulty. We tried to click on the buttons so we could revoke and resubmit, and nothing happened.

It is clear that by every purpose, the Pre-Application data, other than the sales contract, had the correct information for the site. The fully executed contract was dated December 18, 2020, well before the Pre-Application submission date. The application to the City of Dallas, which was well before the TDHCA Pre-Application submission date, did contain the correct purchase contract as evidenced via this email below from Kyle Hines, the Interim Assistant Director for the City of Dallas, Housing & Neighborhood Revitalization Department:

RE: Alpha Site Control

 Hines, Kyle <kyle.hines@dallascityhall.com>
To: Gary Lacey; Christian Garcia
Cc: Eaquinto, Aaron
You replied to this message on 3/2/2021 1:04 PM.

 Reply  Reply All  Forward
Tue 3/2/20

Gary/Christian

Thanks for the update and explanation. I know that your submittal to the City did contain the correct PSA so if there are issues with site control at or near the time of your pre-app, we can at least point our application. Hopefully there are no further issues.

Thanks

Kyle

 Kyle J. Hines, MPA
Interim Assistant Director
City of Dallas | Dallascityhall.com
Housing & Neighborhood Revitalization
1500 Marilla St, Room 6CN
Dallas, TX 75201
O: 214-670-4942 | C: 469-781-4579

Had the technical error not existed, we would have had the ability to revoke the application prior to the submission deadline and make the correction that was uncovered after we submitted the Pre-Application.

Because of this technical error with TDHCA FTP site, which did not allow us to revoke the application and resubmit, we respectfully submit that this application should be awarded the full points for the Pre-Application submission.

2. LEVERAGING OF PRIVATE STATES AND FEDERAL RESOURCES

The letter from TDHCA states that Staff has determined that the Application does not qualify for points under 10 TAC §11.9(e)(4) related to Leveraging of Private, State, and Federal Resources. In order to be eligible for points under this scoring item, §11.9(e)(4)(B) requires, “no more than 50% of the Developer Fee can be deferred.”

The TDHCA letter further states that, “...10 TAC §11.9(e)(4) related to Leveraging of Private, State, and Federal Resources. In order to be eligible for points under this scoring item, §11.9(e)(4)(B) requires, “no more than 50% of the Developer Fee can be deferred...” The TDHCA letter goes on to state that, “...Upon review, **staff determined the short-term loan does not meet the requirements for permanent financing** as proposed in the Application. Rather, the loan is being provided to the Applicant and **can more accurately be characterized as a Contribution from the Developer**. Thus it may not be used to pay down the deferred developer fee. Without taking the short-term loan into account, the deferred fee is 55% of the Total Developer Fee (\$1,353,548 of \$2,440,758 will be deferred). This exceeds the 50% permitted to be eligible for points under this scoring item. The Application has been assigned a score of zero (0) points under 10 TAC §11.9(e)(4) related to Leveraging of Private, State, and Federal Resources...”.

We respectfully disagree with the conclusions made by the TDHCA staff on this issue:

1. The above described loan, as evidenced by the attached LOI, is being provided by **BOFK, N.A d/b/a Bank of Texas** (the “Bank”). We fail to understand how staff can suggest a loan from an FDIC insured bank that is publicly traded and has no affiliation, directly or indirectly, with the Applicant or Developer, can be “*more accurately characterized as a Contribution from the Developer*”. We cannot find a definition of “Contribution from the Developer” in either the QAP or TAC. This is not even an “Owner Contribution”, which is mentioned in the QAP.

The loan is an arm’s length loan provided by an FDIC insured, publicly traded Bank, who has demonstrated experience with TDHCA in providing debt to LIHTC properties.

2. We can find no restriction in either the QAP, Procedures Manual or TAC regulations where all debt sources must be considered permanent in nature and must have a minimum 15 year term. As is outlined in the Bank LOI, the property has an existing building, which is currently in operation and will remain when acquired by the Applicant. The existing commercial lease (attached hereto) will serve as collateral for this loan. The lease has an existing life of 6 years, and is producing lease revenue. It is through this existing commercial lease revenue that this loan will be repaid and that is why this loan has a term of 6 years, to coincide and amortize with the existing commercial lease revenue stream.
3. Since this loan cannot be reasonably determined to be a “Contribution from the Developer” or even an “Owner Contribution”, it must be concluded that this is a bona fide third party loan to the applicant entity. As such, there is no restriction on using these proceeds to pay down the Deferred Developer Fee. In fact, there is no restriction in the QAP that

would restrict the Applicant from using any combination of sources (equity, perm debt or the aforementioned collateralized interim loan) to be used towards paying down the Developer Fee. The combination of this debt source, the permanent debt source and the equity source satisfies the requirement that the deferred Developer Fee is less than 50% of the Total Developer Fee, which enables the application to be eligible for points under this scoring item and qualifies under TAC § 11.9(e)(4).

4. Finally, it should be noted that the application form does not really accommodate a mid-term loan such as this one. We recognize that most tax credit developments utilize a construction loan and a permanent loan, and this approach is a little different than what TDHCA typically sees, but, again, there is nothing to prohibit it.

For these reasons, we respectfully submit that TDHCA staff erred when determining that this loan was something other than a bona fide third party loan from a banking institution. We request that we received the points associated with this Section.

Based upon the above, we respectfully request that this appeal for both items be granted, the points restored and to allow the application to move forward in the scoring and underwriting process.

We are available to discuss this with you at your convenience or through our counsel, Cynthia Bast, whom TDHCA staff knows well.

Sincerely,

ALPHA DALLAS HOUSING PARTNERS, LP
By: NDG Alpha, LLC, its general partner



By: Robert Hoskins, its manager

EXHIBIT 1

PURCHASE CONTRACT

AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT OF PURCHASE AND SALE (this "**Agreement**") is by and between Janlaw Ppties Inc and Zimcal Corp ("**Seller(s)**") and NUROCK ACQUISITIONS, LLC, a Texas Limited Liability Company ("**Purchaser**") and/or assigns.

RECITALS

WHEREAS, Seller is the owner of certain property, being a 1.5733-acre tract located at 5353 Alpha Rd, Dallas, TX in Dallas County, Texas being more particularly described on **Exhibit "A"** attached hereto and made a part hereof (the "**Land**"). The Land shall be further delineated by a survey as described within Section 3.3 of this Agreement; the New Survey, when completed, will supersede the legal description and depictions shown in Exhibit A; and

WHEREAS, Purchaser and Seller desire to set forth their agreements concerning the terms and conditions pursuant to which Seller will sell to Purchaser and Purchaser will buy from Seller the "**Property**" (as defined herein).

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1

PROPERTY/PURCHASE PRICE

1.1 Property. Subject to the terms and conditions of this Agreement, Seller agrees to sell to Purchaser, and Purchaser agrees to purchase from Seller, the following property (collectively, the "**Property**"):

(a) The Land, together with all of Seller's right, title and interest in and to (i) all improvements owned by Seller, and located thereon, including installations and other improvements of every kind now or hereafter in, on, over and under the Land; and (ii) all water, water rights, sanitary sewer and any other rights to use and appropriate water from or relative to the Land or to discharge sewerage from the Land, if any;

(b) All right, title and interest of Seller in and to any land lying in the bed of any street, alley, road or avenue within or adjoining the Land, and all right, title and interest of Seller (whether now or hereafter existing) in and to any award made or to be made as a result or in lieu of condemnation, and in and to any award for damage to the Property or any part thereof by reason of casualty;

(c) All right, title and interest of Seller in and to all permits, licenses, approvals, contract rights and development rights issued in connection with or pertaining to the Property and all right, title and interest of Seller in and to all existing surveys, plats, blue prints, drawings, soil tests, environmental reports, utility information, traffic studies, tax information, animal, tree and plant reports, appraisals and market studies and other

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documentation for or with respect to the Property or any part thereof (collectively, the "Intangible Property") in Seller's possession; and

(d) all easements, privileges, benefits, surface and subsurface mineral rights and other appurtenances to the Land.

1.2 Purchase Price. The purchase price for the Property (the "Purchase Price") is THREE MILLION SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$3,750,000.00) to be paid as follows: (a) the "Earnest Money Deposits" and "Additional Earnest Money" (as defined herein) that shall have been made by Purchaser prior to Closing and that shall be applied against the Purchase Price; (b) the "Extension Fees" (as defined herein), if any, that may have been paid by Purchaser prior to Closing and shall be applied against the Purchase Price; and (c) the remaining balance of the Purchase Price shall be payable at Closing or any extension thereof in immediately available federal funds.

1.3 Earnest Money Deposits. Within ten (10) business days after the Effective Date, Purchaser shall deposit with Madison Title Agency, LLC, 13101 Preston Road, Suite 300, Dallas, Texas 75240, Attn: Joshua Quinn, Tel: (214) 461-4818, email: jquinn@madisontitle.com ("Title Company") by wire transfer of immediately available federal funds to be held by the Escrow Agent, the amount of Fifty Thousand Dollars and no cents (\$50,000.00) as earnest money (such amount, together with any interest earned thereon, is referred to herein as the "Initial Earnest Money"). The Initial Earnest Money, and, if applicable (and as hereinafter defined), the Additional Earnest Money, the Closing Earnest Money and the Additional Closing Period Earnest Money, are referred to as the "Earnest Money Deposits." The Earnest Money Deposits are applicable to the purchase price of the property at closing. The Title Company will deposit the Initial Earnest Money in an interest-bearing account, and Purchaser will be entitled to receive all interest earned thereon.

1.4 Escrow Agent.

(a) Escrow Agent shall hold possession of, keep, deliver and dispose of the Earnest Money Deposits subject to the terms and conditions of this Agreement and shall otherwise deal with the parties hereto fairly and impartially according to the intent of the parties as herein expressed; provided, however, that Escrow Agent shall not be deemed to be a party to this Agreement except for its obligations hereunder as Escrow Agent for the purposes of holding the Earnest Money Deposits. Escrow Agent shall be entitled to rely in good faith at all times on instructions, notices, communications or orders given by Seller and/or Purchaser, as the case may be and as required hereunder, without any necessity of verifying the authority therefor.

(b) Escrow Agent is a stakeholder only and shall not at any time be held liable for actions taken or omitted to be taken in good faith and without gross negligence. Seller and Purchaser agree to indemnify and hold harmless Escrow Agent against any and all losses, claims, damages, liabilities and expenses, including, without limitation, reasonable costs of investigation and counsel fees and disbursements which may be

incurred by Escrow Agent in connection with its acting as Escrow Agent or the performance of its duties hereunder, including, without limitation, any litigation arising from this Agreement or involving the subject matter hereof; provided, however, that if Escrow Agent shall be determined to have acted in willful default or with gross negligence, then, in such event, Escrow Agent shall bear all such losses, claims, damages and expenses.

(c) In the event of a dispute between Purchaser and Seller under this Agreement sufficient in the discretion of Escrow Agent to justify its doing so, Escrow Agent shall be entitled to tender into the registry or custody of any court of competent jurisdiction the Earnest Money Deposits and all other money or property in its hands under the terms of this Agreement, together with such legal proceedings as it deems appropriate, and thereupon be discharged from all additional duties under this Agreement.

(d) It is further understood and agreed by Seller and Purchaser that if, as a result of any disagreement between them or adverse claims and demands being made by any of them upon Escrow Agent, or if Escrow Agent otherwise shall become involved in any litigation with respect to the disbursement of the Earnest Money Deposits, such parties agree that they, jointly and severally, are and shall be liable to Escrow Agent and shall reimburse Escrow Agent on demand for all costs, expenses and counsel fees it shall incur or be compelled to pay by reason of such litigation.

1.5 Release of Initial Escrow

If, on or before March 31, 2021, Purchaser has elected to terminate the Agreement or is deemed to have terminated the Agreement pursuant to the terms hereof, the Initial Earnest Money will be released and returned to purchaser.

If however, at the sole discretion of the purchaser, the Purchaser elects to move forward through the Feasibility Period and gives a Notice to Proceed (as defined below), the Escrow Agent will release the \$50,000.00 Initial Earnest Money deposit, to Seller as non-refundable except in the event of seller default, and applicable to Purchase Price at Closing. All funds released or required pursuant to the terms hereof to be released to Seller shall be referred to herein as the "Released Funds." For the avoidance of doubt, attached to this Agreement as Exhibit "B" is a schedule for the deposit and release of the Earnest Money Deposits.

ARTICLE 2

INSPECTION

2.1 Inspection Period. From the Effective Date through March 31, 2021 (the "Inspection Period"), Purchaser may inspect the Property and conduct surveys, tests, soil and environmental studies, and any other studies, tests and surveys contemplated by this Agreement and otherwise as may be necessary or required in determining that the Property may be developed for Purchaser's intended use and that the Property is in all respects satisfactory to Purchaser, in its sole discretion. It is specifically understood

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and agreed that, within the Inspection Period, Purchaser may approve or disapprove of the Property for any reason whatsoever. If Purchaser determines during the Inspection Period that the Property is unsuitable for its purposes, then any time prior to 5:00 P.M. Eastern Time on the last day of the Inspection Period, Purchaser can notify Seller and Escrow Agent in writing that it has elected to terminate this transaction (such notice is referred to herein as the "Termination Notice"), and the parties hereto shall be relieved of all liabilities and obligations under this Agreement, except those that expressly survive hereunder, and the Initial Earnest Money, and any and all interest earned thereon, shall be delivered by Escrow Agent to Purchaser, or Purchaser may elect to proceed to the Feasibility Period by giving Seller and Escrow agent written notice that it is electing to do so (such notice is referred to herein as a "Notice to Proceed"). If Purchaser delivers neither a Termination Notice nor a Notice to Proceed by the end of the Inspection Period, Purchaser shall be deemed to have given a Termination Notice.

2.2 Feasibility Period. If Purchaser delivers a Notice to Proceed and if Purchaser deposits Ten Thousand Dollars & No/100 Cents (\$10,000.00) with the Title Company on or before April 1, 2021 (such payment shall be known as the "Additional Earnest Money"), Purchaser may extend the Inspection Period until September 27, 2021 (the "Feasibility Period"). The Additional Earnest Money, to the extent paid, shall be nonrefundable to Purchaser except in the event of seller default, and released to the Seller on July 30, 2021, but shall apply to the Purchase Price. If Purchaser determines during the Feasibility Period that the Property is unsuitable for its purposes, Purchaser can notify Seller and Escrow Agent in writing that it has elected to terminate this transaction, and the parties hereto shall be relieved of all liabilities and obligations under this Agreement. If the termination occurs any time prior to 5:00 P.M. Central Time on or before July 29, 2021, Seller shall retain the Initial Earnest Money, and the Additional Earnest Money shall be delivered by Escrow Agent to Purchaser. If the termination occurs any time after 5:00 P.M. Central Time on July 29, 2021, Seller shall retain both the Initial Earnest Money and the Additional Earnest Money.

2.3 Continued Right of Access for Inspection. During the Inspection Period and at all times prior to Closing or any extension thereof, Purchaser, its agents, employees, contractors, subcontractors and representatives shall have reasonable access to the Property for the purpose of performing its due diligence as required by Section 2.1 hereof and otherwise to conduct surveys, architectural, engineering, geotechnical, and environmental inspections and tests, feasibility studies, soil tests, borings and any other inspections, studies, reports or tests reasonably required by Purchaser. Purchaser agrees that if the Property is disturbed during any testing, Purchaser shall be responsible for having the Property restored to a condition substantially similar to its original condition. Purchaser shall give reasonable advance notice to Seller before going onto the Property to perform any such inspections and tests.

2.4 Due Diligence Indemnity. Purchaser shall keep the Property free and clear of any liens and does hereby indemnify, defend and hold Seller harmless from and against any and all claims and liabilities asserted against Seller or the Property as a result of (a)

any injury or damage to person or property caused at any time after the date of this Agreement by any act or omission of Purchaser, or Purchaser's agents, employees, contractors, subcontractors or representatives or (b) Purchaser's failure to pay any bills, invoices or other charges relating to any inspections, investigations, evaluations or due diligence inquires by Purchaser or Purchaser's Agents. Purchaser represents and warrants to Seller that Purchaser shall maintain a general liability policy of not less than \$1,000,000.00 per occurrence, which shall provide coverage during Purchaser's access under this Article 2 and Purchaser shall cause any contractor performing any borings or invasive testings to maintain the same level and type of coverage. Notwithstanding anything contained in this Agreement to the contrary, Purchaser shall have no liability or obligation that may be related to its due diligence activities hereunder for, or in connection with, any "Hazardous Substances" (as defined in Section 6.1 below) or other hazardous conditions existing on the Land or any liens, claims, causes of action, damages, liabilities or expenses arising from the discovery of any such Hazardous Substances or hazardous conditions or any report of same to governmental authorities that may be required by law or regulation unless otherwise caused by Purchaser.

ARTICLE 3

TITLE REVIEW: TITLE COSTS

3.1 Status of Title. At Closing, Seller shall convey to Purchaser the entire fee simple estate in and to the Property by special warranty deed (the "**Deed**"), subject only to (a) those covenants, conditions and restrictions and other exceptions to title of record which have been reviewed and expressly approved by Purchaser in writing, and (b) the lien of general real estate taxes for the current year and subsequent years which are not yet due and payable (hereinafter collectively referred to as the "**Permitted Exceptions**").

3.2 Title Documents.

(a) Within thirty (30) days after the Effective Date, Seller shall deliver to Purchaser, at Seller's expense, a title insurance commitment for the Property (the "**Title Commitment**") (together with legible copies of all documents referenced therein, including, without limitation, the deed evidencing Seller's title to the Property), for an owner's form of title insurance policy on the Texas standard form (the "**Title Policy**") issued by the title company described in Section 1.3 or another national title insurance company approved by Purchaser (the "**Title Company**") in the amount of the Purchase Price insuring "good, fee simple, marketable and insurable title" (as hereinafter defined) to the Property, subject only to the Permitted Exceptions. For the purposes of this Agreement, "good, fee simple, marketable and insurable title" shall mean fee simple ownership, insurable by the Title Company under the Title Policy, and free of all claims, liens and encumbrances of any kind or nature whatsoever other than the Permitted Exceptions. The cost of any title search fees, the issuance of the Title Commitment and the issuance of the Title Policy shall be borne by Seller and paid by or on behalf of Seller at Closing; provided, however, that Purchaser shall pay for the cost of any special endorsements requested by Purchaser and half of the escrow fees charged by the title company.

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(b) Purchaser's obligation to consummate the purchase and sale herein contemplated shall be subject to and conditional upon Purchaser's receipt at Closing of the Title Policy or of a marked-up Title Commitment deleting all exceptions (including, without limitation, the standard exceptions) other than the Permitted Exceptions. The Title Policy shall insure the Purchaser that, upon consummation of the purchase and sale herein contemplated, Purchaser will be vested with good, fee simple, marketable and insurable title to the Subject Property, subject only to the Permitted Exceptions. Seller hereby covenants and agrees to furnish the Title Company with such reasonable affidavits and indemnities as may be required by the Title Company in order to issue the Title Policy without any exception for unfiled and unrecorded materialmen's and mechanics' liens, other parties in possession, and with regard to such other matters as the Title Company may reasonably request.

3.3 Survey. Seller will provide to Purchaser a copy of the most recent existing survey of the Property, if any, within fifteen (15) days after the Effective Date hereof. Within ninety (90) days after the Effective Date, Purchaser may, at its option, cause a new survey (the "**New Survey**") to be prepared, issued and certified to Purchaser, Title Company and any other party Purchaser may request at Purchaser's expense.

3.4 Title Defects.

(a) Within fifteen (15) days after the delivery of the last to be received by Purchaser of the Title Commitment and the New Survey, Purchaser shall notify Seller in writing (a "**Title Defect Notice**") of any matter, requirement or item in the Title Commitment and/or Survey that is not a Permitted Exception or otherwise does not conform to the requirements of this Agreement (a "**Title Defect**"). If Purchaser does not deliver a Title Defect Notice to Seller within such fifteen (15) day period, Purchaser shall be deemed to have approved Seller's title as shown in the Title Commitment. Subject to Seller's obligation to cure any "Monetary Liens" as described below, Seller may choose whether or not to cure any Title Defects described in the Title Defect Notice and shall have a period of fifteen (15) days from the date of receipt by Seller of the Title Defect Notice to have each Title Defect removed, insured over or corrected in each case to the satisfaction of Purchaser or in a manner such that Title Company shall agree not to require such a Title Defect to be an exception on the Title Commitment and the Title Policy (each, an "**Acceptable Title Resolution**"). If, within such fifteen (15) day period, Seller chooses not to or fails to provide an Acceptable Title Resolution for each such exception, Purchaser may elect by written notice to Seller (the "**Title Election Notice**") either (i) to terminate this Agreement and immediately receive from Escrow Agent the Earnest Money Deposits, in which case neither party shall have any further obligation to each other except those that expressly survive pursuant to this Agreement; or (ii) to waive the Title Defects for which Acceptable Title Resolution was not provided. If Purchaser fails to deliver such a Title Election Notice, Purchaser shall be deemed to have elected to terminate this Agreement pursuant to clause (i) above. In any event, prior to expiration of Seller's fifteen (15) day cure period, Seller shall provide Purchaser with written notice of the status of any and all Title Defects.

(b) Notwithstanding anything to the contrary contained in this Agreement, Seller covenants and agrees that, at or prior to Closing, Seller (i) shall pay in full and cause to be canceled and discharged or otherwise cause the Title Company to insure over all mechanics' and contractors' liens which encumber the Property as of the Closing and which have been placed on the Property by or on behalf of Seller; (ii) shall pay in full all past due ad valorem taxes, dues, fees, and any other assessments of any kind constituting a lien against the Property; and (iii) shall cause to be released all mortgages, deeds to secure debt, deeds of trust, security agreements or other such encumbrances that can be removed by payment of a sum certain (collectively, "**Monetary Liens**"). Under no circumstance shall any such Monetary Lien be or become a Permitted Exception, whether or not objected to by the Purchaser, unless the Purchaser has expressly agreed herein or later agrees to accept title subject to such Monetary Liens. The refusal by the Seller to satisfy or release a Monetary Lien at or before Closing shall be a default under this Agreement, and, in addition to the remedies specified herein, the Purchaser shall have the right, but not the obligation, to obtain the satisfaction or release of such Monetary Liens, and to deduct from the Purchase Price at Closing an amount equal to all costs and expenses incurred by Purchaser in obtaining the satisfaction and release of such Monetary Liens.

(c) Following the expiration of the Inspection Period, Purchaser shall continue to have the right to cause title to the Property to be re-examined. If any update to the Title Commitment or New Survey occurring after the expiration of the Inspection Period but prior to Closing discloses any new Title Defect, then Purchaser shall provide a new Title Defect Notice to Seller in writing, and Seller shall again have fifteen (15) days following receipt of such notice from Purchaser to cure such new Title Defect and, if necessary, the Closing Date shall be extended as required. Seller agrees to cure any such new Title Defects that constitute Monetary Liens and Seller agrees to use diligent good faith efforts to cure any such new Title Defect that is not a Monetary Lien. If, within the time specified, Seller is unable to provide a resolution for each new Title Defect that is not a Monetary Lien, Purchaser may elect by notice to Seller (the "**New Title Election Notice**") to either (i) terminate this Agreement and immediately receive from Escrow agent the Earnest Money Deposits excluding the Initial Earnest Money deposit, whereupon neither party shall have any further obligation to each other except those that expressly survive pursuant to the Agreement, or (ii) waive the new Title Defects and elect to accept title to the Property in its then present state. If Purchaser fails to deliver such New Title Election Notice, Purchaser shall be deemed to have elected to terminate this Agreement pursuant to clause (i) above.

ARTICLE 4

CLOSING

4.1 Closing Date; Extension of Closing Date. The closing of the transaction contemplated herein (the "**Closing**") shall occur no later than October 31, 2021, (the "**Closing Date**") at the offices of the Title Company or such other location to which the parties may mutually agree in writing. Notwithstanding anything contained herein to the contrary, Purchaser shall have the right, at any time prior to the Closing Date, to extend

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the Closing Date by up to Four (4) thirty (30) day extensions by delivering to Escrow Agent, by wire transfer of immediately available federal funds, an extension fee in the amount of Five Thousand Dollars (\$5,000) for each thirty-day extension (the "Extension Fees"), which funds shall be applicable to the Purchase Price and not refundable.

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4.2 Seller's Deliveries. ^{NOT} Not later than five business days prior to the Closing Date, Seller shall deliver or cause to be delivered to Purchaser a copy of each of the following (the original of each in form and substance reasonably acceptable to Purchaser to be executed (if necessary) and delivered two business days prior to Closing):

(a) Deed. A general warranty deed, in recordable form, duly executed by Seller and conveying to Purchaser good, fee simple, marketable and insurable title to the Land, subject only to the Permitted Exceptions, and accompanied by all applicable real property transfer tax returns;

(b) FIRPTA. A Foreign Investment in Real Property Tax Act affidavit executed by Seller, which shall include Seller's taxpayer identification number and address;

(c) Certification. A certification from Seller regarding the accuracy and truthfulness of Seller's known representations and warranties made in this Agreement;

(d) Assignment of Intangible Property. Seller's executed counterpart of an Assignment of the Intangible Property (the "Assignment"), and the originals, if any, of all development rights, permits, licenses, benefits, consents, or approvals, surveys, soil tests, water, sewer, or other utility capacity verification or reservation, development plans, engineering plans or specifications, tests, reports, studies, appraisals, analyses and similar documents or information in the possession of Seller pertaining to the Property. The Assignment shall assign all of Seller's right, title and interest in and to the Intangible Property without warranty of any kind;

(e) Bill of Sale. A bill of sale with respect to any other personal property located on the Property;

(f) Authority Documents. Certificates, duly adopted resolutions, incumbency certificates, good standing certificates, and other evidence satisfactory to the Title Company, of the authorization of the sale of the Property to Purchaser and of the authority of the person(s) executing and delivering documents at the Closing on behalf of Seller, or any partner of Seller;

(g) Owner's Affidavit. An affidavit, duly executed by Seller, in form satisfactory to the Title Company for the issuance of the Title Policy without exception for mechanic's, materialmen's or other statutory liens, parties in possession, and other standard title exceptions (except the survey exception, removal of which shall be Purchaser's responsibility);

(h) Quitclaim Deed. If the legal description of the Property prepared from the New Survey differs from the legal description by which Seller acquired title to the

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Property as provided for in the Title Commitment, then Seller also shall execute and deliver to Purchaser at Closing a quitclaim deed, in recordable form, duly executed by Seller and conveying the Property to Purchaser using the New Survey legal description;

(i) Closing Statement. Seller's executed counterpart of a closing statement, setting forth in reasonable detail the financial transaction contemplated by this Agreement, including, without limitation, the Purchase Price, all prorations, the allocation of costs specified herein, and the source, application and disbursement of all funds;

(j) Seller's Escrow Instructions. Seller's instructions to Escrow Agent and Purchaser in connection with closing the transaction; and

(k) Additional Documents. Any additional documents necessary in order to perfect the conveyance, transfer and assignment of the Property to Purchaser as contemplated by this Agreement.

4.3 Purchaser's Deliveries. At the Closing, Purchaser shall deliver the following:

(a) Purchase Price and Other Purchaser Payment Obligations. The Purchase Price, less the Earnest Money Deposits, and extension fees plus or minus applicable prorations, credits and charges, shall be deposited by Purchaser with Escrow Agent in immediately available federal funds;

(b) Authority. Certificates, duly adopted resolutions, incumbency certificates, good standing certificates, and other evidence satisfactory to the Title Company, of the authorization of the purchase of the Property from Seller and of the authority of the person(s) executing and delivering documents at the Closing on behalf of Purchaser, or any partner of Purchaser;

(c) Assignment Documents. Purchaser's executed counterpart of an Assignment of Intangible Property;

(d) Closing Statement. Purchaser's executed counterpart of a closing statement, setting forth in reasonable detail the financial transaction contemplated by this Agreement, including, without limitation, the Purchase Price, all prorations, the allocation of costs specified herein, and the source, application and disbursement of all funds;

(e) Purchaser's Escrow Instructions. Purchaser's instructions to Escrow Agent and Seller in connection with closing the transaction; and

(f) Additional Documents. Any additional documents necessary in order to perfect the conveyance, transfer and assignment of the Property to Purchaser as contemplated by this Agreement.

4.4 Possession. Seller shall deliver possession of the Property to Purchaser at the Closing, subject only to the Permitted Exceptions and Seller's receipt of the Purchase Price pursuant to this Agreement.

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4.5 Close of Escrow. Upon satisfaction or completion of the foregoing conditions and deliveries and performance by each party of its obligations required to be performed during the pendency of this Agreement and/or at the Closing, the parties shall direct Escrow Agent pursuant to their escrow instructions to immediately deliver and/or record the documents described above to the appropriate parties and make the disbursements according to the Closing Statement.

ARTICLE 5

PRORATIONS/OTHER ALLOCATIONS AND COMMISSIONS

5.1 Prorations. The items set forth below shall be apportioned and prorated between Seller and Purchaser for the Property as of the Closing Date or any extension thereof. The parties shall endeavor to compute or estimate all closing adjustments prior to the Closing Date or any extension thereof, and Seller shall supply before Closing reasonably satisfactory supporting evidence for all such adjustments.

(a) Taxes and Assessments.

(i) General real estate and personal property taxes and assessments imposed by all governmental authorities having jurisdiction over the Property (collectively, "Taxes") and any private assessments constituting a lien or charge on the Property for the then-current calendar year or other current tax period not yet due and payable shall be prorated at the Closing in the manner hereinafter provided. If the Closing occurs prior to the receipt by Seller of the tax bill for the calendar year or other applicable tax period in which the Closing occurs, Purchaser and Seller shall prorate Taxes for such calendar year or other applicable tax period on the basis of the most recent ascertainable assessed values and tax rates. If applicable, Purchaser and Seller agree to adjust such prorated amounts on an equitable and appropriate basis upon receipt of the applicable tax bill that is received after Closing. All prorations shall be based upon a fraction determined by dividing (x) the number of days in the applicable tax period elapsed through the date prior to the Closing Date or any extension thereof by (y) 365.

(ii) Rollback taxes, if any, that may be assessed against or applicable to the Property shall be paid by Seller at Closing.

(b) Utilities. Utilities, including, without limitation, water and sewer, shall be prorated at the Closing based upon the last ascertainable bills unless final meter readings and final invoices can be obtained. Seller shall be responsible for the payment of the utility bills for the period up to the Closing Date or any extension thereof and Purchaser shall pay the utility bills for the period subsequent thereto.

(c) Transfer Taxes/Closing Costs. If applicable, any documentary stamp taxes on the deed shall be paid by the Seller, and any documentary stamp taxes and associated closing costs on any purchase financing shall be paid by the Purchaser.

(d) Title and Survey. All charges and fees for the Title Commitment, the Title Policy, and the New Survey shall be paid as set forth in Sections 3.2 and 3.3 herein.

(e) License and Permit Fees. Any assignable license and permit fees relating to the Property, if any, shall be prorated at Closing on the basis of the period for which such fees relate.

(f) Other. Any other expenses shall be prorated at Closing in a manner that is customary in connection with transactions similar to the transactions contemplated hereby.

(g) Final Adjustment After Closing. In the event that final bills cannot be issued for any charge prior to Closing, then Purchaser and Seller agree to allocate such items on a fair and equitable basis as set forth herein, with final adjustment and any payment due to be made as soon as reasonably possible after the Closing. Other than as set forth herein, all prorations shall be final.

5.2 Commissions. Seller and Purchaser each warrant and represent to the other that it has not dealt or negotiated with any broker in connection with this transaction. Each party hereby agrees to indemnify and hold the other party hereto harmless from and against any and all claims, demands, causes, of action, loss, costs and expenses (including reasonable attorney's fees and disbursements, as incurred) or other liability arising from or pertaining to any brokerage commissions, fees, or other compensation, which may be due to any other brokers or persons claiming to have dealt with such party in connection with this transaction. By Purchaser's execution hereof, Purchaser hereby acknowledges that Seller has been informed Purchaser should obtain in connection with the purchase of the Property either a policy of title insurance or should have an abstract of title to the Property examined by an attorney of its choice.

(a) The foregoing indemnities shall survive the Closing.

5.3 Attorneys' Fees. Except as provided in Article 8 hereof to the contrary, each party shall be responsible for paying its own attorneys' fees and expenses in connection with the transactions contemplated by this Agreement.

ARTICLE 6

REPRESENTATIONS, WARRANTIES AND COVENANTS

6.1 Seller's Representations, Warranties and Covenants. Seller represents, warrants and covenants to Purchaser that:

(a) Seller has good, fee simple, marketable and insurable title to the Property. From date of Rent Roll disclosure, 12-16-20, copy attached hereto as Exhibit "D", Seller has not entered into any new or extension of existing lease agreement to lease, sell, mortgage or otherwise encumber (other than the Permitted Exceptions) or dispose of its interest in the Property or any part thereof, except for this Agreement. From and after the Effective Date until Closing, Seller shall not enter into any new encumbrances, liens, or other documents or instruments for or regarding the encumbrance, lien, pledge of the Property, or any part thereof or any interest therein, or which may result in any lien or encumbrance with regard to the Property, or any part thereof, or an interest therein,

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without the prior written consent of the Purchaser, which will not be unreasonably withheld, delayed, or conditioned. The person executing this Agreement on behalf of the Seller is fully and duly authorized to do so by Seller, and any and all actions required to make this Agreement and the performance thereof legally binding obligations of Seller, have been duly and legally taken. No further consent, authorization or approval of any person or entity is required for Seller to enter into or perform this transaction. Seller shall continue to comply with tenant lease terms as defined by the Rent Roll 12-16-20, during the period this agreement is in force.

(b) Seller has paid (or covenants that it will pay prior to Closing) any and all taxes (excluding taxes not yet due) which have or could become ^{OR AT} a lien or charge against the Property through the date of Closing, subject to the proration herein provided. If there are any roll back taxes assessed by the taxing entities, these taxes will be paid in full by the Seller.

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(c) Except for the liens, encumbrances or charges against the Property (i) specifically disclosed in this Agreement; or (ii) described on the Title Commitment to be provided to Purchaser by Seller pursuant to Section 3 hereof, or the Survey, Seller has no current actual knowledge of unpaid bills to vendors, outstanding obligations or charges (contingent or absolute) in existence against such Seller or any business conducted thereon, or any existing undisclosed or unrecorded liens, or charges, which could adversely affect title to the Property after the Effective Date hereof or the Closing Date, and Seller has no knowledge of any matters pending that could result in a lien against the Property, or in any way substantially adversely affect title to the Property.

(d) From and after the Effective Date hereof, Seller will maintain any and all insurance coverage presently in effect with respect to the Property and Seller will not cause, permit, suffer, or allow any material change, modification, or alteration to be made to the Property, or any part or portion thereof, or its physical condition without the prior written consent of Purchaser, which will not be unreasonably withheld, delayed, or conditioned.

(e) Without the prior written consent of Purchaser, Seller shall not execute any new leases, service contracts or maintenance agreements for the Property that cannot be terminated prior to or by the Closing.

(f) Seller shall comply with all federal, state, municipal and other governmental laws, ordinances, requirements, rules, regulations, notices and orders, and all agreements, covenants, conditions, easements and restrictions relating to the Property, including, without limitation, any such requirements, rules, regulations, notices or orders issued or imposed after the date of this Agreement. Seller has received no written notice of and has no knowledge of any litigation or other judicial proceeding affecting Seller or the Property, including, without limitation, condemnation or exercise of the right of eminent domain or bankruptcy, or which challenges or impairs Seller's ability to execute, deliver or perform this Agreement.

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(g) For the purposes of this Agreement, "**Environmental Law**" means any present ~~or future~~ federal, state or local law, statute, regulation, rule, decree or ordinance, and any judicial or administrative order or judgment thereunder, pertaining to the environmental or ecological conditions from, on, in, under or about the Property, or regulating or imposing liability or standards of conduct concerning the use, storage, treatment, transportation, manufacture, refinement, handling, production, release or disposal of "Hazardous Substances" or any hazardous, toxic, or dangerous waste, substance, element, compound, mixture or material, as now or at any time hereafter in effect. Furthermore, for the purposes of this Agreement, "**Hazardous Substances**" means any toxic, explosive, radioactive, infectious or carcinogenic material, waste or substance included within the definitions of "hazardous substances", "hazardous materials", "toxic substances" or "solid waste" under any Environmental Law, or which is regulated under any Environmental Law, including, without limitation, and whether or not included under any Environmental Law, anything containing asbestos, toxic mold or fungi, hydrocarbons, polychlorinated biphenyls, oil, or petroleum products. Seller has not received any actual written notice of any civil, criminal or administrative suit, claim, hearing, violation, investigation, proceeding or demand against Seller or the Property relating in any way to a "Release" (as defined in the Environmental Laws), the use of Hazardous Substances or non-compliance with Environmental Laws. Except as disclosed by Seller, to Seller's actual knowledge, without having any duty to make any additional independent inquiry or due diligence: (i) the Property does not violate any Environmental Laws, (ii) there has been no Release at the Property during the period that Seller has owned the Property, and (iii) the Property has never been used by Seller to generate, treat, store, dispose, transport or in any manner deal with Hazardous Substances.

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(h) Seller shall execute, at no expense to Seller, all applications, documents, instruments and consents requested by Purchaser in connection with Purchaser's intended development of the Property, including, without limitation, Purchaser's applications for governmental approvals and entitlements, rezonings and plat approvals as may be filed with any applicable county, municipal or other local jurisdictions.

(i) No representation, warranty or covenant in this Agreement, nor any document, certificate or exhibit given or delivered to Purchaser pursuant to this Agreement, when read singularly or together as a whole contains any untrue statement of a material fact, or omits to state a material fact necessary to make the statements contained therein true in the light of the circumstances under which they were made, to the best of Seller's current actual knowledge.

6.2 Purchaser's Representations, Warranties and Covenants.

(a) To the best of Purchaser's knowledge, no consent to the transaction contemplated by this Agreement by any person or entity other than Purchaser is required;

(b) No representation, warranty or covenant in this Agreement, nor any document, certificate or exhibit given or delivered to Seller pursuant to this Agreement,

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when read singularly or together as a whole, contains any untrue statement of material fact, or omits to state a material fact necessary to make the statements contained therein true in light of the circumstances under which they were made.

(c) (i) Unless Purchaser has earlier terminated this Agreement or Purchaser is deemed to have terminated this Agreement during the Inspection Period, Purchaser may apply for an allocation of low income housing tax credits from the Texas Department of Housing and Community Affairs (the "Agency") in a timely manner so as to be eligible for consideration for an award of tax credits and with respect to a number of rental apartment units to be constructed on the Property ("Purchaser's Intended Use") determined by Purchaser in Purchaser's sole discretion.

(ii) In the event that the Agency has not granted said allocation of tax credits (the "Reservation") by the Closing Date as maybe extended, then, at Purchaser's option, this Agreement may be terminated, and thereafter neither Seller nor Purchaser shall have any further obligation hereunder.

(d) Purchaser hereby represents and warrants that Purchaser will have independently inspected and reviewed, prior to the end of the Inspection Period, all of the Property and records of Seller related thereto that Purchaser desires to inspect and review, and Purchaser has entered into this Agreement and will close this transaction based on Purchaser's own determination of the value and condition of the Property. Purchaser further represents and warrants to Seller that Purchaser has or has available to Purchaser the knowledge and expertise in financial real estate and business matters that enables Purchaser to evaluate the merits and risks of the transactions contemplated by this Agreement, and Purchaser is not in a significantly disparate bargaining position with Seller with regard to the transactions contemplated by this Agreement. Purchaser agrees and acknowledges that the Property is being sold to Purchaser by the Seller and that Purchaser is becoming the owner of the Property on an as-is where is basis (refer to Exhibit "C"), except for the express representations and warranties made by Seller in Section 6.1 above.

(e) Purchaser will investigate all utility matters and be responsible for any upgrades, extensions, reimbursements, or impact fees. Purchaser will also investigate all zoning and platting requirements and entitlements applicable to the Property.

6.3 Indemnity. Seller hereby agrees to indemnify and hold Purchaser and Purchaser's Agents (as defined herein) harmless from and against any and all actual loss, damage, liability, cost and expense (including, without limitation, reasonable attorneys' fees) which Purchaser or Purchaser's Agents may suffer, sustain or incur as a result of (i) any violation by the Property of any Environmental Law that was caused by any action or omission of Seller, its agents, employees or contractors relating to any period or periods prior to the date of Closing except as otherwise disclosed during the Inspection Period, or (ii) any misrepresentation, breach or inaccuracy of any warranty or agreement by Seller, or in any schedule or information provided to Purchaser, under or in respect to this Article 6 or otherwise in this Agreement or in any document or instrument executed

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by Seller pursuant to this Agreement or in furtherance of the transactions contemplated hereby. The indemnity of Seller hereunder shall survive the Closing or any earlier termination of this Agreement for a period of one (1) year except in the case of Purchaser default. For purposes of this Agreement, the term "Purchaser's Agents" means Purchaser's officers, directors, shareholders, partners, members, employees, representatives, agents, attorneys, contractors and subcontractors.

ARTICLE 7

CONDEMNATION

7.1 Condemnation. If, prior to Closing, the Property or any portion thereof, is condemned or taken under power of eminent domain, or if Seller receives any notice or knowledge that any such taking is threatened or contemplated by any governmental agency or entity or any other entity having the power of eminent domain, then, in any such event, Seller shall promptly give notice thereof to Purchaser in writing. Purchaser shall then have the options of either (a) terminating this Agreement and receiving a refund of any and all Earnest Money Deposits paid hereunder, with neither party thereafter having any further obligations to the other hereunder, or (b) waiving such matters and proceeding to close this transaction without reduction in the Purchase Price, but with the right to receive any and all awards or monies payable as a result of any such taking. Purchaser shall make such election by giving written notice there to Seller at any time prior to Closing.

ARTICLE 8

REMEDIES

8.1 Purchaser's Remedies. If Seller should fail deliberately to perform in accordance with the terms of this Agreement, Purchaser, at its sole cost, shall have the right to elect (a) to terminate this Agreement in which event all Earnest Money Deposits and any Extension Fees shall promptly be refunded to Purchaser; or (b) to obtain specific performance of Seller's obligations to convey the Property in accordance with the terms of this Agreement. In the event that Seller deliberately or willfully refuses or fails to close the sale of the Property in violation of the terms of this Agreement such that the remedy of specific performance is not reasonably available to Purchaser, then, in addition to the remedies provided in this Section 8.1, the Purchaser shall have all remedies available in law or equity. The remedies described above are the only remedies of the Purchaser in the event of default prior to Closing, except for reasonable attorneys' fees and expenses incurred in enforcing this Agreement or any damages for which Seller has indemnified Purchaser pursuant to this Agreement.

8.2 Seller's Remedies. If Purchaser should fail to consummate this transaction due to Purchaser's default hereunder, then Seller's sole and exclusive remedy shall be to terminate this Agreement and receive all Earnest Money Deposits and any Extension Fees as full liquidated damages. The parties acknowledge that Seller's actual damages in the event of a default by Purchaser under this Agreement will be difficult to ascertain,

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and that such liquidated damages represent the parties' best estimate of such damages. Seller agrees to waive all other rights or remedies it may have in the event of such default by Purchaser and the parties hereunder shall have no further rights or liabilities under this Agreement, except for attorneys' fees and expenses incurred in enforcing this Agreement or any damages for which Purchaser has indemnified Seller pursuant to this Agreement.

ARTICLE 9

CONDITIONS TO CLOSING

9.1 Conditions to Purchaser's Obligations. Notwithstanding anything contained herein to the contrary, the obligation of Purchaser to close the transaction contemplated herein is expressly made subject to the following:

(a) The truth and accuracy in all material respects, as of the date of this Agreement and as of the Closing Date or any extension thereof, of each and every warranty and representation made herein by Seller;

(b) As of the Closing Date or any extension thereof, Seller shall have performed all of its covenants, agreements and obligations hereunder and all deliveries to be made to Seller at the Closing shall have been tendered; and

(c) Purchaser has received the Reservation from the Agency in the amount of the low-income housing tax credits requested in Purchaser's application to the Agency. In the event that the reservation is not received by Purchaser, Seller has no obligation to cure such conditions and shall not be held in default.

(d) The foregoing conditions are for the benefit of Purchaser and Purchaser shall have the right to waive any of such conditions by providing written notice of said waiver to Seller. If, on or before the Closing Date, any of such conditions remains unsatisfied and Purchaser has not waived any of such unsatisfied conditions, Purchaser may notify Seller of the unsatisfied condition in writing, and Seller shall attempt to correct the matter in question. If the condition is not corrected by Seller before the Closing Date, Purchaser may, at its option, (i) proceed to Closing, thereby waiving any claim for breach of the condition; or (ii) terminate this Agreement by delivering a written termination notice to Seller and Escrow Agent shall be entitled to terminate this Agreement by written notice to Seller and Escrow Agent, in which event Purchaser shall be entitled to a refund of all the Earnest Money Deposits and any Extension Fees, as well as all accrued interest thereon

9.2 Conditions to Seller's Obligations. Notwithstanding anything provided herein to the contrary, the obligation of Seller to close the transaction contemplated herein is expressly made subject to the following:

(a) As of the Closing Date or any extension thereof, Purchaser shall have performed all of its obligations hereunder and all deliveries to be made by Purchaser at the Closing shall have been tendered.

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The foregoing conditions are for the benefit of Seller and Seller shall have the right to waive any of said conditions by providing written notice of said waiver to Purchaser.

ARTICLE 10

MISCELLANEOUS

10.1 Assignment. Purchaser shall have the right to assign this Agreement, or any of the rights or benefits hereof, and to take title to the Property in the name of one or more designees or entities, without the consent of Seller.

10.2 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

10.3 Amendments. Except as otherwise provided herein, this Agreement may be amended or modified by, and only by, a written instrument executed by Seller and Purchaser, acting by their respective duly authorized agents or representatives.

10.4 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

10.5 Section Headings. The section headings inserted in this Agreement are for convenience only and are intended to, and shall not be construed to, limit, enlarge or affect the scope or intent of this Agreement, nor the meaning of any provision hereof.

10.6 Effective Date. The "Effective Date" of this Agreement shall be the date that the last party other than the Escrow Agent shall have executed this Agreement on the signature pages hereof.

10.7 Merger of Prior Agreements. This Agreement supersedes all prior agreements and understandings between the parties hereto relating to the subject matter hereof.

10.8 Attorneys' Fees and Costs. In any litigation arising out of or pertaining to this Agreement, the prevailing party shall be entitled to an award of its attorneys' fees, whether incurred before, after or during trial, or upon any appellate level.

10.9 Time. Time is of the essence of this Agreement. When any time period specified herein falls or ends upon a Saturday, Sunday or legal holiday, the time period shall be automatically extended to 5:00 P.M. Central on the next ensuing business day.

10.10 Confidentiality. The terms and subject matter of this Agreement shall be kept confidential by Seller and Purchaser, and shall not be shared with third parties, other than agents and representatives of same, as necessary to close the transaction contemplated hereby or as otherwise required by law.

10.11 Independent Consideration. Notwithstanding any provision hereof to the contrary, if the Earnest Money Deposits are for any reason to be delivered to Purchaser

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pursuant to the terms of this Agreement, \$100 of the Earnest Money Deposits shall nevertheless be delivered to Seller as independent contract consideration for Purchaser's exclusive right to inspect and purchase the Property pursuant to this Agreement and for Seller's execution, delivery and performance of this Agreement.

10.12 Counterparts and Electronic Delivery. This Agreement and any amendments and any addenda, notices and other attachments hereto may be executed and delivered in any number of counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same contract, amendment or attachment with the same effect as if the parties had signed the same document. Any such counterpart, to the extent delivered by means of a fax machine or by .pdf, .tif, .gif, .jpeg or similar attachment to electronic mail (any such delivery, an "Electronic Delivery") shall be treated in all manner and respects as the delivery of an original executed counterpart and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. No party hereto shall raise the use of Electronic Delivery to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of Electronic Delivery as a defense to the formation of a contract, and each such party forever waives any such defense, except to the extent that such defense relates to lack of authenticity

10.13 Invalidity. If any portion of this Agreement is held invalid or inoperative, then so far as is reasonable and possible the remainder of this Agreement shall be deemed valid and operative.

10.14 Survival. The provisions of this Agreement that are expressly stated to survive the Closing shall so survive Closing or any termination of this Agreement, for a period of one (1) year.

10.15 No Third-Party Beneficiary. This Agreement is not intended to give or confer any benefits, rights, privileges, claims, actions or remedies to any person or entity as a third-party beneficiary, decree or otherwise.

10.16 Further Assurances. In addition to the acts and deeds recited herein and contemplated to be performed, executed and/or delivered by Seller to Purchaser at Closing, Purchaser and Seller agree to perform, execute and/or deliver or cause to be delivered, executed and/or delivered, but without any obligation to incur any additional liability or expense, on or after the Closing any and all further acts, deeds and assurances as may be reasonably necessary to consummate the transactions contemplated hereby and/or to further perfect and deliver to Purchaser the conveyance, transfer and assignment of the Property and all rights related thereto.

10.17 Contract Construction. Purchaser and Seller acknowledge that this Agreement was prepared after substantial negotiations between the parties. This Agreement shall not be interpreted against either party solely because such party or its counsel drafted the Agreement.

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RB

10.18 Notices. Any notice required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given (a) when delivered, if delivered by hand delivery, U.S. Post Office, nationally recognized overnight delivery service, or by electronic means. Notices shall be addressed as follows:

If to Seller: Janlaw Properties, Inc & Zimcal Corp
Attn. Harold Baeck
5353 Alpha Rd, Suite 200
Dallas, TX 75240
Ph: 214-403-8369
E: baeckarch@aol.com

If to Purchaser: NuRock Acquisitions, LLC
Attn: Gary Lacey or Christian Garcia
675 Town Square Blvd.
Building 1A, Suite 200
Garland, TX 75040
Ph: (678) 862-5941
E-mail: glacey@nurock.com
E-mail: cgarcia@nurock.com

With a copy to: NuRock Companies
Attn: Rob Hoskins
800 North Point Parkway
Suite 125 Apharetta, GA 30005
Ph: 770-552-8070

NuRock Acquisitions of Florida, LLC
Attn: Robby D. Block
8794 Boynton Beach Blvd., Suite 219
Boynton Beach, Florida 33472
Ph: 561-756-0329

If to Escrow Agent: Madison Title, LLC
13101 Preston Rd, Suite 300
Dallas, TX 75240
Attn: Joshua Quinn
Tel: (214) 461-4818
Email: jqquinn@madisontitle.com

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SIGNATURES ON FOLLOWING PAGES

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year reflected below.

NUROCK ACQUISITIONS, LLC,
a Texas limited liability company

By: Gary Lacey 12-18-20
Name: Gary Lacey
Title: Authorized Representative
Date:

By: Robby D. Block
Name: Robby Block
Title: Authorized Representative
Date: 12/18/2020

Signatures Continue on Following Page

RB

GL RB

SELLER:

Seller

By: JANLAW PROPERTIES, INC & ZIMMEL CORP.

Name: HAROLD BAERH *Harold Baerh*

Title: PRESIDENT

Date: 12-18-2020.

GL *B*

RB

EXHIBIT "A"

+/- 1.5733-acre tract located at 5353 Alpha Rd, Dallas, TX



**Existing Office
Building on
Site**

EXHIBIT "A" Continued

Legal Description(s)

BLK 3/7004 LT 4 ACS 0.6887

BLK 7004 SPLIT 1 ACS 0.510

BLK 7004 TR 7 ACS 0.0776

FIFTY THREE FIFTY NINE ALPHA BLK A/7004 LT 9A ACS 0.4885

FIFTY THREE FIFTY THREE ALPHA BLK A/7004 LT 11A ACS 0.4845

See attached survey and field notes.

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EXHIBIT "B"

Earnest Money Payment Schedule		
Deposit/Release	Amount	Date
Deposit	\$50,000.00	10 Days from Effective Date
Release	\$50,000.00	April 1, 2021
Deposit	\$10,000.00	April 1, 2021
Release	\$10,000.00	July 30, 2021
Deposit & Release	\$5,000.00	October 31, 2021
Deposit & Release	\$5,000.00	November 30, 2021
Deposit & Release	\$5,000.00	December 30, 2021
Deposit & Release	\$5,000.00	January 29, 2022

RB

g L *tb*

EXHIBIT "C"

"AS IS" CONDITION. SELLER AND PURCHASER ACKNOWLEDGE AND AGREE THAT EXCEPT AS SET FORTH IN THE AGREEMENT, SELLER HEREBY SPECIFICALLY DISCLAIMS ANY WARRANTY, GUARANTY OR REPRESENTATION, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE OF, AS TO, OR CONCERNING (A) THE NATURE AND CONDITION OF THE PROPERTY, INCLUDING WITHOUT LIMITATION, THE WATER, SOIL AND GEOLOGY, THE SUITABILITY THEREOF AND OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH PURCHASER MAY ELECT TO CONDUCT, THE EXISTENCE OF ANY ENVIRONMENTAL HAZARDS OR CONDITIONS (INCLUDING BUT NOT LIMITED TO THE PRESENCE OF ASBESTOS OR OTHER HAZARDOUS MATERIALS) OR COMPLIANCE WITH APPLICABLE ENVIRONMENTAL LAWS, RULES OR REGULATIONS; (B) THE NATURE AND EXTENT OF ANY RIGHT-OF-WAY, LEASE, POSSESSION, LIEN, ENCUMBRANCE, LICENSE, RESERVATION, CONDITION OR OTHERWISE; AND (C) THE COMPLIANCE OF THE PROPERTY OR ITS OPERATION WITH ANY LAWS, ORDINANCES OR REGULATIONS OF ANY GOVERNMENTAL ENTITY OR BODY. PURCHASER ACKNOWLEDGES THAT IT WILL INSPECT THE PROPERTY AND PURCHASER WILL RELY SOLELY ON ITS OWN INVESTIGATION OF THE PROPERTY AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY OR ON BEHALF OF SELLER.

OTHER THAN THE WARRANTIES PROVIDED FOR IN THE AGREEMENT, PURCHASER FURTHER ACKNOWLEDGES THAT THE INFORMATION PROVIDED AND TO BE PROVIDED WITH RESPECT TO THE PROPERTY WAS OBTAINED FROM A VARIETY OF SOURCES AND SELLER (1) HAS NOT MADE ANY INDEPENDENT INVESTIGATION OR VERIFICATION OF SUCH INFORMATION; AND (2) DOES NOT MAKE ANY REPRESENTATIONS AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION. THE SALE OF THE PROPERTY IS MADE ON AN "AS IS", "WHERE IS" AND "WITH ALL FAULTS" BASIS, AND PURCHASER EXPRESSLY ACKNOWLEDGES THAT, IN CONSIDERATION OF THE AGREEMENTS OF SELLER EXCEPT AS SET FORTH IN THE AGREEMENT, SELLER MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF CONDITION, HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE PROPERTY OR ANY PORTION THEREOF.

RB

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RS

EXHIBIT "D"

janlaw properties, inc.

5353 alpha road
suite 200
dallas, texas 75240
phone: 972-661-8778/9
fax: 972-661-8780

RENT ROLL CERTIFICATE December 16, 2020.

TENANT	Rent / month.	Sq. Ft.	Expires.	Escalation	Deposit.	Suite
ALLSTATE INSURANCE	\$700.00+E	544 R	3 / 31 / 21		\$700.00	101
MARTINEZ	\$625.00	400 R	month / month		\$625.00	108A
S. OWOIGBE	\$300.00	300 R	month / month		\$300.00	108B
FACETATIONS.	\$875.00	440 R	month / month		0	110B
A GLASS	\$750.00+E=#	822 R	month / month		\$750.00	110A
VERIZON	\$5,825.18+E+#3,845 U		10 / 31 / 22 + 5 yr option.	Per schedule	0	201
SOL SOLUTIONS.***	\$500.00+# (270) of 1,830 R		month to month		\$500.00	210
HARRELL / SWADE	\$2,380.00+E+# 1,717 R		12 / 31 / 22	per schedule	\$797.04	202
BAECK ARCHITECT		825 R	owner			200
LOGIX	\$300.00	n/a	internet provider		mechanical rm.	

***= Sub Tenant to previous tenant. Remaining space unoccupied.

R = Rentable.

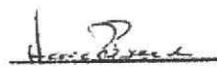
U = Usable

= Pro rata share of common area operating expenses

E = electrical. Tenants are charged monthly for electrical usage and pay in compliance with the percentage area occupied, in arrears and based on electrical invoices received from the utility company. The exception is VERIZON who pay 1.5 times their occupancy percentage in arrears. They are the only tenants who are responsible for maintaining their own HVAC and Fire Suppressant system.

All tenant rent payments are current.

The above Rent Roll is true and correct in all material respects as of the date thereof, to the best of my knowledge.



Harold Baeck
President & Landlord

JL
RB

JB

EXHIBIT 2

BOFK d/b/a Bank of Texas

Loan LOI



LISA E. ALBERS
Senior Vice President
Community Development Banking Group
Phone: 918-588-6420
Fax: 918-895-8102

May 19, 2021

Mr. Robert Hoskins
Alpha Dallas Housing Partners, LP
800 North Point Parkway, Suite 125
Alpharetta, GA. 30005

Mr. Hoskins,

On behalf of BOKF, N.A. dba Bank of Texas (the Bank) it is our pleasure to offer the following financing terms for the commercial building located at 5353 Alpha Road in Dallas, Texas. The terms presented below are indicative of a loan structure we would like to pursue and are based on the information provided by you and our underwriting assumptions.

- Borrower:** Single Asset Entity to be determined.
- Loan Amount:** \$350,000
- Maturity:** Six years
- Collateral:** Existing commercial leases.
- Interest Rate:** The applicable interest rate will be locked at closing; indicative rate today is 6%.
- Origination Fee:** A non-refundable fee of 1% of the loan will be payable at closing.
- Payment Terms:** Monthly interest and principal payments will be due.
- Prepayment Penalty:** None
- Guaranty:** Full payment and completion guarantees and environmental indemnity by NuRock Development Partners and Mr. Robert Hoskins.
- Other Encumbrances:** No other encumbrances will be placed on the collateral without the prior written approval of the Bank.
- Assignment:** This commitment can not be assigned without the prior written consent of the Bank.

Services provided Bank of Albuquerque, Bank of Arizona, Bank of Arkansas, Bank of Kansas City, Bank of Oklahoma, Bank of Texas, Colorado State Bank and Trust, doing business as BOKF, NA.

Other Encumbrances: No other encumbrances will be placed on the collateral without the prior written approval of the Bank.

Assignment: This commitment can not be assigned without the prior written consent of the Bank.

Guarantor Financial Statements: Guarantors will provide Bank with annual financial statements, including balance sheet including contingent liabilities, income and expense statement, tax returns and any additional supporting information reasonably requested by the Bank.

Pending Litigation: Borrower shall certify to Bank that no litigation or proceedings are pending or threatened which might adversely affect the Borrower's or the Guarantor's ability to perform under the terms of this agreement or the loan documents.

Ownership Change: Ownership of the Borrower shall not change during the term of the Loan without the prior written consent of the bank, which shall not be unreasonably withheld.

Representation of Fact: This commitment is subject to the accuracy of all information and representations submitted with or in support of the application for the Loan.

Opinion of Counsel: Prior to or at closing, the Bank requires a legal opinion of Borrower's counsel which will provide a legal opinion confirming that all matters pertaining to the Project and Loan are valid, enforceable and in accordance with the intended terms and do not violate any laws.

Preparation of Loan Documents: The Bank's legal counsel will prepare the loan documents at the expense of the Borrower.

Expenses: Borrower will pay all expenses associated with the Loan. The expenses shall include but not be limited to; attorney's fees, lender's title insurance policy, appraisal, environmental report, survey and mortgage tax (where allowed by law), and engineer or inspector fees. Any costs incurred for this financing will be the responsibility of the Borrower to pay. Please be advised that it is the Borrower's sole responsibility to pay these costs irrespective of whether the loan closes or not unless Lender makes material changes to the loan terms from those in this term sheet.

Other

Requirements: The subject requirements are intended to set out the primary terms and conditions of the Loan, but are not all-inclusive. This commitment is subject to review by the Bank's legal counsel, and the Bank reserves the right to reasonable require other mutually agreeable conditions and documents necessary to establish, perfect, and maintain the contemplated Loan, including but not limited to loan agreement, note, mortgage, assignment of leases and security agreement.

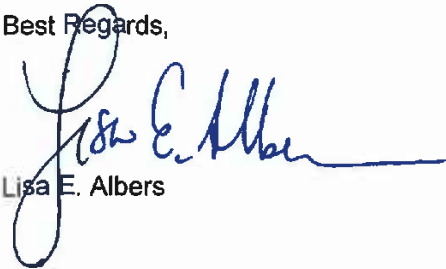
According to the Bank Secrecy Act, the Bank is required to obtain, verify and record certain identifying information as part of our due diligence process. To comply with this we must ask for specific identifying information including Name, Address and other information that will allow us to verify your identity. Additionally, we may request other identifying documents in order to meet the verification requirements.

Additionally, we have performed a preliminary review of the credit worthiness of Alpha Dallas Housing Partners LP and its Principals. At this time, BOKF has no reservations with the Development Owner or any of the Principals. We anticipate no additional guarantors or financial strength will be needed to facilitate a loan to this borrower, other than those requirements disclosed herein.

Any changes to the Property and the financing will require Lender's review and approval to ensure compliance to with underwriting standards. This letter, which expires December 31, 2021, serves as an outline of the principal terms of the proposed facility, and is subject to receipt and satisfactory review of all due diligence materials by Lender and to change as described above. Please note, BOKF cannot extend any legally binding lending commitment until formal credit approval has been obtained and a formal commitment letter has been issued.

Thank you for the opportunity to consider financing this project. Please let me know if I can answer any additional questions.

Best Regards,

A handwritten signature in blue ink, appearing to read "Lisa E. Albers", with a long horizontal flourish extending to the right.

Lisa E. Albers

EXHIBIT 3

Existing Commercial Lease

NORTH TEXAS COMMERCIAL ASSOCIATION OF REALTORS®

COMMERCIAL LEASE AGREEMENT

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EXHIBITS AND ADDENDA. Any exhibit or addendum attached to this Lease is incorporated as a part of this Lease for all purposes. Any term not specifically defined in the Addenda shall have the same meaning given to it in the body of this Lease. To the extent any provisions in the body of this Lease conflict with the Addenda, the Addenda shall control.

(Check all boxes which apply. Boxes not checked do not apply.)

- Exhibit A Floor Plan or Site Plan
- Exhibit B Survey and/or Legal Description of the Property
- Addendum A Expense Reimbursement
- Addendum B Renewal Options
- Addendum C Right of First Refusal for Additional Space
- Addendum D Percentage Rental/Gross Sales Reports
- Addendum E Guarantee
- Addendum F Construction of Improvements
- Addendum G Rules and Regulations
- Addendum H Other _____

IN CONSIDERATION of the agreements set forth in this Lease, the parties agree as follows:

ARTICLE ONE: DEFINED TERMS. As used in this Commercial Lease Agreement (the "Lease"), the terms set forth in this Article One have the following respective meanings.

- 1.01. **Effective Date:** The last date set forth by the signatures of Landlord and Tenant on page 9 below.
- 1.02. **Landlord:** JANLAW PROPERTIES, INC. TAX I.D. # 75-2603138
Address: 5353 ALPHA ROAD
DALLAS, TEXAS 75240 Telephone: _____ Fax: _____
- 1.03. **Tenant:** NEXTLINK TEXAS, INC.
Address: 12790 MERIT DRIVE, SUITE 105
DALLAS, TEXAS 75251 Telephone: _____ Fax: _____
- 1.04. **Demised Premises:** 5353 ALPHA ROAD, SUITE
 - A. **Street address:** 5353 ALPHA ROAD, SUITE
DALLAS, TEXAS 75240 in DALLAS County, Texas.
 - B. **Floor Plan or Site Plan:** Being a floor area of approximately 3845 square feet and being approximately _____ feet by _____ feet (measured to the exterior of outside walls and to the center of the interior walls) and being more particularly shown in outline form on **Exhibit A, FLOOR PLAN OR SITE PLAN.**
 - C. **Legal description:** The property on which the Demised Premises is situated (the "Property") is more particularly described as: ADDITION NAME: 5353 ALPHA. BLOCK A/7004 LOT 11A
or is described in **Exhibit B, SURVEY AND/OR LEGAL DESCRIPTION.**
 - D. **Tenant's pro rata share of the Property** is 32.21 % [See Addendum A, if applicable]
- 1.05. **Lease Term:** 15 years and 0 months beginning on 11/01/98 (the "Commencement Date") and ending on 10/31/2013 (the "Expiration Date"). *SEE INSERT
- 1.06. **Base Rent:** \$ 69,210.00 total Base Rent for the Lease Term payable in monthly installments of \$ 5,767.50 per month in advance. (The total amount of Rent is defined in Section 3.01.)
*RENTAL IS \$18.00 PSF
- 1.07. **Percentage Rental Rate:** N/A % [See Addendum D if applicable]
- 1.08. **Security Deposit:** \$ N/A (due upon execution of this Lease). [See Section 3.04]
- 1.09. **Permitted Use:** INSTALLATION, MAINTENANCE, REPLACEMENT, & USE OF TELECOMMUNICATIONS EQUIPMENT, GENERAL OFFICE USE & RELATED LAWFUL USES. [See Section 6.01]
- 1.10. **Party to whom Tenant is to deliver payments under this Lease (check one):** Landlord Principal Broker Other _____
Landlord may designate in writing the party authorized to act on behalf of Landlord to enforce this Lease. Any such authorization will remain in effect until it is revoked by Landlord in writing.
- 1.11. **Principal Broker:** SEARCH COMMERCIAL, acting as agent for (check one): the Landlord exclusively, the Tenant exclusively, both Landlord and Tenant as dual agent
Principal Broker's Address: 13101 PRESTON ROAD, SUITE 401
DALLAS, TEXAS 75240 Telephone: _____ Fax: _____
- 1.12. **Cooperating Broker:** _____, acting as agent for (check one): the Landlord exclusively, the Tenant exclusively, both Landlord and Tenant as dual agent
Cooperating Broker's Address: _____ Telephone: _____ Fax: _____
- 1.13. **The Fee:** The Professional Service Fee as set forth in (check one): Paragraph A, or Paragraph B of Section 15.01
 - A. The percentage applicable for leases in Sections 15.01 and 15.03 shall be N/A percent (_____ %)
 - B. The percentage applicable in Section 15.04 in the event of a sale shall be _____ percent (_____ %)
- 1.14. **Acceptance:** The number of days for acceptance of this offer is TEN days. [See Section 16.14]

Article One: Defined Terms

1.04(B)

Promptly following acceptance of the Demised Premises by Tenant, the parties shall measure the floor area of the Demised Premises. The floor area of the Demised Premises shall be determined by measuring from the outside of exterior walls to the center of any demising walls. If the floor area as measured by the parties is less than the area set forth in this Lease, the minimum rent shall be adjusted and Tenant's pro rata share shall also be adjusted accordingly.

1.05

The Lease term will commence upon full-execution for a term of 15 years. Landlord will provide Tenant with a letter indicating the actual commencement and expiration dates upon such full-execution.

Base rental shall commence upon Landlord's completion of the structural reinforcements to the floor which shall be finished no later than December 15, 1998. Such completion shall be determined by the consulting engineers for Landlord and Tenant. If Landlord fails to deliver actual possession of the Premises by December 15, 1998, for each day thereafter and continuing until actual possession of the premises is delivered to Tenant, Tenant shall be entitled to a rent credit of one day for each day Landlord fails to deliver the Premises.

ARTICLE TWO: LEASE AND LEASE TERM

2.01. Lease of Demised Premises for Lease Term. Landlord leases the Demised Premises to Tenant and Tenant leases the Demised Premises from Landlord for the Lease Term stated in Section 1.05. The Commencement Date is the date specified in Section 1.05, unless advanced or delayed under any provision of this Lease.

2.02. Delay in Commencement. Landlord shall not be liable to Tenant if Landlord does not deliver possession of the Demised Premises to Tenant on the Commencement Date specified in Section 1.05 above. Landlord's non-delivery of possession of the Demised Premises to Tenant on the Commencement Date will not affect this Lease or the obligations of Tenant under this Lease. However, the Commencement Date shall be delayed until possession of the Demised Premises is delivered to Tenant. The Lease Term shall be extended for a period equal to the delay in delivery of possession of the Demised Premises to Tenant, plus the number of days necessary for the Lease Term to expire on the last day of a month. If Landlord does not deliver possession of the Demised Premises to Tenant within sixty (60) days after the Commencement Date specified in Section 1.05, Tenant may cancel this Lease by giving written notice to Landlord within ten (10) days after the 60-day period ends. If Tenant gives such notice, this Lease shall be canceled effective as of the date of its execution, and no party shall have any obligations under this Lease. If Tenant does not give such notice within the time specified, Tenant shall have no right to cancel this Lease, and the Lease Term shall commence upon the delivery of possession of the Demised Premises to Tenant. If delivery of possession of the Demised Premises to Tenant is delayed, Landlord and Tenant shall, upon such delivery, execute an amendment to this Lease setting forth the revised Commencement Date and Expiration Date of the Lease Term.

2.03. Early Occupancy. If Tenant occupies the Demised Premises prior to the Commencement Date, Tenant's occupancy of the Demised Premises shall be subject to all of the provisions of this Lease. Early occupancy of the Demised Premises shall not advance the Expiration Date. Unless otherwise provided herein, Tenant shall pay Base Rent and all other charges specified in this Lease for the period of occupancy.

2.04. Holding Over. Tenant shall vacate the Demised Premises immediately upon the expiration of the Lease Term or earlier termination of this Lease. Tenant shall reimburse Landlord for and indemnify Landlord against all damages incurred by Landlord as a result of any delay by Tenant in vacating the Demised Premises. If Tenant does not vacate the Demised Premises upon the expiration of the Lease Term or earlier termination of this Lease, Tenant's occupancy of the Demised Premises shall be a day-to-day tenancy, subject to all of the terms of this Lease, except that the Base Rent during the holdover period shall be increased to an amount which is one-and-one-half (1 1/2) times the Base Rent in effect on the expiration or termination of this Lease, computed on a daily basis for each day of the holdover period, plus all additional sums due under this Lease. This paragraph shall not be construed as Landlord's consent for Tenant to hold over or to extend this Lease.

ARTICLE THREE: RENT AND SECURITY DEPOSIT

3.01. Manner of Payment. All sums payable under this Lease by Tenant (the "Rent") shall be made to the Landlord at the address designated in Section 1.02, unless another person is designated in Section 1.10, or to any other party or address as Landlord may designate in writing. Any and all payments made to a designated third party for the account of the Landlord shall be deemed made to Landlord when received by the designated third party. All sums payable by Tenant under this Lease, whether or not expressly denominated as rent, shall constitute rent for the purposes of Section 502(b)(6) of the Bankruptcy Code and for all other purposes. The Base Rent is the minimum rent for the Demised Premises and is subject to the terms and conditions contained in this Lease, together with the attached Addenda, if any.

3.02. Time of Payment. Upon execution of this Lease, Tenant shall pay the installment of Base Rent for the first month of the Lease Term. On or before the first day of the second month of the Lease Term and of each month thereafter, the installment of Base Rent and other sums due under this Lease shall be due and payable, in advance, without offset, deduction or prior demand. If the Lease Term commences or ends on a day other than the first or last day of a calendar month, the rent for any fractional calendar month following the Commencement Date or preceding the end of the Lease Term shall be prorated by days.

3.03. Late Charges. Tenant's failure to promptly pay sums due under this Lease may cause Landlord to incur unanticipated costs. The exact amount of those costs is impractical or extremely difficult to ascertain. The costs may include, but are not limited to, processing and accounting charges and late charges which may be imposed on Landlord by any ground lease or deed of trust encumbering the Demised Premises. Payments due to Landlord under this Lease are not an extension of credit. Therefore, Landlord may, at Landlord's option and to the extent allowed by applicable law, impose a Late Charge on any payments which are not received by Landlord on or before the due date in an amount equal to one-half of one percent (0.5%) of the amount of the past due payment (the "Late Charge") per day for each day after the due date, until the past due amount in Good Funds is received by Landlord, up to a maximum of ten percent (10%) of the past due amount. A Late Charge may be imposed only once on each past due payment. Any Late Charge will be in addition to Landlord's other remedies for nonpayment of rent. If any check tendered to Landlord by Tenant under this Lease is dishonored for any reason, Tenant shall pay to the party receiving payments under this Lease a fee of twenty-five dollars (\$25.00), plus (at Landlord's option) a Late Charge as provided above until good funds are received by Landlord. The parties agree that any Late Charge and dishonored check fee represent a fair and reasonable estimate of the costs Landlord will incur by reason of the late payment or dishonored check. Payments received from Tenant shall be applied first to any Late Charges, second to Base Rent, and last to other unpaid charges or reimbursements due to Landlord. Notwithstanding the foregoing, Landlord will not impose a Late Charge as to the first late payment in any calendar year, unless Tenant fails to pay the late payment to Landlord within three (3) business days after the delivery of a written notice from Landlord to Tenant demanding the late payment be paid. However, Landlord may impose a Late Charge without advance notice to Tenant on any subsequent late payment in the same calendar year.

3.04. Security Deposit. Upon execution of this Lease, Tenant shall deposit with Landlord a cash Security Deposit in the amount stated in Section 1.08. Landlord may apply all or part of the Security Deposit to any unpaid Rent or other charges due from Tenant or to cure any other defaults of Tenant. If Landlord uses any part of the Security Deposit, Tenant shall restore the Security Deposit to its full amount within ten (10) days after Landlord's written demand. Tenant's failure to restore the full amount of the Security Deposit within the time specified shall be a default under this Lease. No interest will be paid on the Security Deposit. Landlord will not be required to keep the Security Deposit separate from its other accounts and no trust relationship is created with respect to the Security Deposit. Upon any termination of this Lease not resulting from Tenant's default, and after Tenant has vacated the Property and cleaned and restored the Demised Premises in the manner required by this Lease, Landlord shall refund the unused portion of the Security Deposit to Tenant within thirty days after the Termination Date or thirty days after Tenant fully complies with the conditions of termination as required in Section 7.05, whichever is later.

3.05. Good Funds Payments. If, for any reason whatsoever, any two or more payments by check from Tenant to Landlord for Rent are dishonored and returned unpaid, thereafter Landlord may, at Landlord's sole option, upon written notice to Tenant, require that all future payments of Rent for the remaining term of the Lease must be made by cash, certified check, cashier's check, or money order ("Good Funds") and that the delivery of Tenant's personal or corporate check will no longer constitute payment of Rent under this Lease. Any acceptance by Landlord of a payment for Rent by Tenant's personal or corporate check thereafter shall not be construed as a waiver of Landlord's right to require payment by Good Funds as set forth herein.

ARTICLE FOUR: TAXES

4.01. Payment by Landlord. Landlord shall pay the real estate taxes on the Demised Premises during the Lease Term.

4.02. Improvements by Tenant. If the real estate taxes levied against the Demised Premises for the term of the Lease Term are increased as a result of any alterations, additions or improvements made by Tenant or by Landlord at the request of Tenant, Tenant shall pay to Landlord, upon demand, the amount of the increase and a bonus to pay the increase during the Lease Term. Landlord shall use reasonable efforts to obtain from the tax assessor or assessors a written statement of the total amount of the increase.

4.03. Joint Assessment. If the real estate taxes are assessed against the Demised Premises jointly with other property not constituting a part of the Demised Premises, the real estate taxes applicable to the Demised Premises shall be equal to the amount bearing the same proportion to the aggregate assessment that the total square feet of building area in the Demised Premises bears to the total square feet of building area included in the joint assessment.

4.04. Personal Property Taxes. Tenant shall pay all taxes assessed against trade fixtures, furnishings, equipment, inventory, products, or any other personal property belonging to Tenant. Tenant shall use reasonable efforts to have Tenant's personal property taxed separately from the Demised Premises. If any of Tenant's personal property is taxed with the Demised Premises, Tenant shall pay the taxes for the personal property to Landlord within fifteen (15) days after Tenant receives a written statement from Landlord for the personal property taxes.

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ARTICLE FIVE INSURANCE AND INDEMNITY

5.01. Casualty Insurance. ~~During the Lease Term, Landlord shall maintain policies of insurance covering loss of or damage to the Demised Premises in an amount or percentage of replacement value as Landlord deems reasonable in relation to the age, location, type of construction and physical condition of the Demised Premises and the availability of insurance at reasonable rates. The policies shall provide protection against all perils included within the classification of fire and extended coverage and any other perils which Landlord deems necessary.~~ Landlord may, at Landlord's option, obtain insurance coverage for Tenant's fixtures, equipment or building improvements installed by Tenant in or on the Demised Premises. Tenant shall, at Tenant's expense, maintain insurance on its fixtures, equipment and building improvements as Tenant deems necessary to protect Tenant's interest. Tenant shall not do or permit to be done anything which invalidates any insurance policies. Any casualty insurance carried by Landlord or Tenant shall be for the sole benefit of the party carrying the insurance and under its sole control.

*SEE INSERT

5.02. Increase in Premiums. Tenant shall not permit any operation or activity to be conducted, or storage or use of any volatile or any other materials, on or about the Demised Premises that would cause suspension or cancellation of any fire and extended coverage insurance policy carried by Landlord, or increase the premiums therefor, without the prior written consent of Landlord. If Tenant's use and occupancy of the Demised Premises causes an increase in the premiums for any fire and extended coverage insurance policy carried by Landlord, Tenant shall pay to Landlord, as additional rental, the amount of the increase within ten days after demand and presentation by Landlord of written evidence of the increase.

TENANT

5.03. Liability Insurance. During the Lease Term, Tenant shall maintain a commercial general liability policy of insurance, at Tenant's expense, insuring Landlord against liability arising out of the ownership, use, occupancy, or maintenance of the Demised Premises. The initial amounts of the insurance must be at least: \$1,000,000 for Each Occurrence, \$2,000,000 General Aggregate per policy year, \$100,000 Property Damage for the Demised Premises, and \$10,000 Medical Expense, plus a \$5,000,000 commercial general liability umbrella, and shall be subject to periodic increases based upon economic factors as Landlord may determine, in Landlord's discretion, exercised in good faith. However, the amounts of the insurance shall not limit Tenant's liability nor relieve Tenant of any obligation under this Lease. The policies must contain cross-liability endorsements, if applicable, and must insure Tenant's performance of the indemnity provisions of Section 5.04. The policies must contain a provision which prohibits cancellation or modification of the policy except upon thirty (30) days' prior written notice to Landlord. Tenant may discharge Tenant's obligations under this Section by naming Landlord as an additional insured under a comprehensive policy of commercial general liability insurance maintained by Tenant and containing the coverage and provisions described in this Section. Tenant shall deliver a copy of the policy or certificate (or a renewal) to Landlord prior to the Commencement Date and prior to the expiration of the policy during the Lease Term. If Tenant fails to maintain the policy, Landlord may elect to maintain the insurance at Tenant's expense. Tenant may, at Tenant's expense, maintain other liability insurance as Tenant deems necessary to protect Tenant.

NAMING LANDLORD AS AN ADDITIONAL INSURED AS ITS INTERESTS MAY APPEAR FROM TIME TO TIME

5.04. Indemnity. Landlord shall not be liable to Tenant or to Tenant's employees, agents, invitees or visitors, or to any other person, for any injury to persons or damage to property on or about the Demised Premises or any adjacent area owned by Landlord caused by the negligence or misconduct of Tenant, Tenant's employees, subtenants, agents, licensees or concessionaires or any other person entering the Demised Premises under express or implied invitation of Tenant, or arising out of the use of the Demised Premises by Tenant and the conduct of Tenant's business, or arising out of any breach or default by Tenant in the performance of Tenant's obligations under this Lease, and Tenant hereby agrees to indemnify and hold Landlord harmless from any loss, expense or claims arising out of such damage or injury. Tenant shall not be liable for any injury or damage caused by the negligence or misconduct of Landlord, or Landlord's employees or agents, and Landlord agrees to indemnify and hold Tenant harmless from any loss, expense or damage arising out of such damage or injury.

*SEE INSERT

5.05. Comparative Negligence. Tenant and Landlord hereby unconditionally and irrevocably agree to indemnify, defend and hold each other and their officers, agents, directors, subsidiaries, partners, employees, licensees and counsel harmless, to the extent of each party's comparative negligence, if any, from and against any and all loss, liability, demand, damage, judgment, suit, claim, deficiency, interest, fee, charge, cost or expense (including, without limitation, interest, court costs and penalties, reasonable attorney's fees and disbursements and amounts paid in settlement, or liabilities resulting from any change in federal, state or local law or regulation or interpretation of this Lease) of whatever nature, on a comparative negligence basis, even when caused in part by Landlord's or Tenant's negligence or the joint or concurring negligence of Landlord, Tenant, and any other person or entity, which may result or to which Landlord or Tenant and/or any of their officers, agents, directors, employees, subsidiaries, partners, licensees and counsel may sustain, suffer, incur or become subject to in connection with or arising in any way whatsoever out of the leasing, operation, promotion, management, maintenance, repair, use or occupation of the Demised Premises, or any other activity of whatever nature in connection therewith, or arising out of, or by reason of any investigation, litigation or other proceedings brought or threatened, arising out of or based upon the leasing, operation, promotion, management, maintenance, repair, use or occupancy of the Demised Premises, or any other activity on the Demised Premises. This provision shall survive the expiration or termination of this Lease.

5.06. Waiver of Subrogation. Each party to this Lease waives any and every claim which arises or may arise in its favor against the other party during the term of this Lease or any renewal or extension of this Lease for any and all loss of, or damage to, any of its property located within or upon, or constituting a part of, the Demised Premises, which loss or damage is covered by valid and collectible fire and extended coverage insurance policies, to the extent that such loss or damage is recoverable under such insurance policies. These mutual waivers shall be in addition to, and not in limitation or derogation of, any other waiver or release contained in this Lease with respect to any loss of, or damage to, property of the parties. Inasmuch as these mutual waivers will preclude the assignment of any aforesaid claim by way of subrogation or otherwise to an insurance company (or any other person), each party hereby agrees to give immediately to each insurance company (which has issued to such party policies of fire and extended coverage insurance) written notice of the terms of such mutual waivers, and to cause such insurance policies to be properly endorsed to prevent the invalidation of the insurance coverage by reason of these waivers.

ARTICLE SIX: USE OF DEMISED PREMISES

SUBJECT TO LANDLORD'S CONSENT WHICH WILL NOT BE UNREASONABLY WITHHELD

6.01. Permitted Use. Tenant may use the Demised Premises only for the Permitted Use stated in Section 1.09. The parties to this Lease acknowledge that the current use of the Demised Premises or the improvements located on the Demised Premises, or both, may or may not conform to the city zoning ordinance with respect to the permitted use, height, setback requirements, minimum parking requirements, coverage ratio of improvements to total area of land, and other matters which may have a significant economic impact upon the Tenant's intended use of the Demised Premises. Tenant acknowledges that Tenant has or will independently investigate and verify to Tenant's satisfaction the extent of any limitations or non-conforming uses of the Demised Premises. Tenant further acknowledges that Tenant is not relying upon any warranties or representations of Landlord or the Brokers who are participating in the negotiation of this Lease concerning the Permitted Use of the Demised Premises, or with respect to any uses of the improvements located on the Demised Premises. **

~~6.02. Compliance with Law. Tenant shall comply with all governmental laws, ordinances and regulations applicable to the use of the Demised Premises, and shall promptly comply with all governmental orders and directives for the correction, prevention and abatement of nuisances and other conditions in or upon, or connected with the Demised Premises, all at Tenant's sole expense, including any expense or cost resulting from the construction, installation of fixtures and improvements or other accommodations for handicapped or disabled persons required for compliance with governmental laws and regulations, including but not limited to the Texas Architectural Barriers Act (Article 7.03 and 7.04 of the Texas State Code) and the Americans with Disabilities Act (the "ADA"). To the extent any alterations to the Demised Premises are required by the ADA or other applicable laws or regulations, Tenant shall bear the expense of the alterations. To the extent any alterations to the Demised Premises are required by the ADA or other applicable laws or regulations (for "path of travel" requirements of the ADA), Landlord shall bear the expense of the alterations.~~

*SEE INSERT

6.03. Certificate of Occupancy. If required, Tenant shall obtain a Certificate of Occupancy from the municipality in which the Property is located prior to occupancy of the Demised Premises. Tenant may apply for a Certificate of Occupancy prior to the Commencement Date and, if Tenant is unable to obtain a Certificate of Occupancy, Tenant shall have the right to terminate this Lease by written notice to Landlord if Landlord or Tenant is unwilling or unable to cure the defects which prevented the issuance of the Certificate of Occupancy. Landlord may, but has no obligation to, cure any such defects, including any repairs, installations, or replacements of any items which are not presently existing on the Demised Premises, or which have not been expressly agreed upon by Landlord in writing.

** TENANT SHALL BE PROVIDED 24 HOUR DAY, 365 DAYS PER YEAR ACCESS TO THE BUILDING & PREMISES

Article Five: Insurance and Indemnity

5.01 During the Lease Term, Landlord shall obtain and keep in full force and effect, the following insurance from an insurance company rated at least A-VIII or better in Best's Insurance Reports. The insurance required to be carried by Landlord under this Section shall be referred to herein as "Landlord's Insurance." Upon Tenant's request, Landlord will provide Tenant with a copy of the certificate evidencing Landlord's Insurance.

a. Liability Insurance. Bodily injury, personal injury and property damage insurance insuring against claims of bodily injury or death, personal injury or property damage arising out of or in connection with (1) Landlord's activities upon, in or about the Premises; or (2) the use or occupancy of the Building in a limit of not less than One Million Dollars (\$1,000,000.00) for injury to or death of one person in any one accident or occurrence and in an amount of not less than Two Million Dollars (\$2,000,000.00) for injury to or death of more than one person in any one accident or occurrence. Landlord's Insurance shall be primary with respect to any claim arising out of events that occur outside the Premises.

b. Property Insurance. Commercial property form insurance insuring the Building (excluding any property which Tenant is obligated to insure), against damage and destruction by fire, vandalism, and other perils in the amount of the full replacement value of the Building, as such value may exist from time to time.

5.04

Notwithstanding anything contained herein to the contrary, Landlord shall defend, indemnify, and hold Tenant and Tenant's agents, officers, directors, employees, and contractors harmless against and from any and all injuries, costs, expenses, liabilities, losses, damages, injunctions, suits, actions, fines, penalties, and demands of any kind or nature (including reasonable attorneys' fees) by or on behalf of any person, entity, or governmental authority occasioned by or arising out of (a) injuries occurring in the common areas or any other portion of the Building outside the Demised Premises; (b) any intentional act, or negligence of Landlord or Landlord's agents, employees, or independent contractors; (c) any breach or default in the performance of any obligation on Landlord's part to be performed under this Lease; or (d) the failure of any representation or warranty made by Landlord herein to be true when made. This indemnity shall survive termination of this Lease only as to claims arising out of events that occur prior to termination of the Lease.

Article Six: Use of Demised Premises

6.02

Landlord shall be responsible at its sole cost and expense to comply with any current legal requirements, handicapped accessibility requirements, including but not limited to ADA requirements, relating to the physical condition of all parts of the Building outside the Demised Premises, as well as any change in applicable legal requirements pertaining to real estate generally and not to the Demised Premises specifically. Tenant shall, in no event, be responsible to make any structural repairs, improvements or alterations to the Premises or in the Building in order to comply with the requirements of this Section. Notwithstanding anything contained herein to the contrary, Landlord represents and warrants that the Premises meet and comply with all federal, state, and local laws, ordinances and regulations (including but not limited to all accessibility requirements) and are in good sanitary order, condition, and repair at delivery of the Premises to Tenant. Landlord shall promptly correct any latent defects as they become known. Landlord shall disclose any know conditions that would adversely affect Premises design, construction and use as contemplated by this lease.

EXCEPT FROM INTENTIONAL ACTS OR NEGLIGENCE OF TENANT OR TENANT'S AGENTS

EXCEPT FROM PROBLEMS ARISING FROM TENANT'S WORK

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6.04. Signs. Without the prior written consent of Landlord, Tenant may not place any signs, ornaments or other objects upon the Demised Premises or on the Property, including but not limited to the roof or exterior of the building or other improvements on the Property, or paint or otherwise decorate or deface the exterior of the building. Any signs installed by Tenant must conform with applicable laws, deed restrictions on the Property, and other applicable requirements. Tenant must remove all signs, decorations and ornaments at the expiration or termination of this Lease and must repair any damage and close any holes caused by the removal.

*SEE INSERT

* 6.05. Utility Services. Tenant shall pay the cost of all utility services, including but not limited to initial connection charges, all charges for gas, water, sewerage, storm water disposal, communications and electricity used on the Demised Premises, and for replacing all electric lights, lamps and tubes.

*SEE INSERT

*TENANT RESPONSIBLE FOR INSTALLATION OF ELECTRIC UTILITY METER

6.06. Landlord's Access. Landlord and Landlord's agents shall have the right to, during normal business hours and upon reasonable advance notice, and without unreasonably interfering with Tenant's business, enter the Demised Premises: (a) to inspect the general condition and state of repair of the Demised Premises, (b) to make repairs required or permitted under this Lease, (c) to show the Demised Premises or the Property to any prospective tenant or purchaser, and (d) for any other reasonable purpose. If Tenant changes the locks on the Demised Premises, Tenant must provide Landlord with a copy of each separate key. During the final one hundred fifty (150) days of the Lease Term, Landlord and Landlord's agents may erect and maintain on or about the Demised Premises signs advertising the Demised Premises for lease or for sale.

*SEE INSERT

6.07. Possession. If Tenant pays the rent, properly maintains the Demised Premises, and complies with all other terms of this Lease, Tenant may occupy and enjoy the Demised Premises for the full Lease Term, subject to the provisions of this Lease.

~~6.08. Exemptions from Liability. Landlord shall not be liable for any damage or injury to the persons, business (or any loss of income), goods, inventory, furnishings, fixtures, equipment, merchandise or other property of Tenant, Tenant's employees, invitees, customers or any other person in or about the Demised Premises, whether the damage or injury is caused by or results from: (a) fire, steam, electricity, water, gas or wind; (b) the breakage, leakage, obstruction or other defects of pipes, sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures or any other cause; (c) conditions arising on or about the Demised Premises or upon other portions of any building of which the Demised Premises is a part, or from other sources or places, or (d) any act or omission of any other tenant of any building on the Property. Landlord shall not be liable for any damage or injury even though the cause of or the means of repairing the damage or injury are not accessible to Tenant. The provisions of this Section 6.08 shall not, however, exempt Landlord from liability for Landlord's gross negligence or willful misconduct.~~

ARTICLE SEVEN: PROPERTY CONDITION, MAINTENANCE, REPAIRS AND ALTERATIONS

7.01. Property Condition. Except as disclosed in writing by Landlord to Tenant contemporaneously with the execution of this Lease, to the best of Landlord's actual knowledge the Demised Premises has no known latent structural defects, construction defects of a material nature, and to the best of Landlord's actual knowledge none of the improvements has been constructed with materials known to be a potential health hazard to occupants of the Demised Premises. Tenant acknowledges that neither the Principal Broker nor any Cooperating Broker has made any warranty or representation to Tenant with respect to the condition of the Demised Premises, and that Tenant is relying exclusively upon Tenant's own investigations and the representations of Landlord, if any, with respect to the condition of the Demised Premises. Landlord and Tenant agree to hold the Brokers harmless of and from any and all damages, claims, costs and expenses of every kind and character resulting from or related to Landlord's furnishing to the Brokers any false, incorrect or inaccurate information with respect to the Demised Premises, or Landlord's concealing any material information with respect to the condition of the Demised Premises. Other than as expressly set forth in this Lease, Landlord represents that on the Commencement Date (and for a period of thirty (30) days thereafter) the building fixtures and equipment, plumbing and plumbing fixtures, electrical and lighting system, any fire protection sprinkler system, ventilating equipment, heating system, air conditioning equipment, roof, skylights, doors, overhead doors, windows, dock levelers, elevators, and the interior of the Demised Premises in general are in good operating condition. Tenant shall have a period of thirty (30) days following the Commencement Date in which to inspect the Demised Premises and to notify Landlord in writing of any defects and maintenance, repairs or replacements required to the above named equipment, fixtures, systems and interior. Within a reasonable period of time after the timely receipt of any such written notice from Tenant, Landlord shall, at Landlord's expense, correct the defects and perform the maintenance, repairs and replacements.

*SEE INSERT

7.02. Acceptance of Demised Premises. Subject to the provisions in Section 7.01, Tenant acknowledges that: (a) a full and complete inspection of the Demised Premises and adjacent common areas has been made and Landlord has fully and adequately disclosed the existence of any defects which would interfere with Tenant's use of the Demised Premises for their intended commercial purpose, and (b) as a result of such inspection and disclosure, Tenant has taken possession of the Demised Premises and accepts the Demised Premises in its "As Is" condition.

7.03. Maintenance and Repair. LANDLORD SHALL MAINTAIN BUILDING IN GOOD CONDITION THROUGHOUT THE TERM OF THIS LEASE.

A. Landlord's Obligation.

(1) Subject to the provisions of Article Eight (Damage or Destruction) and Article Nine (Condemnation) and except for damage caused by any act or omission of Tenant, Landlord shall keep the roof, skylights, foundation, structural components and the structural portions of exterior walls of the Demised Premises in good order, condition and repair. Landlord shall not be obligated to maintain or repair windows, doors, overhead doors, plate glass or the surfaces of walls. In addition, Landlord shall not be obligated to make any repairs under this Section until a reasonable time after receipt of written notice from Tenant of the need for repairs. If any repairs are required to be made by Landlord, Tenant shall, at Tenant's sole cost and expense, promptly remove Tenant's furnishings, fixtures, inventory, equipment and other property, to the extent required to enable Landlord to make repairs. Landlord's liability under this Section shall be limited to the cost of those repairs or corrections. Tenant waives the benefit of any present or future law which might give Tenant the right to repair the Demised Premises at Landlord's expense or to terminate the Lease because of the condition.

(2) All repair, maintenance, management and other services to be performed by Landlord or Landlord's agents involve the exercise of professional judgment by service providers, and Tenant expressly waives any claims for breach of warranty arising from the performance of those services.

B. Tenant's Obligation.

*SEE INSERT

SUBJECT TO PROVISIONS OF ARTICLE SIX

(1) Subject to the provisions of Section 7.01, Section 7.03 A, Article Eight (Damage or Destruction) and Article Nine (Condemnation), Tenant shall, at all times, keep all other portions of the Demised Premises in good order, condition and repair, ordinary wear and tear excepted, including but not limited to maintenance, repairs and all necessary replacements of the windows, plate glass, doors, ~~structural components, foundation, structural components, electrical and lighting systems, fire protection sprinkler system, roof, skylights, doors, overhead doors, windows, dock levelers, elevators, and exterior plumbing~~, the interior of the Demised Premises in general, pest control and extermination. ~~Landlord shall not be obligated to make any repairs under this Section until a reasonable time after receipt of written notice from Tenant of the need for repairs.~~ In addition, Tenant shall, at Tenant's expense, repair any damage to any portion of the Property, including the roof, skylights, foundation, structural components and exterior walls of the Demised Premises, caused by Tenant's acts or omissions. If Tenant fails to maintain and repair the Property as required by this Section, Landlord may, on ten (10) days' prior written notice, enter the Demised Premises and perform the maintenance or repair on behalf of Tenant, except that no notice is required in case of emergency, and Tenant shall reimburse Landlord immediately upon demand for all costs incurred in performing the maintenance or repair, plus a reasonable service charge.

NEGLIGENT

* 6.05. HVAC Service. Tenant shall, at Tenant's own cost and expense, enter into a regularly scheduled preventative maintenance and service contract for all refrigeration, heating, ventilating, and air conditioning systems and equipment within the Demised Premises during the Lease Term. If Tenant fails to enter into such a service contract acceptable to Landlord, Landlord may do so on Tenant's behalf and Tenant agrees to pay Landlord the cost and expense thereof, plus a reasonable service charge, regularly upon demand.

7.04. Alterations, Additions and Improvements. Tenant shall not create any openings in the roof or exterior walls, or make any alterations, additions or improvements to the Demised Premises without the prior written consent of Landlord. Consent for non-structural alterations, additions or improvements shall not be unreasonably withheld by Landlord. Tenant may erect or install trade fixtures, shelves, bins, machinery, heating, ventilating and air conditioning equipment and, provided that Tenant complies with all applicable governmental laws, ordinances, codes, and regulations. At the expiration or termination of this Lease, Tenant shall, subject to the restrictions of Section 7.05 below, have the right to remove items installed by Tenant, provided Tenant is not in default at the time of the removal and provided further that Tenant shall, at the time of removal of the items, repair in a good and workmanlike manner any damage caused by the installation or removal. Tenant shall pay for all costs incurred or arising out of alterations, additions or improvements in or to the Demised Premises and shall not permit any mechanic's or materialman's lien to be filed against the Demised Premises or the Property. Upon request by Landlord, Tenant shall deliver to Landlord proof of payment reasonably satisfactory to Landlord of all costs incurred or arising out of any alterations, additions or improvements.

7.05. Condition upon Termination. Upon the expiration or termination of this Lease, Tenant shall surrender the Demised Premises to Landlord broom clean and in the same condition as received, except for ordinary wear and tear which Tenant is not otherwise obligated to remedy under any provision of this Lease. Tenant shall not be obligated to repair any damage which Landlord is required to repair under Article Seven (Property Condition) or Article Eight (Damage or Destruction). In addition, Landlord may require Tenant to remove any alterations, additions or improvements (whether or not made with Landlord's consent) prior to the expiration or termination of this Lease and to restore the Demised Premises to its prior condition, all at Tenant's expense. All alterations, additions and improvements which Landlord has not required Tenant to remove shall become Landlord's property and shall be surrendered to Landlord upon the expiration or termination of this Lease. In no event, however, shall Tenant remove any of the following materials or equipment without Landlord's prior written consent: (i) any electrical wiring or power panels; (ii) lighting or lighting fixtures; (iii) wall coverings, drapes, blinds or other window coverings; (iv) carpets or other floor coverings; (v) heating, ventilating, or air conditioning equipment; (vi) fencing or security gates; or (vii) any other fixtures, equipment or items which, if removed, would affect the operation or the exterior appearance of the Property.

ARTICLE EIGHT: DAMAGE OR DESTRUCTION EXCEPT AS TO THE EXISTING SYSTEM PROVIDED BY LANDLORD

8.01. Notice. If any buildings or other improvements situated on the Property are damaged or destroyed by fire, flood, windstorm, tornado or other casualty, Tenant shall immediately give written notice of the damage or destruction to Landlord.

8.02. Partial Damage. If the building or other improvements situated on the Demised Premises are damaged by fire, tornado, or other casualty but not to such an extent that rebuilding or repairs cannot reasonably be completed within one hundred twenty (120) days from the date Landlord receives written notification by Tenant of the occurrence of the damage, this Lease shall not terminate, but Landlord shall proceed with reasonable diligence to rebuild or repair the building and other improvements on the Demised Premises (other than leasehold improvements made by Tenant or any assignee, subtenant or other occupant of the Demised Premises) to substantially the condition in which they existed prior to the damage. If the casualty occurs during the final eighteen (18) months of the Lease Term, Landlord shall not be required to rebuild or repair the damage unless Tenant exercises Tenant's renewal option (if any) within fifteen (15) days after the date of receipt by Landlord of the notification of the occurrence of the damage. If Tenant does not exercise its renewal option, or if there is no renewal option contained in this Lease, Landlord may, at Landlord's option, terminate this Lease by promptly delivering a written termination notice to Tenant, in which event the Rent shall be abated for the unexpired portion of the Lease Term, effective from the date of receipt by Landlord of the written notification of the damage. To the extent the Demised Premises cannot be occupied (in whole or in part) following the casualty, the Rent payable under this Lease during the period in which the Demised Premises cannot be fully occupied shall be adjusted equitably.

8.03. Substantial or Total Destruction. If the building or other improvements situated on the Demised Premises are substantially or totally destroyed by fire, tornado, or other casualty, or so damaged that rebuilding or repairs cannot reasonably be completed within one hundred twenty (120) days from the date Landlord receives written notification by Tenant of the occurrence of the damage, either Landlord or Tenant may terminate this Lease by promptly delivering a written termination notice to the other party, in which event the monthly installments of Rent shall be abated for the unexpired portion of the Lease Term, effective from the date of the damage or destruction. If neither party promptly terminates this Lease, Landlord shall proceed with reasonable diligence to rebuild and repair the building and other improvements (except that Tenant shall rebuild and repair Tenant's fixtures and improvements in the Demised Premises). To the extent the Demised Premises cannot be occupied (in whole or in part) following the casualty, the Rent payable under this Lease during the period in which the Demised Premises cannot be fully occupied shall be adjusted equitably.

ARTICLE NINE: CONDEMNATION *SEE INSERT OR TENANT

If, during the Lease Term or any extension thereof, all or a substantial part of the Demised Premises are taken for any public or quasi-public use under any governmental law, ordinance or regulation or by right of eminent domain, or are conveyed to the condemning authority under threat of condemnation, this Lease shall terminate and the monthly installments of Rent shall be abated during the unexpired portion of the Lease Term, effective from the date of the taking. If less than a substantial part of the Demised Premises is taken for public or quasi-public use under any governmental law, ordinance or regulation, or is conveyed to the condemning authority under threat of condemnation, Landlord, at its option, may by written notice terminate this Lease. If Landlord does not terminate this Lease, Landlord shall promptly, at Landlord's expense, restore and reconstruct the buildings and improvements (other than leasehold improvements made by Tenant or any assignee, subtenant or other occupant of the Demised Premises) situated on the Demised Premises in order to make the same reasonably tenantable and suitable for the use for which the Demised Premises is leased as defined in Section 6.01. The monthly installments of Rent payable under this Lease during the unexpired portion of the Lease Term shall be adjusted equitably. Landlord and Tenant shall each be entitled to receive and retain such separate awards and portions of lump sum awards as may be allocated to their respective interests in any condemnation proceeding. The termination of this Lease shall not affect the rights of the parties to such awards.

ARTICLE TEN: ASSIGNMENT AND SUBLETTING *SEE INSERT WHICH SHALL NOT BE UNREASONABLY WITHHELD

Tenant shall not, without the prior written consent of Landlord, assign this Lease or sublet the Demised Premises or any portion thereof. Any assignment or subletting shall be expressly subject to all terms and provisions of this Lease, including the provisions of Section 6.01 pertaining to the use of the Demised Premises. In the event of any assignment or subletting, Tenant shall remain fully liable for the full performance of all Tenant's obligations under this Lease. Tenant shall not assign its rights under this Lease or sublet the Demised Premises without first obtaining a written agreement from the assignee or sublessee whereby the assignee or sublessee agrees to assume the obligations of Tenant under this Lease and to be bound by the terms of this Lease. If an event of default occurs while the Demised Premises is assigned or sublet, Landlord may, at Landlord's option, in addition to any other remedies provided in this Lease or by law, collect directly from the assignee or subtenant all rents becoming due under the terms of the assignment or subletting and apply the rent against any sums due to Landlord under this Lease. No direct collection by Landlord from any assignee or subtenant will release Tenant from Tenant's obligations under this Lease.

ARTICLE ELEVEN: DEFAULT AND REMEDIES *SEE INSERT

- 11.01. Default. Each of the following events is an event of default under this Lease
A. Failure of Tenant to pay any installment of the Rent or other sum payable to Landlord under this Lease on the date that it is due and the continuance of that failure for a period of ten (10) days after Landlord delivers written notice of the failure to Tenant. This clause shall not be construed to permit or allow a delay in paying Rent beyond the due date and shall not affect Landlord's right to impose a Late Charge as permitted in Section 3.03.
B. Failure of Tenant to comply with any term, condition or covenant of this Lease, other than the payment of Rent or other sum of money, and the continuance of that failure for a period of thirty (30) days after Landlord delivers written notice of the failure to Tenant;
C. Failure of Tenant or any guarantor of Tenant's obligations under this Lease to pay its debts as they become due or an admission in writing of inability to pay its debts, or the making of a general assignment for the benefit of creditors.

TENANT SHALL SUPPLY AND MAINTAIN ITS OWN ELECTRIC METER AND PAY FOR SUCH CHARGES & USAGE DIRECTLY TO THE UTILITY COMPANY

6.04

Tenant shall submit plans and specifications for its exterior signs and awnings to Landlord for approval prior to submitting the plans and specifications to the local authorities for permitting. Landlord shall be deemed to have consented to such proposed signs and awnings unless Landlord notifies Tenant in writing of its specific objections within fourteen (14) days of receiving such proposal. Landlord shall not allow any signage other than Tenant's to be erected on the exterior walls of the Demised Premises or on the face of the Building or on the roof above the Demised Premises.

6.05

CORRESPONDING WITH THE DEMISE PREMISES

If all tenants using utilities measured by a joint meter have comparable usages, Tenant's share shall be the portion of the charges for such utilities equal to the ratio which the square feet of rentable floor area of the Demised Premises bears to the total square feet of rentable floor area served by the joint meter. If usages are not comparable, Tenant's share shall be such equitable proportion as Landlord and Tenant may agree. Landlord shall not charge Tenant a rate for any utility in excess of the rate Landlord must pay the supplier of the service.

Utility charges paid by Tenant to Landlord shall not exceed the amount which Tenant would pay if the same were billed directly to Tenant by the local utility company at such utility company's current business rates.

6.06

Notwithstanding anything contained herein to the contrary, Landlord, its agents, employees or contractors' entry onto the Demised Premises, or any repair or work performed thereon, or any change made to any portion of the Development of which the Demised Premises is a part shall not in any way materially or unreasonably affect or interrupt with Tenant's use, business or operations on the Demised Premises or obstruct the ingress and egress of the Demised Premises (including, without limitation, Tenant's exterior signage, if any) or any improvements of Tenant in or through the common areas or other portions of the Building/Development. Without limiting the foregoing, in no event shall Landlord have access to any area of the Building occupied by Tenant's equipment; provided, however, if Landlord cannot perform its obligations under the Lease without access thereto, access shall be permitted only upon reasonable prior notice and at reasonably convenient times to Tenant and only when accompanied by an authorized agent of Tenant; provided further, however, in the event of such access, Landlord shall comply with all requests and procedures of Tenant so as not to interrupt Tenant's business operations, the operations of Tenant's customers or subject Tenant's tangible or intangible property to any risk. Landlord shall be liable for any damage, injury, costs, or losses caused by any negligent, willful, or wanton act or omission of Landlord, its agents, employees, invitee, guests or contractors resulting from its and/or their entry onto the Demised Premises or failure to maintain the Building. Landlord shall give Tenant no less than ten (10) days notice before any entry hereunder, unless an emergency reasonably requires shorter notice.

Article Seven. Property Condition, Maintenance, Repairs and Alterations

7.01

Notwithstanding anything contained herein to the contrary, Landlord represents and warrants that the Demised Premises meet and comply with all federal, state, and local laws, ordinances and regulations (including but not limited to all accessibility requirements) and are in good sanitary order, condition, and repair at delivery of the Demised Premises to Tenant. Landlord shall promptly correct any latent defects as they become known. Landlord shall disclose any know conditions that would adversely affect Premises design, construction and use as contemplated by this Lease.

7.03(A)(2)

Notwithstanding any other provision hereof, if Landlord fails to make repairs within fifteen (15) days after the receipt of Tenant's written notice unless the nature of Landlord's obligation is such that more than fifteen (15) days are required for its performance and Landlord commences performance within the fifteen (15) day period and thereafter diligently pursues the cure to completion, Tenant may, at its option, make such repair or replacement and deduct the costs thereof (plus a ~~10%~~ administrative fee) from the installments of rent next falling due, seek the remedy of specific performance, and/or money damages for any loss or damages arising from Landlord's failure to discharge its obligations under this Section. Notwithstanding the foregoing, in the event that Landlord shall fail to make a repair that shall affect the Tenant's equipment in the Demised Premises, Tenant's self-help remedy contained herein may be exercised within 72 hours of notice to the Landlord, except in the case of emergency, in which case Tenant may exercise such self-help rights in a reasonable fashion without notice to Landlord. In addition, the self-help remedy provided in the prior sentence shall apply to conduit, cables and other similar improvements placed in the Building by the Tenant if such improvements are reasonably vital to the Tenant's operations or the operations of Tenant's customers.

Article Eight: Damage or Destruction

(a) Notwithstanding anything to the contrary contained in this Lease, in the event of damage or destruction to the Premises or the Building, Tenant shall have the right to terminate under the following conditions: (a) the damage renders the Demised Premises insufficient for Tenant's use in Tenant's reasonable business judgment; (b) the damage is such that the Demised Premises cannot be (or are not) restored within one hundred twenty (120) days from the date of damage; (c) damage or destruction is caused by a peril not required to be insured against hereunder; or (d) the damage or destruction occurs during the last two (2) years of the Term (or any Extension Term) and Tenant has not previously exercised any option rights it may for succeeding extension or renewal terms.

(b) If this Lease is not terminated, Lessor shall repair and restore the Premises and/or the Building, as the case may be, within 120 days, this Lease shall continue, but commencing on the date of the damage or destruction and continuing until repair or restoration is substantially complete and Lessee is open for the business upon the Premises, the monthly rental shall be proportionately abated or reduced, based on the extent to which Lessee's use of the Premises or essential services to the Premises or the common areas is impaired, as reasonably determined by Lessee.

(c) Notwithstanding the foregoing, in the event of a casualty that affects the operation of Tenant's equipment in the Premises, Landlord shall make all reasonable accommodations in the Building and common areas to Tenant for the purpose of restoring and/or maintaining the operation of Tenant's business, including Tenant's equipment as well as the equipment, if any, of Tenant's customers located in the Premises.

Article Nine: Condemnation

Notwithstanding anything contained herein to the contrary, if the Premises are not repaired and restored within one hundred and eighty (180) days from the date of the condemnation, then Tenant may cancel the Lease at any time after the one hundred and eightieth (180th) day and before the two hundred and tenth (210th) day following the date of condemnation. If Landlord is aware the Premises cannot be repaired and restored within one hundred and eighty (180) days, Landlord shall notify Tenant within a reasonable time after it learns of such delay, and Tenant shall have the option to terminate the Lease within sixty (60) days of such notice. Landlord shall return any deposits, all prepaid rent and other prepaid additional rent to Tenant within thirty (30) days from the date of termination of the Lease. Nothing contained herein shall be deemed or construed to prevent Landlord or Tenant from enforcing and prosecuting a claim or claims for the value of its respective interest or rights in connection with any condemnation proceedings, whether partial or complete.

Article Ten: Assignment and Subletting

Q *JK*
WITHOUT

WHICH SHALL NOT BE UNREASONABLY WITHHELD

Notwithstanding the foregoing, Tenant may, ~~without~~ Landlord's prior written consent, sublet all or any portions of the Premises or assign the Lease to (i) a parent, subsidiary, affiliate, division or corporation controlling, controlled by or under common control with Tenant, except a franchisee; (ii) a successor corporation related to Tenant by merger, consolidation, nonbankruptcy reorganization or government action; or (iii) a purchaser of Tenant's leasehold interest, provided that, as of the date of such transfer, the purchaser has the reasonable financial ability to perform its obligations with respect to this Lease and/or the Premises. For the purpose of this Lease, any sale or transfer of Tenant's capital stock through any public exchange, or redemption or issuance of additional stock of any class shall not be deemed an assignment, subletting or any other transfer of the Lease or the Premises.

Q *JK*

Article Eleven: Default and Remedies

If the nature of Tenant's obligation is such that more than thirty (30) days are required for its performance, then Tenant shall not be deemed in default if it commences performance within the ~~thirty (30)~~ days after receipt of notice from Landlord and thereafter diligently pursues the cure to completion. TWENTY (20) Q AS

Notwithstanding any other provision hereof, Landlord shall not be entitled to accelerate rental payable under the lease so long as tenant is not in monetary default hereunder, provided, however, for purposes of the preceding clause, a monetary default shall not include a default based on tenant's failure to pay an amount about which there exists a good faith dispute.

Notwithstanding any other provision hereof, Landlord shall reasonably mitigate any damages incurred as a result of Tenant's default hereunder.

11.03

If Landlord fails to perform any of Landlord's obligations and fails to cure the nonperformance pursuant to the provisions herein, then, Tenant may, at its option, with or without notice or demand of any kind to Landlord or any other person, have any one or more of the following described remedies in addition to all other rights and remedies provided at law or in equity or elsewhere herein: (i) remedy such default or breach and deduct the costs including but not limited to, attorney fees thereof from the installments of rent next falling due; (ii) pursue the remedy of specific performance; (iii) terminate this Lease; and/or (iv) seek money damages for loss arising from Landlord's failure to discharge its obligations under the Lease. Nothing contained in this Lease shall relieve Landlord of its duty to effect the repair, replacements, correction or maintenance required of it pursuant to this Lease, nor shall Landlord be relieved of its obligation to restore the affected services or utilities, and this Section shall not be construed to obligate Tenant to undertake any such work.

PRESENT VALUE (DISCOUNTED AT THE INTEREST RATE APPLICABLE UNDER THIS LEASE)

The commencement by Tenant or any guarantor of Tenant's obligations under this Lease of any case, proceeding or other action seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or its debts under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, or seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or any substantial part of its property.

~~The commencement of any case, proceeding or other action against Tenant or any guarantor of Tenant's obligations under this Lease seeking to have an order for relief entered against it as debtor, or seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or its debts under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, or seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or any substantial part of its property, and Tenant or any guarantor: (i) fails to obtain a dismissal of such case, proceeding or other action within sixty (60) days of its commencement; or (ii) converts the case from one chapter of the Federal Bankruptcy Code to another chapter; or (iii) is the subject of an order of relief which is not fully stayed within seven (7) business days after the entry thereof; and~~

~~Vacancy or abandonment by Tenant of any substantial portion of the Demised Premises or cessation of the use of the Demised Premises for the purpose leased.~~

*SEE INSERT

11.02. Remedies. Upon the occurrence of any of the events of default listed in Section 11.01, Landlord shall have the option to pursue any one or more of the following remedies without any prior notice or demand.

A. Terminate this Lease, in which event Tenant shall immediately surrender the Demised Premises to Landlord. If Tenant fails to so surrender the Demised Premises, Landlord may, without prejudice to any other remedy which it may have for possession of the Demised Premises or Rent in arrears, enter upon and take possession of the Demised Premises and expel or remove Tenant and any other person who may be occupying the Demised Premises or any part thereof, ~~by force if necessary, without being liable for prosecution or any claim for damages.~~ Tenant shall pay to Landlord on demand the amount of all loss and damage which Landlord may suffer by reason of the termination, whether through inability to relet the Demised Premises on satisfactory terms or otherwise.

B. Enter upon and take possession of the Demised Premises, by force if necessary, without terminating this Lease ~~and without being liable for prosecution or for any claim for damages,~~ and expel or remove Tenant and any other person who may be occupying the Demised Premises or any part thereof. Landlord may relet the Demised Premises and receive the rent therefor. Tenant agrees to pay to Landlord monthly or on demand from time to time any deficiency that may arise by reason of any such reletting. In determining the amount of the deficiency, the professional service fees, attorneys' fees, court costs, remodeling expenses and other costs of reletting shall be subtracted from the amount of rent received under the reletting.

C. Enter upon the Demised Premises, by force if necessary, without terminating this Lease ~~and without being liable for prosecution or for any claim for damages,~~ and do whatever Tenant is obligated to do under the terms of this Lease. Tenant agrees to pay Landlord on demand for expenses which Landlord may incur in thus effecting compliance with Tenant's obligations under this Lease, together with interest thereon at the rate of twelve percent (12%) per annum from the date expended until paid. ~~Landlord shall not be liable for any damages resulting to Tenant from such action, whether caused by negligence of Landlord or otherwise.~~

D. Accelerate and declare the Rent for the entire Lease Term, and all other amounts due under this Lease, at once due and payable, and proceed by attachment, suit or otherwise, to collect all amounts in the same manner as if all such amounts due or to become due during the entire Lease Term were payable in advance by the terms of this Lease, and neither the enforcement or collection by Landlord of such amounts nor the payment by Tenant of such amounts shall constitute a waiver by Landlord of any breach, existing or in the future, of any of the terms or provisions of this Lease by Tenant or a waiver of any rights or remedies which the Landlord may have with respect to any such breach.

E. In addition to the foregoing remedies, Landlord shall have the right to change or modify the locks on the Demised Premises in the event Tenant fails to pay the monthly installment of Rent when due. Landlord shall not be obligated to provide another key to Tenant or allow Tenant to regain entry to the Demised Premises unless and until Tenant pays Landlord all Rent which is delinquent. ~~Tenant agrees that Landlord shall not be liable for any damages resulting to the Tenant from the lockout.~~ At such time that Landlord changes or modifies the lock, Landlord shall post a "Notice of Change of Locks" on the front of the Demised Premises. Such Notice shall state that:

- (1) Tenant's monthly installment of Rent is delinquent, and therefore, under authority of Section 11.02.E of Tenant's Lease, the Landlord has exercised its contractual right to change or modify Tenant's door locks;
- (2) The Notice has been posted on the Tenant's front door by a representative of Landlord and Tenant should make arrangements with the representative to pay the delinquent installments of Rent when Tenant picks up the key; and
- (3) The failure of Tenant to comply with the provisions of the Lease and the Notice and/or tampering with or changing the door lock(s) by Tenant may subject Tenant to legal liability.

F. No re-entry or taking possession of the Demised Premises by Landlord shall be construed as an election to terminate this Lease, unless a written notice of that intention is given to Tenant. ~~Notwithstanding any such reletting or re-entry or taking possession, Landlord may, at any time thereafter, elect to terminate this Lease for a previous default.~~ Pursuit of any of the foregoing remedies shall not preclude pursuit of any other remedies provided by law, nor shall pursuit of any remedy provided in this Lease constitute a forfeiture or waiver of any monthly installment of Rent due to Landlord under this Lease or of any damages accruing to Landlord by reason of the violation of any of the terms, provisions and covenants contained in this Lease. Failure of Landlord to declare any default immediately upon its occurrence, or failure to enforce one or more of Landlord's remedies, or forbearance by Landlord to enforce one or more of Landlord's remedies upon an event of default shall not be deemed or construed to constitute a waiver of default or waiver of any violation or breach of the terms of this Lease. Pursuit of any one of the above remedies shall not preclude pursuit by Landlord of any of the other remedies provided in this Lease. The loss or damage that Landlord may suffer by reason of termination of this Lease or the deficiency from any reletting as provided for above shall include the expense of repossession and any repairs or remodeling undertaken by Landlord following possession. If Landlord terminates this Lease at any time for any default, in addition to other remedies Landlord may have, Landlord may recover from Tenant all damages Landlord may incur by reason of the default, including the cost of recovering the Demised Premises and the cost of the Rent then remaining unpaid.

11.03. Notice of Default. Tenant shall give written notice of any failure by Landlord to perform any of Landlord's obligations under this Lease to Landlord and to any ground lessor, mortgagee or beneficiary under any deed of trust encumbering the Demised Premises whose name and address have been furnished to Tenant in writing. Landlord shall not be in default under this Lease unless Landlord (or such ground lessor, mortgagee or beneficiary) fails to cure the nonperformance within thirty (30) days after receipt of Tenant's notice. However, if the nonperformance reasonably requires more than thirty (30) days to cure, Landlord shall not be in default if the cure is commenced within the 30-day period and is thereafter diligently pursued to completion.

*SEE INSERT

11.04. Limitation of Landlord's Liability. As used in this Lease, the term "Landlord" means only the current owner or owners of the fee interest in the Demised Premises or the landlord estate under a ground lease of the Demised Premises at the time in question. Each Landlord is obligated to perform the obligations of Landlord under this Lease only during the time such Landlord owns such interest or title. Any Landlord who transfers his title or interest is relieved of all liability with respect to the obligations of Landlord under this Lease accruing on or after the date of transfer, and Tenant agrees to recognize the transferee as Landlord under this Lease. However, each Landlord shall deliver to its transferee the Security Deposit held by Landlord if such Security Deposit has not then been applied under the terms of this Lease.

ARTICLE TWELVE: LANDLORD'S CONTRACTUAL LIEN

~~In accordance with the statute, Landlord's lien, Tenant hereby grants to Landlord a security interest to secure payment of all Rent and other sums of money becoming due under this Lease from Tenant, upon all inventory, goods, wares, equipment, fixtures, furniture and all other personal property of Tenant situated in or upon the Demised Premises, together with the proceeds from the sale or lease thereof. Tenant may not remove such property without the consent of Landlord until all Rent in arrears and other sums of money then due to Landlord under this Lease~~

~~Landlord may, in addition to any other remedies provided in this Lease or by law, enter upon the Demised Premises and take possession of any and all goods, wares, equipment, fixtures, furniture and other personal property of Tenant situated on the Demised Premises without liability for trespass or conversion, and sell the property at public or private sale, with or without having the property at the sale, after giving Tenant reasonable notice of the time and place of any such sale. Unless otherwise required by law, notice to Tenant of the sale shall be deemed sufficient if given in the manner prescribed in this Lease at least ten (10) days before the time of the sale. Any public sale made under this Article shall be deemed to have been conducted in a commercially reasonable manner if held on the Demised Premises or where the property is located, after the time, place and method of sale and a general description of the types of property to be sold have been advertised in a daily newspaper published in the county where the Demised Premises is located for five (5) consecutive days before the date of the sale. Landlord or its assigns may purchase at a public sale and, unless prohibited by law, at a private sale. The proceeds from any disposition dealt with in this Article, less any and all expenses connected with the taking of possession, holding and selling of the property (including reasonable attorneys' fees and legal expenses), shall be applied as a credit against the indebtedness secured by the security interest granted herein. Any surplus shall be paid to Tenant or as otherwise required by law, and Tenant shall promptly pay any deficiencies. Upon request by Landlord, Tenant agrees to execute and deliver to Landlord a Financing Statement in a form sufficient to perfect the security interest of Landlord in the aforementioned property and proceeds thereof under the provisions of the Business and Commerce Code in force in the State of Texas. The statutory lien for rent is expressly reserved, the security interest herein granted is in addition and supplementary thereto. Provided Tenant is not in default under any of the terms of this Lease, upon written request by Tenant Landlord shall deliver a written subordination of Landlord's statutory and contractual liens to any liens and security interests securing any insutituional third party financing of Tenant. Landlord shall not unreasonably withhold or delay the delivery of Landlord's written subordination.~~

ARTICLE THIRTEEN: PROTECTION OF LENDERS

13.01. Subordination and Attornment. Landlord shall have the right to subordinate this Lease to any future ground Lease, deed of trust or mortgage encumbering the Demised Premises, and advances made on the security thereof and any renewals, modifications, consolidations, replacements or extensions thereof, whenever made or recorded. Landlord's right to obtain such a subordination is subject to Landlord's providing Tenant with a written Subordination, Nondisturbance and Attornment Agreement from the ground lessor, beneficiary or mortgagee wherein Tenant's right to peaceable possession of the Demised Premises during the Lease Term shall not be disturbed if Tenant pays the Rent and performs all of Tenant's obligations under this Lease and is not otherwise in default, in which case Tenant shall attorn to the transferee of or successor to Landlord's interest in the Demised Premises and recognize the transferee or successor as Landlord under this Lease. If any ground lessor, beneficiary or mortgagee elects to have this Lease superior to the lien of its ground lease, deed of trust or mortgage and gives Tenant written notice thereof, this Lease shall be deemed superior to the ground lease, deed of trust or mortgage whether this Lease is dated prior or subsequent to the date of the ground lease, deed of trust or mortgage or the date of recording thereof. Tenant's rights under this Lease, unless specifically modified at the time this Lease is executed, are subordinated to any existing ground lease, deed of trust or mortgage encumbering the Demised Premises.

*SEE INSERT

13.02. Signing of Documents. Tenant shall sign and deliver any instruments or documents necessary or appropriate to evidence any attornment or subordination or any agreement to attorn or subordinate. ~~If Tenant fails to do so within ten (10) days after written request, Tenant hereby makes, constitutes and irrevocably appoints Landlord, or any transferee or successor of Landlord, the attorney-in-fact of Tenant to execute and deliver the attornment or subordination document or agreement.~~

13.03. Estoppel Certificates.

WITHIN 15 DAYS OF LANDLORD'S REQUEST

A. Upon Landlord's written request, Tenant shall execute, acknowledge and deliver to Landlord a written statement certifying: (i) that none of the terms or provisions of this Lease have been changed (or if they have been changed, stating how they have been changed); (ii) that this Lease has not been canceled or terminated; (iii) the last date of payment of the Base Rent and other charges and the time period covered by that payment; and (iv) that Landlord is not in default under this Lease (or, if Landlord is claimed to be in default, stating why). Tenant shall deliver the statement to Landlord within ten (10) days after Landlord's request. Landlord may forward any such statement to any prospective purchaser or lender of the Demised Premises. The purchaser or lender may rely conclusively upon the statement as true and correct.

B. If Tenant does not deliver the written statement to Landlord within the 10-day period, Landlord, and any prospective purchaser or lender, may conclusively presume and rely upon the following facts: (i) that the terms and provisions of this Lease have not been changed except as otherwise represented by Landlord, (ii) that this Lease has not been canceled or terminated except as otherwise represented by Landlord; (iii) that not more than one monthly installment of Base Rent or other charges have been paid in advance, and (iv) that Landlord is not in default under this Lease. In such event, Tenant shall be estopped from denying the truth of the presumed facts.

~~**13.04. Tenant's Financial Condition.** Within ten (10) days after written request from Landlord, Tenant shall deliver to Landlord financial statements as are reasonably required by Landlord to verify the net worth of Tenant, or any assignee, subtenant, or guarantor of Tenant. In addition, Tenant shall deliver to any lender designated by Landlord any financial statements required by the lender to facilitate the financing or refinancing of the Demised Premises. Tenant represents and warrants to Landlord that each financial statement is a true, complete, and accurate statement as of the date of the statement. All financial statements shall be confidential and shall be used only for the purposes set forth in this Lease.~~

ARTICLE FOURTEEN: ENVIRONMENTAL REPRESENTATIONS AND INDEMNITY

14.01. Tenant's Compliance with Environmental Laws. Tenant, at Tenant's expense, shall comply with all laws, rules, orders, ordinances, directions, regulations and requirements of Federal, State, county and municipal authorities pertaining to Tenant's use of the Property and with the recorded covenants, conditions and restrictions, regardless of when they become effective, including, without limitation, all applicable Federal, State and local laws, regulations or ordinances pertaining to air and water quality, Hazardous Materials (as defined in Section 14.05), waste disposal, air emissions and other environmental matters, all zoning and other land use matters, and with any direction of any public officer or officers, pursuant to law, which impose any duty upon Landlord or Tenant with respect to the use or occupancy of the Property.

14.02. Tenant's Indemnification. Tenant shall not cause or permit any Hazardous Materials to be brought upon, kept or used in or about the Property by Tenant, its agents, employees, contractors or invitees without the prior written consent of Landlord. If Tenant breaches the obligations stated in the preceding Section or sentence, or if the presence of Hazardous Materials on the Property caused or permitted by Tenant results in contamination of the Property or any other property, or if contamination of the Property or any other property by Hazardous Materials otherwise occurs for which Tenant is legally liable to Landlord for damage resulting therefrom, then Tenant shall indemnify, defend and hold Landlord harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses (including, without limitation, diminution in value of the Property, damages for the loss or restriction on use of rentable or unusable space or of any amenity or appurtenance of the Property, damages arising from any adverse impact on marketing of building space or land area, sums paid in settlement of claims, reasonable attorneys' fees, court costs, consultant fees and expert fees) which arise during or after the Lease Term as a result of the contamination. This indemnification of Landlord by Tenant includes, without limitation, costs incurred in connection with any investigation of site conditions or any clean-up, remedial work, removal or restoration work required by any Federal, State or local government agency, because of Hazardous Materials present in the soil or ground water on or under the Property. Without limiting the foregoing, if the presence of any Hazardous Materials on the Property (or any other property) caused or permitted by Tenant results in any contamination of the Property, Tenant shall promptly take all actions at Tenant's sole expense as are necessary to return the Property to the condition existing prior to the introduction of any such Hazardous Materials, provided that Landlord's approval of such actions is first obtained. The foregoing indemnity shall survive the expiration or termination of this Lease.

14.03. Landlord's Representations and Warranties. Landlord represents and warrants, to the best of Landlord's actual knowledge, that: (i) any handling, transportation, storage, treatment or usage of Hazardous Materials that has occurred on the Property to date has been in compliance with all applicable Federal, State, and local laws, regulations and ordinances, and (ii) no leak, spill, release, discharge, emission or disposal of Hazardous Materials has occurred on the Property to date and that the soil or groundwater on or under the Property is free of Hazardous Materials as of the Commencement Date, unless expressly disclosed by Landlord to Tenant in writing.

Article 13: Protection of Lenders

As a condition of any subordination, the mortgagee, transferee, purchaser, lessor or beneficiary ("Landlord's Successor") shall agree that Tenant's use or possession of the Premises shall not be disturbed, nor shall its obligations be enlarged or its rights be abridged hereunder by reason of any such mortgage or deed of trust. Notwithstanding any foreclosure or sale under any such mortgage or deed of trust (or transfer by deed in lieu thereof), this Lease shall remain in full force and effect, and Landlord shall, as a condition to this Lease, provide written non-disturbance protection reasonably acceptable to Tenant from any present ground lessor or lender.

Article Fourteen: Environmental Representations and Indemnity

14. ENVIRONMENTAL LIABILITY

14.1 Definitions. The term "Environmental Law" means any federal, state or local law, statute, ordinance, regulation or order pertaining to health, industrial hygiene, environmental conditions or Hazardous Substances. The term "Hazardous Substance" shall mean any hazardous or toxic substances, materials or wastes, or pollutants or contaminants as defined, listed or regulated now or in the future by any Environmental Law or by common law decision, including, without limitation, (a) chlorinated solvents, (b) petroleum products or by-products, (c) asbestos, and (d) polychlorinated biphenyl.

14.2 Landlord's Covenants. Landlord warrants, represents, covenants and agrees as follows:

14.2.1 To the best of Landlord's knowledge, Landlord has not used, generated, manufactured, produced, stored, released, discharged or disposed of on, under, about the Premises (or off-site of the Premises that might affect the Premises) or transferred to or from the Premises, any Hazardous Substance or allowed any other person or entry to do so. Landlord has no knowledge or reason to know that any Hazardous Substance has been used, generated, manufactured, produced, stored, released, discharged or disposed of on, under or about the Premises or the Development (or off-site of the Development that might affect the Premises) or transported to or from the Premises or the Development (or off-site of the Development that might affect the Premises) by any entity, firm or person, or from any source whatsoever. To the best of Landlord's knowledge, there are no underground storage tanks on the Premises or the Development, and no underground storage tanks have been removed from the Premises or the Development.

14.2.2 Landlord at Landlord's expense shall, in a manner that complies with all applicable laws, rules, regulations and policies of any governmental body with jurisdiction over the same, remove, transport and dispose of such substances and perform all remediation and cleanup of the Premises, the Building, the Development and land necessary or advisable to remediate any damage to persons, property or the environment as a result of the presence of such Hazardous Substances, ~~EXCEPT AS SUCH CAUSED BY TENANT~~ *Q to*

14.2.3 Landlord shall protect, indemnify and hold harmless Tenant and its directors, officers, contractors, employees, agents, parents, subsidiaries, successors and assigns from and against any and all loss, damage, cost, expense, or liability (including attorneys' fees and costs) directly or indirectly arising out of or attributable to the use, generation, manufacture, production, storage, release, threatened release, discharge, disposal or the presence of a Hazardous Substance on, under or about the Premises, the Building or the Development or the land on which the same are located (or off-site on property owned or operated by Landlord that affects the Premises), or a breach of any representation, warranty, covenant or agreement contained in this Section. This indemnity shall survive the termination of this Lease. In the event of any governmental or court order concerning Hazardous Substances on the Premises, the Building or the Development (not caused by Tenant) that precludes Tenant from reasonable operation of its business on the Premises, Tenant may cease operating and rent shall be abated. If such governmental or court order is not resolved within six (6) months, Tenant may terminate this Lease.

~~EXCEPT AS SUCH CAUSED BY TENANT~~ *Q to*

Q to

14.04. **Landlord's Indemnification.** Landlord hereby indemnifies, defends and holds Tenant harmless from any claims, judgments, damages, penalties, fines, costs, liabilities, (including sums paid in settlements of claims) or loss, including, without limitation, attorneys' fees, court costs, consultant fees, and expert fees, which arise during or after the term of this Lease from or in connection with the presence or suspected presence of Hazardous Materials in the soil or groundwater on or under the Property, unless the Hazardous Material is released by Tenant or is present solely as a result of the negligence or willful conduct of Tenant. Without limiting the generality of the foregoing, the indemnification provided by this Section 14.04 shall specifically cover costs incurred in connection with any investigation of site conditions or any clean-up, remedial work, removal or restoration work required by any Federal, State or local governmental authority.

14.05. **Definition.** For purposes of this Lease, the term "Hazardous Materials" means any one or more pollutant, toxic substance, hazardous waste, hazardous material, hazardous substance, solvent or oil as defined in or pursuant to the Resource Conservation and Recovery Act, as amended, the Comprehensive Environmental Response, Compensation and Liability Act, as amended, the Federal Clean Water Act, as amended, or any other Federal, State or local environmental law, regulation, ordinance, or rule, whether existing as of the date of this Lease or subsequently enacted.

14.06. **Survival.** The representations and indemnities contained in this Article 14 shall survive the expiration or termination of this Lease.

ARTICLE FIFTEEN: PROFESSIONAL SERVICE FEES

~~15.01. **Amount and Manner of Payment.** Professional service fees due to the Principal Broker shall be calculated and paid as follows:~~

~~A. Landlord agrees to pay to the Principal Broker a monthly professional service fee (the "Fee") for negotiating this Lease, plus any applicable sales taxes, equal to the percentage stated in Section 1.13.A of each monthly Rent payment at the time the payment is due.~~

~~B. Landlord agrees to pay to the Principal Broker a lump sum professional service fee (the "Fee") for negotiating this Lease, plus any applicable sales taxes, equal to the percentage stated in Section 1.13.A of the total Rent to become due to Landlord during the Lease Term. The Fee shall be paid to the Principal Broker (i) one-half on the date of final execution of this Lease, and (ii) the balance on the Commencement Date of this Lease.~~

~~15.02. **Other Brokers.** Both Landlord and Tenant represent and warrant to the other party that they have had no dealings with any person, firm or agent in the negotiation of this Lease other than the Broker(s) named in this Lease, and no other broker, agent, person, firm or entity other than the Broker(s) is entitled to any commission or fee in connection with this Lease.~~

~~15.03. **Payments on Renewal, Expansion, Extension or New Lease.** If during the Lease Term (as may be renewed or extended) or within ten (10) years from the Commencement Date, whichever is the greater period of time, Tenant, Tenant's successors or assigns: (a) exercises any right or option to renew or extend the Lease Term (whether contained in this Lease or in any amendment, supplement or other agreement pertaining to this Lease) or enters into a new lease or rental agreement with Landlord covering the Demised Premises; or (b) enters into any lease, extension, renewal, expansion or other rental agreement with Landlord demising to Tenant any premises located on or constituting all or part of any tract or parcel of real property adjoining, adjacent to or contiguous to the Demised Premises and owned by Landlord on the Commencement Date, Landlord shall pay to the Principal Broker an additional Fee covering the full period of the renewal, extension, lease, expansion or other rental agreement which shall be due on the date of exercise of a renewal option, or the date of execution in the case of an extension, new lease, expansion or other agreement. The additional Fee shall be computed under Section 15.01.A or 15.01.B above (whichever has been made applicable under Section 1.13), as if a new lease had been made for such period of time.~~

~~15.04. **Payments on Sale.** If Tenant, Tenant's successors or assigns, purchases the Demised Premises at any time, pursuant to a purchase option contained in this Lease (or any lease, extension, renewal, expansion or other rental agreement) or, in the absence of any purchase option or exercise thereof, purchases the Demised Premises within ten (10) years from the Commencement Date, Landlord shall pay to the Principal Broker a Professional Service Fee in cash equal to the percentage stated in Section 1.13.B of the purchase price, payable at closing. Upon closing of a sale to Tenant, all monthly lease Fees shall terminate upon payment of the Professional Service Fee on the sale.~~

~~15.05. **Landlord's Liability.** If this Lease is negotiated by Principal Broker in cooperation with another broker, Landlord shall be liable for payment of all Professional Service Fees to Principal Broker, whereupon Landlord shall be protected from any claims from a Cooperating Broker. The Principal Broker may pay a portion of the Fee to any Cooperating Broker pursuant to a separate agreement between the Brokers.~~

~~15.06. **Joint Liability of Tenant.** If Tenant enters into any new lease, extension, renewal, expansion, or other agreement to rent, occupy, or purchase any property described in Section 15.03 within the time specified in that Section, the agreement must be handled by the Principal Broker, otherwise Tenant shall be jointly and severally liable with Landlord for any payments due or to become due to the Principal Broker.~~

~~15.07. **Assumption on Sale.** In the event of a sale of the Demised Premises or the assignment of this Lease by Landlord, Landlord shall obtain from the purchaser or assignee an Assumption Agreement in recordable form whereby the purchaser or assignee agrees to pay the Principal Broker all Professional Service Fees payable under this Lease and shall deliver a fully executed original counterpart thereof to Principal Broker on the date of closing of the sale of the Demised Premises or assignment of this Lease. Landlord shall be released from personal liability for subsequent payments only upon the delivery to Principal Broker of that counterpart of the Assumption Agreement.~~

~~15.08. **Termination.** The termination of this Lease by the mutual agreement of Landlord and Tenant shall not affect the right of the Principal Broker to continue to receive the Fees agreed to be paid under this Lease, just as if Tenant had continued to occupy the Demised Premises and had paid the Rent during the entire Lease Term. Termination of this Lease under Article Eight or Article Nine shall not terminate the Principal Broker's right to collect the Fees.~~

~~15.09. **Dual Agency.** If either Principal Broker and/or Cooperating Broker (together, the "Brokers") has indicated in Sections 1.11 and 1.12 that they are representing both Landlord and Tenant, then Landlord and Tenant hereby consent to the dual agency, authorize the applicable Broker(s) to represent more than one party to this Lease, and acknowledge that the source of any expected compensation to the Brokers will be Landlord, and the Brokers may also be paid a fee by the Tenant. If the Broker(s) are acting in a dual agency capacity, the Broker(s) shall:~~

~~(1) Not disclose to Tenant that Landlord will accept a rent less than the asking rent unless otherwise instructed in a separate writing by Landlord;~~

~~(2) Not disclose to Landlord that Tenant will pay a rent greater than the rental submitted in a written offer to Landlord unless otherwise instructed in a separate writing by Tenant;~~

~~(3) Not disclose any confidential information, or any information a party specifically instructs the broker(s) in writing not to disclose, unless otherwise instructed in a separate writing by the respective party or required to disclose such information by law;~~

~~(4) Treat all parties to the transaction honestly and impartially so as not to favor one party or work to the disadvantage of any party.~~

ARTICLE SIXTEEN: MISCELLANEOUS

16.01. **Disclosure.** Landlord and Tenant understand that a real estate broker is qualified to advise on matters concerning real estate and is not expert in matters of law, tax, financing, surveying, hazardous materials, engineering, construction, safety, zoning, and planning, and matters of the ADEA. The Brokers hereby advise Tenant to seek expert assistance on such matters. Brokers do not investigate a property's compliance with building codes, governmental ordinances, statutes and laws that relate to the use or condition of a property and its construction or that relate to its acquisition. If Brokers provide names of consultants or sources for advice or assistance, Tenant acknowledges that the Brokers do not warrant the services of the advisors or their products and cannot warrant the suitability of property to be acquired or leased. Furthermore, the Brokers do not warrant that the Landlord will disclose any or all property defects, although the Brokers will disclose to Tenant any actual knowledge possessed by Brokers regarding defects of the Demised Premises and the Property. In this regard, Tenant agrees to make all necessary and appropriate inquiries and to use diligence in investigating the Demised Premises and the Property before committing this Lease. Landlord and Tenant hereby agree to indemnify, defend, and hold the Brokers harmless of and from any and all liabilities, claims, debts, damages, costs, or expenses, including but not limited to reasonable attorneys' fees and court costs, related to or arising out of or in any way connected to representations concerning matters properly the subject of advice by experts. In addition, to the extent permitted by applicable law, the Brokers' liability for errors or omissions, negligence, or otherwise, is limited to the return of the Fee, if any, paid to the Brokers pursuant to this Lease.

Article Sixteen: Miscellaneous

16.08

Notices. All notices sent to Tenant will be sent in duplicate to:

Nextlink
500 - 108th Avenue, Suite 2200
Bellevue, WA 98004

Title

Landlord's Interests. Landlord represents and warrants to Tenant that as of the date hereof, Landlord is authorized to execute this Lease, owns and holds fee title in and to the Building, the Demised Premises and the land on which the same are located and there exist no restrictions applicable to the Building, Demised Premises or such land that are inconsistent with this Lease, or materially and adversely affect Tenant's rights and remedies hereunder (or under applicable law), including Tenant's use of the Demised Premises. ~~Landlord agrees to hold Tenant harmless and indemnify Tenant for any loss, costs or expenses incurred by Tenant as a result of the failure of such representation and warranty to be true.~~ C
AS

Landlord represents that any restrictions applicable to the property of which the Demised Premises are a part do not materially or adversely affect Tenant's rights or remedies under the Lease or applicable law or Tenant's use of the Demised Premises.

16.02. Force Majeure. If performance by Landlord of any term, condition or covenant in this Lease is delayed or prevented by any Act of God, strike, lockout, shortage of material or labor, restriction by any governmental authority, civil riot, flood, or any other cause not within the control of Landlord, the period for performance of the term, condition or covenant shall be extended for a period equal to the period Landlord is so delayed or prevented.

16.03. Interpretation. The captions of the Articles or Sections of this Lease are to assist the parties in reading this Lease and are not a part of the terms or provisions of this Lease. Tenant shall be responsible for the conduct, acts and omissions of Tenant's agents, employees, customers, contractors, invitees, agents, successors or others using the Demised Premises with Tenant's expressed or implied permission. Whenever required by the context of this Lease, the singular shall include the plural and the plural shall include the singular, and the masculine, feminine and neuter genders shall each include the other.

16.04. Waivers. All waivers to provisions of this Lease must be in writing and signed by the waiving party. Landlord's delay or failure to enforce any provisions of this Lease or its acceptance of late installments of Rent shall not be a waiver and shall not prevent Landlord from enforcing that provision or any other provision of this Lease in the future. No statement on a payment check from Tenant or in a letter accompanying a payment check shall be binding on Landlord. Landlord may, with or without notice to Tenant, negotiate, cash, or endorse the check without being bound to the conditions of any such statement.

16.05. Severability. A determination by a court of competent jurisdiction that any provision of this Lease is invalid or unenforceable shall not cancel or invalidate the remainder of that provision or this Lease, which shall remain in full force and effect.

16.06. Joint and Several Liability. All parties signing this Lease as Tenant shall be jointly and severally liable for all obligations of Tenant.

16.07. Amendments or Modifications. This Lease is the only agreement between the parties pertaining to the lease of the Demised Premises and no other agreements are effective unless made a part of this Lease. All amendments to this Lease must be in writing and signed by all parties. Any other attempted amendment shall be void.

16.08. Notices. All notices and other communications required or permitted under this Lease must be in writing and shall be deemed delivered, whether actually received or not, on the earlier of: (i) actual receipt if delivered in person or by messenger with evidence of delivery; or (ii) receipt of an electronic facsimile transmission ("Fax"); or (iii) upon deposit in the United States Mail as required below. Notices may be transmitted by Fax to the Fax telephone numbers specified in Article One on the first page of this Lease, if any. Notices delivered by mail must be deposited in the U.S. Postal Service, first class postage prepaid, and properly addressed to the intended recipient as set forth in Article One. After possession of the Demised Premises by Tenant, Tenant's address for notice purposes will be the address of the Demised Premises unless Tenant notifies Landlord in writing of a different address to be used for that purpose. Any party may change its address for notice by delivering written notice of its new address to all other parties in the manner set forth above. Copies of all notices should also be delivered to the Principal Broker, but failure to notify the Principal Broker will not cause an otherwise properly delivered notice to be ineffective.

16.09. Attorneys' Fees. If on account of any breach or default by any party to this Lease in its obligations to any other party to this Lease (including but not limited to the Principal Broker), it becomes necessary for a party to employ an attorney to enforce or defend any of its rights or remedies under this Lease, the non-prevailing party agrees to pay the prevailing party its reasonable attorneys' fees and court costs, if any, whether or not suit is instituted in connection with the enforcement or defense.

16.10. Venue. All obligations under this Lease, including but not limited to the payment of Fees to the Principal Broker, shall be performable and payable in the county in which the Property is located. The laws of the State of Texas shall govern this Lease.

16.11. Survival. All obligations of any party to this Lease which are not fulfilled at the expiration or the termination of this Lease shall survive such expiration or termination as continuing obligations of the party.

16.12. Binding Effect. This Lease shall inure to the benefit of, and be binding upon, each of the parties to this Lease and their respective heirs, representatives, successors and assigns. However, Landlord shall not have any obligation to Tenant's successors or assigns unless the rights or interests of the successors or assigns are acquired in accordance with the terms of this Lease.

16.13. Consult an Attorney. This Lease is an enforceable, legally binding agreement. Read it carefully. The brokers involved in the negotiation of this Lease cannot give you legal advice. The parties to this Lease acknowledge that they have been advised by the Brokers to have this Lease reviewed by competent legal counsel of their choice before signing this Lease. By executing this Lease, Landlord and Tenant each agree to the provisions, terms, covenants and conditions contained in this Lease.

16.14. Offer. The execution of this Lease by the first party to do so constitutes an offer to lease the Demised Premises. Unless within the number of days stated in Section 1.14 above after the date of its execution by the first party to do so, this Lease is signed by the other party and a fully executed copy is delivered to the first party, such offer to lease shall be automatically withdrawn and terminated.

ARTICLE SEVENTEEN: ADDITIONAL PROVISIONS (Additional provisions as directed by the parties may be set forth below.)

- A) BASE RENTAL SHALL INCREASE BY ONE-PERCENT (1%) EACH CALENDAR YEAR OVER THE BASE RENTAL FROM THE PRIOR CALENDAR YEAR FOR THE ENTIRE TERM OF THE LEASE (INITIAL TERM ONLY). D
- B) TENANT SHALL HAVE TWO COVERED PARKING SPACES AND TWO SURFACE PARKING SPACES. ONE OF THE SURFACE PARKING SPACES ALLOTTED IS TO BE USED FOR THE GENERATOR THAT WILL BE SUPPLIED BY TENANT ON THE NORTHWEST CORNER OF THE BUILDING. E
- C) BASE RENTAL COMMENCES NOVEMBER 1, 1998

LANDLORD AND ALL OTHER CHARGES

TENANT

JANLAW PROPERTY
 By (Signature): [Signature]
 Name: HAROLD BAER
 Title: PRESIDENT
 Date of Execution: 10/14/98

NEXTLINK TEXAS, INC.
 By (Signature): [Signature]
 Name: Michael S. Raley
 Title: President
 Date of Execution: 10/14/98

PRINCIPAL BROKER

COOPERATING BROKER

SEARCH COMMERCIAL
 By (Signature): [Signature]
 Name: TIM WARD
 Title: PRINCIPAL

By (Signature): _____
 Name: _____
 Title: _____

Copyright Notice: This form is available for use of members of the North Texas Commercial Association of Realtors, Inc. Permission is hereby granted to non-member copies of this form for use in a particular Texas real estate transaction. Contact the NTCAR office to confirm that you are using the current version of this form.

SEE INSERT

NORTH TEXAS COMMERCIAL ASSOCIATION OF REALTORS®

ADDENDUM A TO LEASE
EXPENSE REIMBURSEMENT

Demised Premises and Address: 5353 APHA ROAD

(Check all boxes which apply. Boxes not checked do not apply to this Lease.)

1. Expense Reimbursement. Tenant shall pay the Landlord as additional Rent a portion of the following expenses (collectively called "Reimbursement") which are incurred by or assessed against the Demised Premises (check all that are to apply):

- Ad Valorem Taxes.
Insurance Premiums.
Common Area Maintenance (CAM) Expenses.
Operating Expenses.
Roof and Structural Maintenance Expenses.

2. Expense Reimbursement Limitations. The amount of Tenant's Reimbursement shall be determined by one of the following methods as described in Section 4 below (check only one):

- Base Year/Expense Stop Adjustment.
Pro Rata Adjustment.
Fixed Amount Adjustment.
Net Lease Provisions.

3. Expense Reimbursement Payments. Tenant agrees to pay any end-of-year lump sum Reimbursement within thirty (30) days after receiving an invoice from Landlord. Any time during the Lease Term (or any renewals or extensions) Landlord may direct Tenant to pay monthly an estimated portion of the projected future Reimbursement amount. Any such payment directed by Landlord shall be due and payable monthly on the same day that the Base Rent is due. Any Reimbursement relating to partial calendar years shall be prorated accordingly. Tenant's Pro Rata Share of such Reimbursements shall be based on the square footage of useable area contained in the Demised Premises in proportion to the square footage of useable building area of the Property. Tenant may audit or examine those items of expense in Landlord's records which relate to Tenant's obligations under this Lease. Landlord shall promptly refund to Tenant any overpayment which is established by an audit or examination. If the audit or examination reveals an error of more than five percent (5%) over the figures billed to Tenant, Landlord shall pay the reasonable cost of the audit or examination.

*SEE INSERT

THREE PERCENT (3%)

4. Definitions.

A. Ad Valorem Taxes. All general real estate taxes, general and special assessments, parking surcharges, rent taxes, and other similar governmental charges levied against the Property for each calendar year. *SEE INSERT

B. Insurance Premiums. All Landlord's insurance premiums attributable to the Property, including but not limited to insurance for fire, casualty, general liability, property damage, medical expenses, and extended coverage, and loss of rents coverage for six months' Rent.

C. Common Area Maintenance Charges. Common area maintenance expenses ("CAM") means all costs of maintenance, inspection and repairs of the common areas of the Property, including but not limited to those costs for security, lighting, painting, cleaning, decorations and fixtures, utilities, ice and snow removal, trash disposal, project signs, minor roof defects, pest control, project promotional expenses, property owners' association dues, wages and salary costs of maintenance personnel, and other expenses benefiting all the Property which may be incurred by Landlord, in its discretion, including sales taxes and a reasonable service charge for the administration thereof. The "common area" is defined as that part of the Property intended for the collective use of all tenants including, but not limited to, the parking areas, driveways, loading areas, landscaping, gutters and downspouts, plumbing, electrical systems, roof, exterior walls, sidewalks, malls, promenades (enclosed or otherwise), meeting rooms, doors, windows, corridors and public rest rooms. CAM does not include depreciation on Landlord's original investment, cost of tenant improvements, real estate brokers' fees, Landlord's management office and overhead expenses, or interest or depreciation on capital investments.

D. Operating Expenses. All costs of ownership, building management, maintenance, repairs and operation of the Property, including but not limited to taxes, insurance, CAM, reasonable management fees, wages and salary costs of building management personnel, overhead and operational costs of a management office, janitorial, utilities, and professional services such as accounting and legal fees. Operating Expenses do not include the capital cost of management office equipment and furnishings, depreciation on Landlord's original investment, roof and structural maintenance, the cost of tenant improvements, real estate brokers' fees, advertising, or interest or depreciation on capital investments.

*SEE INSERT

E. Roof and Structural Maintenance Expenses. All costs of maintenance, repair and replacement of the roof, roof deck, flashings, skylights, foundation, floor slabs, structural components and the structural soundness of the building in general.

F. Base Year/Expense Stop Adjustment. Tenant shall pay to Landlord as additional rent Tenant's Pro Rata Share of increases in Landlord's Ad Valorem Taxes, Insurance Premiums, CAM Expenses, Operating Expenses, and/or Roof and Structural Maintenance Expenses, whichever are applicable, for the Property for any calendar year during the Lease Term or during any extension of this Lease, over (check only one):

- (1) Such amounts paid by Landlord for the Base Year 1998, or
(2) \$ per square foot per year.

G. Pro Rata Adjustment. Tenant shall pay to Landlord as additional Rent Tenant's Pro Rata Share of the total amount of Landlord's Ad Valorem Taxes, Insurance Premiums, CAM, Operating Expenses, and/or Roof and Structural Maintenance Expenses, whichever are applicable, for every calendar year during the Lease Term and during any extension of this Lease. *SEE INSERT

H. Fixed Amount Adjustment. Tenant shall pay to Landlord as additional Rent the following monthly amounts as Tenant's Reimbursement to Landlord for the applicable expenses which are incurred by or assessed against the Property:

Table with 2 columns: Expense Category and Amount per month. Categories include Insurance, Operating Expenses, and CAM Expenses.

I. Net Lease Provisions. Notwithstanding anything contained in this Lease to the contrary in Article Seven or otherwise, Tenant shall be responsible for paying Tenant's Pro Rata Share of all costs of ownership, maintenance, repairs, replacements, and operation of the Demised Premises and the Property, including but not limited to all costs of Ad Valorem Taxes, Insurance Premiums, CAM Expenses, Operating Expenses, and Roof and Structural Maintenance Expenses.

J. Gross-Up Provisions. (Check this only if applicable.) If the Property is a multi-tenant building and is not fully occupied during the Base Year or any portion of the Lease Term, an adjustment shall be made in computing the variable costs for each applicable calendar year. Variable costs shall include only those items of expense that vary directly proportionately to the occupancy of the Property. Variable costs which are included in the CAM and Operating Expenses shall be increased proportionately to the amounts that, in Landlord's reasonable judgment, would have been incurred had ninety percent (90%) of the useable area of the Property been occupied during those years.

4(G) Pro Rata Adjustment

Notwithstanding anything contained herein to the contrary, Tenant's Pro Rata Share of the estimated Operating Expenses shall, in no event, exceed one hundred and five percent (105%) of the actual amount of Tenant's Pro Rata Share of the actual Operating Expenses incurred for the prior calendar year or the prior Lease Year (whichever shall be the basis for calculating annual Operating Expenses).



NORTH TEXAS COMMERCIAL ASSOCIATION OF REALTORS®

ADDENDUM B TO LEASE

RENEWAL OPTIONS

Demised Premises and Address: 5353 ALPHA ROAD, SUITE 205

(Check all boxes which apply. Boxes not checked do not apply to this Lease.)

1. Option to Extend Term.

Landlord grants to Tenant ONE option(s) (the "Option") to extend the Lease Term for additional term of SIXTY months each (the "Extension"), on the same terms, conditions and covenants set forth in this Lease, except as provided below. Each Option may be exercised only by written notice delivered to the Landlord no earlier than SIX MONTHS (180) days before, and no later than THREE MONTHS (90) days before, the expiration of the Lease Term or the preceding Extension of the Lease Term, whichever is applicable. If Tenant fails to deliver Landlord written notice of the exercise of an Option within the prescribed time period, such Option and any succeeding Options shall lapse, and there shall be no further right to extend the Lease Term. Each Option may only be exercised by Tenant on the express condition that, at the time of the exercise, Tenant is not in default under any of the provisions of this Lease. The foregoing Option(s) are personal to Tenant and may not be exercised by any assignee or subtenant without Landlord's written consent.

*SEE INSERT

2. Calculation of Rent. The Base Rent during the Extension(s) shall be determined by one of the following methods (check only one):

[] A. Consumer Price Index Adjustment. The monthly Base Rent during the Extension shall be determined by multiplying the monthly installment of Base Rent during the last month of the Lease Term by a fraction determined as follows:

- (1) The numerator shall be the Latest Index which means either (check one)
[] (a) the index published for the nearest calendar month preceding the first day of the Extension, or
[] (b) the index for the month of _____ preceding the Extension.
(2) The denominator shall be the Initial Index which means either: (check one)
[] (a) the index published for the nearest calendar month preceding the Commencement Date, or
[] (b) the index for the month of _____ preceding the Commencement Date.

If no blanks are filled in above, the choice (a) which includes the phrase, "the nearest calendar month preceding," shall apply.

The index, as defined herein, means the Consumer Price Index for All Urban Consumers (All Items) for the Dallas/Fort Worth Consolidated Metropolitan Statistical Area, published by the U. S. Department of Labor, Bureau of Labor Statistics (Base Index of 1982-84 = 100). If the index is discontinued or revised, the new index or computation which replaces the index shall be used in order to obtain substantially the same result as would have been obtained if it had not been discontinued or revised.

If such computation would reduce the Rent for the particular Extension, it shall be disregarded, and the Rent during the immediately preceding period shall apply instead.

[] B. Fair Market Rental Value. The Base Rent during the Extension shall be the Fair Market Rental amount of the Demised Premises, determined in the following manner:

(1) The "Fair Market Rental" of the Demised Premises means the price that a ready and willing tenant would pay as of the commencement of the Extension as monthly rent to a ready and willing landlord of demised premises comparable to the Demised Premises if the property were exposed for lease on the open market for a reasonable period of time, and taking into account the term of the Extension, the amount of improvements made by Tenant at its expense, the creditworthiness of the Tenant, and all of the purposes for which the property may be used and not just the use proposed to be made of the Demised Premises by Tenant. Upon proper written notice by Tenant to Landlord of Tenant's election to exercise the renewal Option, Landlord shall within fifteen (15) days thereafter notify Tenant in writing of Landlord's proposed Fair Market Rental amount and Tenant shall thereupon notify Landlord of Tenant's acceptance or rejection of Landlord's proposed amount. Failure of Tenant to reject Landlord's Fair Market Rental amount within fifteen (15) days after receipt of Landlord's notice shall be deemed Tenant's acceptance of Landlord's proposed Fair Market Rental amount.

(2) If Landlord and Tenant have not been able to agree on the Fair Market Rental amount prior to the date the option is required to be exercised, the rent for the Extension shall be determined as follows. Within thirty (30) days following the exercise of the option, Landlord and Tenant shall endeavor in good faith to agree upon a single Appraiser (defined below). If Landlord and Tenant are unable to agree upon a single Appraiser within the thirty day period, each shall then appoint one Appraiser by written notice to the other, given within ten (10) days after the thirty day period. Within ten (10) days after the two Appraisers are appointed, the two Appraisers shall appoint a third Appraiser. If either Landlord or Tenant fails to appoint its Appraiser within the prescribed time period the single Appraiser appointed shall determine the Fair Market Rental amount of the Demised Premises. Each party shall bear the cost of the appraiser appointed by it and the parties shall share equally the cost of the third appraiser. The term "Appraiser" means a State Certified Real Estate Appraiser licensed by the State of Texas to value commercial property.

(3) The Fair Market Rental Value of the Demised Premises shall be the average of two of the three appraisals which are closest in amount as described below, and the third appraisal shall be disregarded. In no event shall the Rent be reduced by reason of such computation. If the Fair Market Rental is not determined prior to the commencement of the Extension, then Tenant shall continue to pay to Landlord the Rent applicable to the Demised Premises immediately prior to the Extension until the Fair Market Rental amount is determined, and when it is determined, Tenant shall pay to Landlord within ten (10) days after receipt of such notice the difference between the Rent actually paid by Tenant to Landlord and the new Rent determined under this Lease. *SEE INSERT

[] C. Fixed Rental Adjustments. The Base Rent shall be increased in the following amounts on the following dates:

Table with 2 columns: Date, Amount. Contains three blank rows for entries.

Initial: Landlord [Signature] Tenant [Signature]

Addendum B -- Renewal Options

In order to prevent any inadvertent failure to exercise, the parties agree that if Tenant fails to give notice of its intent to exercise any extension option within the required time period, Tenant shall continue to have the right to exercise such right until the earlier of (a) thirty (30) days following notice from Landlord that Tenant has failed to exercise its extension option, or (b) Tenant's vacation of the Demised Premises upon the expiration of Tenant's then-existing term.

~~IF Landlord and Tenant are unable to agree upon the rent within the time specified above, each party shall, within thirty (30) days thereafter, select an independent arbitrator who shall be an appraiser or licensed real estate broker with substantial experience regarding building ownership, management and marketing in the _____ geographic real estate market, which person shall not have been employed, regularly or as a consultant, during the past six (6) month period by the respective party selecting such person. Notice shall be given to the other party of the name of the arbitrator so selected. The two arbitrators shall, within thirty (30) days, select a third arbitrator having like qualifications. Within thirty days of the selection of the third independent arbitrator, a majority of the arbitrators shall determine whether Landlord's or Tenant's submission is closer to the fair market rent for the premises, which submissions shall be communicated to the arbitrators within five (5) days of the appointment of the third arbitrator. The costs of arbitration shall be shared equally by Landlord and Tenant.~~

~~Notwithstanding anything contained herein to the contrary, fair rental value shall be the rate a prospective tenant would pay for rental of the Demised Premises for the 5-year renewal term determined (i) as if the Demised Premises were vacant and being placed on the market by Landlord for rental to prospective tenants who are not then occupants of the Building, (ii) upon the assumption that the escalation for taxes during the renewal term will be based upon the base taxes then in effect, (iii) upon the assumption that the Demised Premises are to be leased in their then existing condition, expressly disregarding any enhancement to the fair rental value on the account of any installations or alterations performed during the Term, (iv) after considering costs and expenses (including, without limitation, brokerage commissions, lost rental income during any vacancy period, and rent concessions) saved by Landlord by reason of Landlord's not having to find a new tenant for such space, (v) after considering the nature of the standard work letter or work allowance and other concessions and allowances then being offered by Landlords of similar space in _____ to tenants entering into new leases for spaces of similar size and for similar terms (vi) after considering market rents then being charged under leases entered into not more than 180 days before the determination is made for similar space in similar buildings in _____ that contain similar structural features and sidewalk traffic (including market rents being charged at the Building for comparable space under leases entered into not more than 180 days before the determination is made), and (vii) the age and condition of the Building.~~

NORTH TEXAS COMMERCIAL ASSOCIATION OF REALTORS®

ADDENDUM C TO LEASE

RIGHT OF FIRST REFUSAL FOR ADDITIONAL SPACE

Demised Premises and Address: # 5353 ALPHA ROAD, SUITE

1. During the initial Lease Term, Tenant shall have a right of first refusal (the "Right of First Refusal") to lease the additional space shown on the floor plan attached to this Lease as Exhibit A, described or known as

containing approximately 5400 square feet of area (the "Additional Space"), on the same terms and conditions that Landlord is prepared to accept from any third party. When Landlord receives a legally sufficient offer which Landlord desires to accept to lease the Additional Space from a third party, Landlord shall present the details of the offer in writing to Tenant and Tenant shall thereafter have ~~ten (10)~~ TWENTY (20) days in which to accept or reject the offer in writing. If Tenant rejects the offer or fails to properly and timely accept the offer, upon substantially the same terms and conditions set forth in the offer, then Landlord shall be free to lease the Additional Space to the third party on substantially the same terms and conditions offered to Tenant. If Landlord does not enter into a lease with the third party, the Right of First Refusal shall ~~continue~~ to apply and Landlord shall be required to submit any future offer to Tenant in the foregoing manner

2. The Right of First Refusal shall, at Landlord's election, be null and void if Tenant is in default under the Lease on the date Landlord would otherwise notify Tenant of the offer concerning the Additional Space or at any time thereafter and prior to commencement of the lease for the Additional Space. After Tenant validly exercises the Right of First Refusal provided herein, the parties shall execute an amendment to the Lease adding the Additional Space, or a new lease for the Additional Space, or such other documentation as Landlord may reasonably require, promptly after Landlord prepares the documentation, in order to confirm the leasing of the Additional Space to Tenant. An otherwise valid exercise of the Right of First Refusal contained herein shall be fully effective, whether or not such confirming documentation is executed.

3. The Right of First Refusal shall apply only with respect to the entire Additional Space and may not be exercised with respect to only a portion thereof, unless only a portion first becomes the subject of a legally sufficient offer acceptable to Landlord (in which case, the Right of First Refusal shall apply to the portion subject to the offer). If the Additional Space, or any portion thereof, is the subject of an offer which includes other building space at the Property, and the offer is acceptable to Landlord, the Right of First Refusal shall apply to the entire building space which is the subject of the offer, and Tenant shall be obligated to either accept or refuse to lease the entire space on the terms and conditions included in the offer.

4. If Tenant exercises the Right of First Refusal, Landlord does not guarantee that the Additional Space will be available on the commencement date for the lease thereof if there are additional improvements required to be built or if the then existing occupants of the Additional Space hold over for any reason beyond Landlord's reasonable control. In such event, Tenant's sole recourse shall be that the Rent with respect to the Additional Space shall be abated until Landlord legally delivers possession of the Additional Space to Tenant. Tenant's exercise of such Right of First Refusal shall not operate to cure any default by Tenant of any of the terms or provisions in the Lease, nor to extinguish or impair any rights or remedies of Landlord arising by virtue of the default. If the Lease or Tenant's right to possession of the Demised Premises terminates in any manner before Tenant exercises the right herein provided, or if Tenant has subleased or assigned all or any portion of the Demised Premises, then immediately upon such termination, sublease or assignment, the Right of First Refusal shall simultaneously terminate and become null and void.

~~5. This Right of First Refusal is personal to Tenant. Under no circumstances may a subtenant under a sublease of the Demised Premises or an assignee under an assignment of the Lease, have any right to exercise the Right of First Refusal without Landlord's written agreement. Tenant agrees that time is of the essence in this provision.~~

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NORTH TEXAS COMMERCIAL ASSOCIATION OF REALTORS®

ADDENDUM F TO LEASE

CONSTRUCTION OF IMPROVEMENTS

Demised Premises and Address: 5353 ALPHA ROAD, SUITE 205

1. Construction of Improvements.

A. Landlord agrees to construct (or complete) a building and interior finishes and other improvements upon the Demised Premises in accordance with detailed Plans and Specifications to be promptly prepared by Landlord and delivered to Tenant. Upon approval by Tenant, two or more sets of the Plans and Specifications shall be signed by both parties, with one signed set retained by Tenant. Changes to the Plans and Specifications may be made only by written addenda signed by both parties. *SEE BELOW

B. Upon approval of the Plans and Specifications, Landlord shall promptly begin construction and pursue the construction to its completion with reasonable diligence and in a good and workmanlike manner.

2. Completion Date.

A. It is estimated by Landlord that the building and other improvements will be completed by NOVEMBER 1, 1998

B. Landlord shall notify Tenant in writing within _____ days of the Date of Completion. Tenant shall then promptly inspect the building and other improvements, and if they have in fact been completed in accordance with the Plans and Specifications, the Lease Term shall begin upon the Date of Completion or on the Commencement Date, whichever is later. If Tenant reasonably determines that the improvements have not been completed in accordance with the Plans and Specifications, Tenant may deliver a written objection to Landlord specifying the deficiencies. If Tenant does not, within ten (10) days after Landlord's notice of completion, deliver to Landlord either a written objection or a written Letter of Acceptance of the improvements, then Tenant shall be deemed to have approved the improvements as constructed and the date of Landlord's notice of completion shall be the Date of Completion. *SEE INSERT

C. If the building and other improvements have not in fact been completed in accordance with the Plans and Specifications, and Tenant has delivered to Landlord a written objection specifying the items deemed incomplete, then Landlord shall promptly proceed to finish the incomplete items, and the Lease Term shall begin upon the date that the items are in fact complete. *SEE INSERT

D. Completion, as used in this Addendum, means substantial completion. Substantial completion will be deemed to have occurred when (i) Landlord obtains a Certificate of Occupancy issued by the local municipal authorities whose jurisdiction includes the Demised Premises, and (ii) the construction is sufficiently complete in accordance with the Plans and Specifications so that the Tenant is able to occupy or utilize the Demised Premises for its intended use, except for minor "punch list" items remaining to be completed.

3. Letter of Acceptance. Upon Completion of the improvements to the Demised Premises, Tenant agrees to execute and deliver to Landlord, with a copy to the Principal Broker, a Letter of Acceptance, addressed to Landlord and signed by Tenant (or its authorized representative) acknowledging that construction has been completed in accordance with the Plans and Specifications, acknowledging acceptance of the improvements (subject to "punch list" items being completed), acknowledging the Date of Completion, and acknowledging the Commencement Date of the Lease Term.

4. Taking of Possession. The taking of possession of the Demised Premises by Tenant shall be deemed conclusively to be acknowledgment by Tenant that construction has been completed in accordance with Plans and Specifications (except for latent defects and "punch list" items) whether or not a Certificate of Occupancy has been obtained, and that the Lease Term has begun as of the Date of Completion.

5. Failure to Complete. If the building and other improvements have not been completed in accordance with the Plans and Specifications by N/A, or by such date as extended by application of Section 16.02, Tenant shall have the right and option to terminate this Lease by giving written notice of Tenant's intention to terminate as of a certain date specified by Tenant in the notice of termination (the "Termination Date"). The notice must be given to Landlord not less than fifteen (15) days prior to the Termination Date. If the building and other improvements have not been completed by the Termination Date, this Lease shall terminate, unless further extended by Tenant in writing, with no further liability of one party to the other.

*LANDLORD SHALL FINISH-OUT THE DEMISED PREMISES BY INSTALLING VCT FLOORING, SHEETROCKING AND PAINTING WALLS, FOR UP TO FOUR ROOMS OR OFFICES, AND INSTALLING DARK FILM TO EXTERIOR WINDOWS.

TENANT SHALL SUPPLY, CONNECT, AND MAINTAIN ALL NECESSARY EQUIPMENT, HVAC DUCTWORK, ELECTRICAL OUTLETS, AND SECURITY SYSTEM TO SERVE TENANT'S REQUIREMENTS.

AROUND THE PERIMETER OF THE PREMISES (INCLUDING TAPE & BEDDING)

Landlord [Signature] Tenant [Signature]

WHICH ITEMS LANDLORD SHALL COMPLETE WITHIN THIRTY (30) DAYS OF THE DATE TENANT ACCEPTED THE DEMISED PREMISES.

Addendum F - Construction of Improvements

~~If the Demised Premises and the Building are not in the condition required under this Addendum F on the Scheduled Completion Date then Tenant may, at its option, either (a) delay acceptance of possession until the Demised Premises and the Building are in the condition required under this Addendum and pursue its remedies under this Lease or applicable law, or (b) accept possession of the Demised Premises and complete all work necessary to bring the Demised Premises into the required condition. If Tenant elects to proceed under the foregoing subsection (b), then Landlord shall reimburse Tenant for the actual cost of such work, plus an administrative surcharge of fifteen percent (15%) to compensate Tenant for its employees' time, within thirty (30) days of receipt of an invoice for such sums. Tenant's and its contractor's determination of the cost of such work shall be final and binding on Landlord and Landlord acknowledges that Landlord can control the cost by performing the work under this Addendum in a timely manner. If Landlord does not reimburse Tenant as required by this Section, then Tenant may offset such sum against Base Rent and all other charges until such sum has been fully recouped.~~

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Tenant's obligations under this Lease are conditioned on Tenant's obtaining, within SIXTY (60) () days of the mutual execution and delivery of this Lease, any permits and/or licenses (including but not limited to conditional use permits, building permits and variances) that are required by applicable laws to enable Tenant legally to (a) construct Tenant's improvements to the Demised Premises in accordance with the Plans; (b) to install Tenant's signage on the Demised Premises; and (c) to conduct its business from the Demised Premises. Tenant shall, at Tenant's expense, initiate and diligently pursue each permit and/or license. Landlord shall execute any applications and shall provide Tenant with such further assistance and cooperation as Tenant may require in connection with applications for such permits and licenses. If Tenant does not obtain such permits and licenses on terms satisfactory to Tenant within such period, Tenant shall have the right to terminate this Lease. Thereafter, neither party shall have any rights or liabilities under the Lease, and Landlord shall return any deposits and prepaid amounts to Tenant, if any. Tenant shall vacate the Demised Premises within thirty (30) days after exercising the option to terminate as herein provided.

AND REIMBURSE LANDLORD ALL REASONABLE EXPENSES INCURRED FOR TENANT'S FINISH-OUT

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NORTH TEXAS COMMERCIAL ASSOCIATION OF REALTORS®

ADDENDUM G TO LEASE

RULES AND REGULATIONS

Demised Premises and Address: 5353 ALPHA ROAD, SUITE

1. **Application.** The following standards shall affect and shall be observed by Tenant, Tenant's employees and invitees, for the mutual safety, cleanliness, care, protection, comfort and convenience of all tenants and occupants of the Property, and shall be applicable to the building(s), to the parking garages, if any, to the common areas, driveways, parking lots, and to the Demised Premises, including the land situated beneath and any appurtenances thereto.

2. **Consent Required.** Any exception to these Rules and Regulations must first be approved in writing by Landlord. For purposes of these Rules and Regulations, the term "Landlord" includes the building manager, the building manager's employees, and any other agent or designee authorized by Landlord to manage or operate the Property.

3. Rules and Regulations:

A. Tenant may not conduct any auction, "flea market" or "garage sale" on the Demised Premises nor store any goods or merchandise on the Property except for Tenant's own business use. Food may not be prepared in the Demised Premises except in small amounts for consumption by Tenant. Vending machines or dispensing machines may not be placed in the Demised Premises without Landlord's written approval. The Demised Premises may not be used or occupied as sleeping quarters or for lodging purposes. Animals may not be kept in or about the Property.

B. Tenant shall not obstruct sidewalks, driveways, loading areas, parking areas, corridors, hallways, vestibules, stairs and other similar areas designated for the collective use of tenants, or use such areas for Tenant's storage, temporary or otherwise, or for any purpose other than ingress and egress to and from the Demised Premises. Tenant shall comply with parking rules and guidelines as may be posted on the Property from time to time.

C. Tenant shall not make any loud noises, unusual vibrations, unpleasant odors, objectionable or illegal activities on the Property. Tenant shall not permit the operation of any equipment in the Demised Premises that could annoy other occupants of the Property. Tenant shall not interfere with the possession of other tenants of the Property.

D. Tenant may not bring any flammable, explosive, toxic, noxious, dangerous or hazardous materials onto the Property.

E. Installation of security systems, telephone, television and other communication cables, fixtures and equipment must comply with Section 7.04 of the Lease, except that routine installation and construction of normal communication devices which do not require any holes in the roof or exterior walls of the Property do not require the written approval of Landlord.

F. Movement into or out of the building through public entrances, lobbies or corridors which requires use of a hand truck, dolly or pallet jack to carry freight, furniture, office equipment, supplies and other large or heavy material, must be limited to the service entrances and freight elevators only and must be done at times and in a manner so as not to unduly inconvenience other occupants of the Property. All wheels for such use must have rubber tires and edge guards to prevent damage to the building. Tenant shall be responsible for and shall pay all costs to repair damages to the building caused by the movement of materials by Tenant.

G. Requests by Tenant for building services, maintenance and repair must be made in writing to the office of the building manager designated by Landlord and must be dated. Tenant shall give prompt written notice to Landlord of any significant damage to or defects in the Demised Premises or the Property, especially including plumbing, electrical and mechanical systems, heating, ventilating and air conditioning systems, roofs, windows, doors, foundation and structural components, regardless of whose responsibility it is to repair such damage.

H. ~~Tenant shall not change locks or install additional locks on doors without the prior written consent of Landlord. If Tenant changes locks or installs additional locks on the Property, Tenant shall within five days thereafter provide Landlord with a copy of each separate key to each lock. Upon termination of Tenant's occupancy of the Demised Premises, Tenant must surrender all keys to the Demised Premises and to the Property to Landlord.~~

I. Harmful liquids, toxic wastes, bulky objects, insoluble substances and other materials which may cause clogging, stains or damage to plumbing fixtures or systems must not be placed in the lavatories, water closets, sinks, or drains. Tenant must pay the costs to repair and replace drains, plumbing fixtures and piping which is required because of damage caused by Tenant.

J. Tenant shall cooperate with Landlord and other occupants of the Property in keeping the Property and the Demised Premises neat and clean. Nothing may be swept, thrown or left in the corridors, stairways, elevator shafts, lobbies, loading areas, parking lots or any other common areas on the Property. All trash and debris must be properly placed in receptacles provided therefor.

K. Landlord has the power and authority to regulate the weight and position of heavy furnishings and equipment on the floor of the Demised Premises, including safes, groups of filing cabinets, machines, and any other item which may overload the floor. Tenant shall notify the Landlord when heavy items are to be taken into or out of the building, and the placement and transportation of heavy items may be done only with the prior written approval of Landlord.

L. No window screens, blinds, draperies, awnings, solar screen films, window ventilators or other materials visible from the exterior of the Demised Premises may be placed in the Demised Premises without Landlord's approval. Landlord is entitled to control all lighting that may be visible from the exterior of the building.

M. No advertisement, sign, notice, handbill, poster or banner may be exhibited, distributed, painted or affixed upon the Property. No directory of tenants is allowed on the Property other than that provided by Landlord.

N. Tenant agrees to cooperate with and assist Landlord in the prevention of peddling, canvassing and soliciting in the Property.

O. Tenant accepts full and all liability for damages and injuries to persons and property resulting from the opening and sales of all parking spaces and in the Property.

P. ~~Landlord reserves the right to require Tenant to provide identification for all persons entering the Property. Identification may be required for security personnel by signing a log and giving the time of day and duration of stay in the Demised Premises. Landlord's business hours and operating hours shall be posted in the Property.~~

4. **Revisions.** Landlord reserves the right to revise and/or rescind any of these Rules and Regulations and to make additional rules which Landlord may determine are necessary from time to time for the safety, care, cleanliness, protection, comfort and convenience of the tenants and occupants of the Property and for the care, protection and cleanliness of the building. Revisions and additions will be binding upon the Tenant as if they had been originally prescribed herein when furnished in writing by Landlord to Tenant, provided the additions and revisions apply equally to all tenants occupying the Property.

5. **Enforcement.** Any failure or delay by Landlord in enforcing these Rules and Regulations will not prevent Landlord from enforcing these Rules and Regulations in the future. If any of these Rules and Regulations is determined to be unenforceable, it shall be severed from this Lease without affecting the remainder of these Rules and Regulations.

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Addendum G - Rules and Regulations

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All rules and regulations must be reasonable, uniformly enforced and applied, and may not materially enlarge tenant's obligations under the lease or materially limit tenant's rights and remedies under the lease, including (without limitation) tenant's use of the Premises or the common areas (including, by way of illustration only, parking areas, if applicable). All rules and regulations shall be equally applicable to all tenants. The Lease provisions shall control and supersede any contradictory or inconsistent provisions contained in the Rules and Regulations. Landlord shall provide reasonable advance notice of any modifications or additions to the Rules and Regulations.

ADDENDUM H TO LEASE

SPECIALTY EQUIPMENT AND SYSTEMS

Tenant shall have the right to install the following improvements, equipment and systems (the "Specialty Equipment and Systems") in the Demised Premises and Building.

A. Conduit/Riser Space:

(1) Tenant shall have the right to construct dual telecommunications entrances to the Building for the purposes of redundancy. The location thereof shall be subject to Landlord's reasonable approval, provided that Landlord shall reasonably consider Tenant's technical requirement to separate such entrances as much as possible. The construction of such entrances may include the removal and replacement of curbing, sidewalks or other Common Area improvements.

(2) Unless Tenant shall elect to remove the same, any conduit, fiber or cable installed by Tenant shall become the property of Landlord and shall be surrendered with the Premises upon the expiration of the Lease.

(3) Tenant shall have the right to core drill from the Demised Premises to the lowest level of the Building as necessary or saw cut the slab to install new power and data conduit, fiber or cable for the Premises, including such area of the roof as Tenant is allowed to use under the Lease. Tenant estimates that it will initially have six (6) 4" conduits in each riser. The scheduling of all core drillings shall be coordinated between Landlord and Tenant.

(4) Tenant shall have the right to install any additional conduit required for the installation of its emergency backup generator, dry cooler, HVAC piping or antennas to and from the Premises.

B. HVAC Systems:

(1) Tenant shall have the right to install approximately 480 tons of HVAC for the switch equipment outside of the Demised Premises (on setbacks or ~~on roof tops~~) plus the appropriate HVAC equipment that meets the tonnage requirement for the office use. In addition, Tenant shall have the right to vent through the Building ROOF.

(2) Tenant shall have the right to remove or cap any heating system in the Premises.

(3) Tenant shall have the right to install drains for HVAC equipment.

(4) Unless Tenant shall elect to remove the same, any HVAC installed by Tenant shall become the property of Landlord when Tenant vacates the space at the end of the term or renewal option, whichever is later.

C. Electrical Systems TENANT AT ITS SOLE EXPENSE 600

(1) Landlord shall provide to Tenant's Premises 600 amps, 480 volt, 3-phase, 4-wire A/C of electric capacity dedicated to Tenant. If Tenant shall require electric capacity in addition to the above, Tenant, at its expense, shall have the right with Landlord's cooperation and assistance, to make application directly to the public utility serving the Building.

(2) Tenant shall be provided with adequate space to install one (1) 1200 KW/480 volt diesel generator (or similar generator) and a 2000 gallon fuel storage belly tank. The location thereof shall be reasonably determined by Landlord and Tenant jointly. Tenant shall have the right to test the generator once per week at a time mutually agreed upon between Landlord and Tenant. Tenant to indemnify Landlord for the use of the generator and fuel storage tank and shall remove the same at the expiration of the Lease term.

(3) Tenant shall have the right to install an electrical grounding system in accordance with equipment requirements and applicable laws.

D. Structural:

(1) Landlord shall supply floor loading capacity as follows:

- Equipment: 150 lbs/usable sq.ft.
- Battery: 200 lbs/usable sq.ft.
- Office: 60 lbs/usable sq.ft.

300 LBS

BE REMOVED AT THE OPTION OF THE LANDLORD

FIRST AMENDMENT TO COMMERCIAL LEASE AGREEMENT.

This First Amendment to Commercial Lease Agreement (the "First Amendment") dated this ____ day of January, 2014 but made effective as of November 13, 2013, is made and entered into by and between Janlaw Properties, Inc. ("Landlord") and XO Communications Services, LLC, a Delaware limited liability company ("Tenant"), ultimate successor in interest to Nextlink Texas, Inc.

WITNESSETH:

WHEREAS, on October 19, 1998, Landlord and Nextlink Texas, Inc. entered into that certain Commercial Lease Agreement ("Original Lease"), for approximately 3,845 rentable square feet of space ("Premises") in the building located at 5353 Alpha Road, Suite 220, Dallas Texas 75240 ("Building"); and

WHEREAS, Landlord and Tenant desire to extend the Term of the Original Lease for a period of approximately sixty (60) months, to make certain other changes and to memorialize their agreement thereto.

NOW THEREFORE, in consideration of the terms and conditions set forth herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by each of the parties, the Original Lease, is hereby amended as follows:

1. Renewal Term. The Term of the Lease is hereby extended for a period of approximately sixty (60) months commencing on November 13, 2013 ("Renewal Term Commencement Date") and expiring on October 31, 2018 ("Renewal Term").

2. Base Rent. Base Rent during the Renewal Term shall be paid in accordance with Article 3 of the Original Lease in the following amounts:

<u>Period</u>	<u>Rent</u> (per square foot per lease year)	<u>Square Feet of Net Rentable Area</u>	<u>Total Rent</u> (per annum)	<u>Total Rent</u> (per month)
11/13/2013 – 12/31/2013*	\$19.50	3,845	\$74,977.50	\$6,248.13
1/1/2014 – 12/31/2014	\$19.70	3,845	\$75,746.50	\$6,312.21
1/1/2015 – 12/31/2015	\$19.90	3,845	\$76,515.50	\$6,376.29
1/1/2016 – 12/31/2016	\$20.10	3,845	\$77,284.50	\$6,440.38
1/1/2017 – 12/31/2017	\$20.30	3,845	\$78,053.50	\$6,504.46
1/1/2018 – 10/31/2018*	\$20.50	3,845	\$78,822.50	\$6,568.54

* Partial Year

3. Electricity Charges. In consideration of Tenant's 24-hour/day, 7 day/week, 365 day/year operations within the Premises, Tenant's pro-rated share of electricity shall be increased to one hundred fifty percent (150%) of the amount(s) previously billed commencing with the first billing period in January, 2014.

4. Base Year/Expense Stop Adjustment. As of the Renewal Term Commencement Date, the Base Year shall be 2013.

5. Notices. All notices sent to Tenant shall be sent in duplicate to:

XO Communications Services, LLC
c/o Cresa Lease Administration
1301 W. 22nd Street, Suite 102
Oak Brook, IL 60523
Telephone: 630-230-3355
Facsimile: 630-230-3356
leaseadmin@cresa.com

With a copy to:

XO Communications Services, Inc.
13865 Sunrise Valley Drive
Herndon, Virginia 20171
Attention: Director of Real Estate

6. Miscellaneous.

(a) This First Amendment sets forth the entire agreement between the parties with respect to the matters set forth herein. There have been no additional oral or written representations or agreements.

(b) Except as herein modified or amended, the provisions, conditions and terms of the Original Lease shall remain unchanged and in full force and effect.

(c) In the case of any inconsistency between the provisions of the Original Lease and this First Amendment, the provisions of this First Amendment shall govern and control.

(d) The capitalized terms used in this First Amendment shall have the same definitions as set forth in the Original Lease to the extent that such capitalized terms are defined therein and not redefined in this First Amendment. The Original Lease as modified by this First Amendment shall be referred to as the "Lease.")


(e) Each signatory of this First Amendment represents hereby that he or she has the authority to execute and deliver the same on behalf of the party hereto for which such signatory is acting.

(f) This First Amendment may be executed in multiple counterparts each of which is deemed an original but together constitute one and the same instrument. This First Amendment may be executed in so-called "pdf" format and each party has the right to rely upon a pdf counterpart of this First Amendment signed by the other party to the same extent as if such party had received an original counterpart.

In witness whereof, the parties have executed this First Amendment as of the day and year first above written.

LANDLORD:

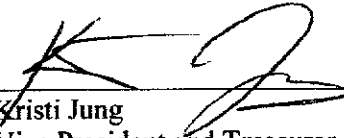
JANLAW PROPERTIES, INC.,
a Texas corporation

By: 

Harold Baeck
President

TENANT:

XO COMMUNICATIONS SERVICES LLC,
a Delaware limited liability company

By: 

Kristi Jung
Vice President and Treasurer

SECOND AMENDMENT TO COMMERCIAL LEASE AGREEMENT

THIS SECOND AMENDMENT TO COMMERCIAL LEASE AGREEMENT (this "Amendment") is made 08-09-, 2017 (the "Effective Date") between JANLAW PROPERTIES, INC., a Texas corporation ("Landlord"), and XO COMMUNICATIONS SERVICES, LLC, a Delaware limited liability company ("Tenant").

PRELIMINARY STATEMENTS

A. On October 19, 1998, Landlord and Nextlink Texas, Inc. entered into the Commercial Lease Agreement (the "Original Lease"), as amended by the First Amendment to Commercial Lease Agreement dated January __, 2014 (the "First Amendment") between Landlord and Tenant (collectively, the "Lease").

B. Under the Lease, Tenant leases the space consisting of approximately 3,845 rentable square feet (the "Demised Premises") known as Suite 220 in the building located at 5353 Alpha Road, Dallas, Texas 75240 (the "Building").

C. Landlord and Tenant desire to enter into this Amendment for the purpose of extending the Lease Term, clarifying and amending its provisions, and for other purposes.

TERMS

NOW THEREFORE, for \$10.00 and for the covenants and conditions of this Amendment, the receipt and sufficiency of which the parties acknowledge, Landlord and Tenant agree as follows:

1. **Recitals.** The above recitals are true and correct.
2. **Terms.** All undefined capitalized terms used in this Amendment have the same meanings as in the Lease.
3. **Lease Term.** The Lease Term is extended until October 31, 2023. The period between November 1, 2018 and October 31, 2023 is known in this Amendment as the "Extension Term."
4. **Base Rent.** Tenant will pay the following Base Rent for the Extension Term, paid in accordance with Article 3 of the Original Lease:

Period	Monthly Base Rent	Annual Base Rent
11/1/2018 - 10/31/2019	\$5,767.50	\$69,210.00
11/1/2019 - 10/31/2020	\$5,825.18	\$69,902.16
11/1/2020 - 10/31/2021	\$5,883.43	\$70,601.16
11/1/2021 - 10/31/2022	\$5,942.26	\$71,307.12

11/1/2022 - 10/31/2023	\$6,001.68	\$72,020.16
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5. **Base Year.** The Lease is amended to provide that the Base Year during the Extension Term is the calendar year 2019.

6. **Electricity.** Tenant has the right (but not the obligation), at Tenant's sole cost, to install a submeter to measure Tenant's electricity use in the Demised Premises and pay Landlord monthly based on actual usage. In the event Tenant installs a submeter, it will submit to Landlord its monthly readings and conversion calculations on a monthly basis (no later than the last day of each calendar month) for purpose of Landlord's electricity invoicing.

7. **Option to Renew.** Tenant has the right to renew the Lease Term for one additional period of 5 years (the "Second Extension Term"), exercisable by giving Landlord prior written notice (the "Exercise Notice") at least 6 months prior to the end of the Extension Term, of Tenant's election to extend the Lease Term. The Second Extension Term is under the same terms and conditions as provided in the Lease, except Base Rent will be the following:

Period	Monthly Base Rent	Annual Base Rent
11/1/2023 - 10/31/2024	\$6,121.72	\$73,460.64
11/1/2024 - 10/31/2025	\$6,244.15	\$74,929.80
11/1/2025 - 10/31/2026	\$6,369.03	\$76,428.36
11/1/2026 - 10/31/2027	\$6,496.42	\$77,957.04
11/1/2027 - 10/31/2028	\$6,626.34	\$79,516.08

8. **Landlord's Work.** Within 90 days after the Effective Date, Landlord will complete the following work to the Demised Premises and Building pursuant to plans and specifications reasonable acceptable to Tenant ("Landlord's Work") and using licensed contractors approved in advance by Tenant:

- (a) Repair the Building roof to eliminate all leaks and water intrusion.
- (b) Remediate all mold and mildew in the Building (including the Demised Premises).
- (c) Repair all water damage to the Building (including the Demised Premises) resulting from the roof leaks including, but not limited to, repairs to the rear stairwell area adjacent to the Demised Premises.
- (d) Clean up any debris relating to the roof conditions or the above activities.

Landlord's Work will be completed in a quality workman like manner, in compliance with all applicable laws and using only new materials. All construction will be performed so as not to disturb Tenant's business operations. Any work being performed within the Demised Premises will require a Tenant representative to be present during any such work or while contractors are accessing the Demised Premises.

9. Permitted Transfers. Notwithstanding anything set forth in Article Ten of the Original Lease, or elsewhere in the Lease, Tenant may, without Landlord's consent (and without sharing any fees or rent with Landlord or suffering any increase in Tenant's rental obligations or loss of Tenant's rights under the Lease, including but not limited to the loss of Tenant's right of first refusal) assign the Lease to, sublet the Demised Premises or any part thereof to, or permit the use of the Demised Premises or any part thereof by, Verizon Communications Inc. or any entity directly or indirectly controlled by, in control of, or under common control with, Tenant or Verizon Communications Inc., or any entity that acquires all or part of Tenant, that is acquired in whole or in part by Tenant, that results from the merger or consolidation with Tenant, or that purchases all or a substantial portion of Tenant's assets located at, or the business conducted by Tenant in and from, the Demised Premises (and such affiliates shall have the same rights as Tenant under this Section 9). No change of stock ownership or control of Tenant shall constitute an assignment or transfer under the Lease.

10. Non-Disturbance. Landlord represents and warrants that as of the date of this Amendment, the Demised Premises is free of encumbrances, except for the Deed of Trust, Security Agreement and Fixture Filing ("Mortgage") held by Assurity Life Insurance Company ("Mortgagee") as reflected in the Subordination, Nondisturbance and Attornment Agreement dated July 29, 2011 between Landlord, Tenant and Mortgagee. Landlord represents and warrants that Mortgagee has consented to this Amendment, and that no consent of any other party is required for Landlord to enter into this Amendment.

11. Insurance.

(a) Section 5.01 of the Original Lease is deleted in its entirety and replaced with the following:

"5.01. **Casualty Insurance.** Tenant shall, at Tenant's expense, maintain insurance on its fixtures, equipment and building improvements to protect Tenant's interest. Tenant shall not do or permit to be done anything which invalidates any insurance policies. Any casualty insurance carried by Landlord or Tenant shall be for the sole benefit of the party carrying the insurance and under its sole control.

During the Lease Term, Landlord shall obtain and keep in full force and effect, the following insurance from an insurance company rated at least A-VIII or better in Best's Insurance Reports. The insurance required to be carried by Landlord under this Section shall be referred to herein as "Landlord's Insurance." Upon Tenant's request, Landlord will provide Tenant with a copy of the certificate evidencing Landlord's Insurance.

a. Liability Insurance. Commercial General Liability insurance, bodily injury insuring against claims of bodily injury or death, personal injury or property damage arising out of or in connection with (1) Landlord's activities upon, in or about the Demised Premises; or (2) the use or occupancy of the Building in a limit of not less than One Million Dollars (\$1,000,000.00) for injury to or death of one person in any one accident or occurrence and in an amount of not less than Two Million Dollars (\$2,000,000.00) for injury to or death of more than one person in any one accident or occurrence. Landlord's Insurance shall be primary with respect to any claim arising out of events that occur outside the Demised Premises.

b. Property Insurance. Commercial property form insurance insuring the Building (excluding any property which Tenant is obligated to insure), against damage and destruction by fire, vandalism, and other perils in the amount of the full replacement value of the Building, as such value may exist from time to time."

(b) Section 5.03 of the Original Lease is deleted in its entirety and replaced with the following:

"5.03. Liability Insurance. During the Lease Term, Tenant shall maintain at Tenant's expense, commercial general liability insurance with a limit of \$2,000,000 per occurrence for bodily injury and property damage and \$2,000,000 general aggregate including Medical Expense, insuring Tenant against liability arising out of the use, occupancy, or maintenance of the Demised Premises and including Landlord as additional insured as its interests may appear under this Lease. However, the amounts of the insurance shall not limit Tenant's liability nor relieve Tenant of any obligation under this Lease. Upon receipt of notice from its insurer(s) Tenant shall endeavor to provide Landlord with thirty (30) days' prior written notice of cancellation of the policy. Tenant shall deliver a certificate of insurance to Landlord upon the Commencement Date and within thirty (30) days of the expiration and renewal of the policy during the Lease Term. Tenant may, at Tenant's expense, maintain other liability insurance as Tenant deems necessary to protect Tenant."

12. Waiver of Subrogation. Section 5.06 of the Original Lease is deleted and replaced with the following:

"Landlord and Tenant each hereby waives any and all rights of recovery, claim, action or cause of action against the other (and against any assignee of Landlord and assignee or subtenant of Tenant) for any loss or damage that may occur to the Demised Premises, the Building, the common areas, or any improvements thereto, or any personal property of Landlord or Tenant, arising from any cause that is insured against under the terms of any property insurance required to be carried or actually carried. The foregoing waiver shall apply regardless of the cause or origin of the claim, including but not limited to the negligence of a party or that party's agents, officers, employees or contractors. The parties hereto, as between

themselves, hereby waive the right to seek or collect punitive or consequential damages.”

13. Brokers. Landlord and Tenant each represents and warrants it has had no dealings with any real estate broker or agent in connection with the negotiation of this Amendment other than CBRE, Inc. (“Tenant’s Broker”), which has represented Tenant in this transaction. Each party (each, an “Indemnifying Party”) agrees that it shall indemnify and defend the other party against the claims of any other broker other than Tenant’s Broker claiming by, through or under the Indemnifying Party.

14. Notice Addresses.

The Lease is amended to change the notice address for Tenant as follows:

XO COMMUNICATIONS SERVICES, LLC
c/o Verizon Global Real Estate
Attn: Lease Administration
7701 E. Telecom Parkway
Mail Code: FLTDSB1W
Temple Terrace, Florida 33637
GLC: XODITX

All notices to Tenant must also reference Verizon Property ID No. XODITX.

15. Entire Agreement. This Amendment contains revisions to the Original Lease and the First Amendment with respect only to the subject matter in this Amendment and supersedes all prior understandings relevant to this Amendment. This Amendment cannot be changed in any manner except by a written agreement signed by the parties. This Amendment is governed by the laws of the State of Texas.

16. Counterparts. This Amendment may be executed in multiple counterparts, each of which when taken together constitute one and the same instrument. This Amendment may further be executed and delivered by facsimile or by electronic mail.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties execute this Amendment as of the date written above.

LANDLORD:

JANLAW PROPERTIES, INC., a Texas corporation

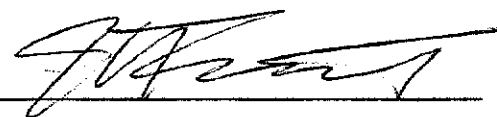
By: 

Name: HAROLD BACK

Title: PRESIDENT

TENANT:

XO COMMUNICATIONS SERVICES, LLC,
a Delaware limited liability company

By: 

Name: JAMES TRUSIGANT

Title: DIR. LIVE TRANSACTIONS MIA

TDHCA

Appeal Response



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

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July 1, 2021

Robert Hoskins
NDG Alpha LLC
c/o Alpha Dallas Housing Partners LP
800 North Point Parkway, Ste. 125
Alpharetta, Georgia 30005

RE: APPEAL RESPONSE FOR 2021 HOUSING TAX CREDIT APPLICATION 21149
RESIDENCES AT ALPHA

Dear Mr. Hoskins:

The Texas Department of Housing and Community Affairs (the Department) received your appeal dated June 21, 2021 for the application indicated above. Staff previously determined that the change in Site Control location from Pre-Application to Application precluded eligibility for Pre-Application points under 10 TAC §11.9(e)(3) related to Pre-Application Participation. Staff additionally determined the failure to defer no more than 50% of the Developer Fee precluded eligibility for points under 10 TAC 11.9(3)(4) related to Leveraging of Federal, State, or Private Resources. Staff issued a Notice of Scoring Adjustment revising the Application score to indicate zero points under 10 TAC §§11.9(e)(3) and (4), subject to your ability to appeal. For the reasons discussed in this letter, I am reaffirming the Staff determination and denying your appeal.

Pre-Application Participation

10 TAC §11.9(e)(3)(F) of the 2021 Qualified Allocation Plan (QAP), related to Pre-application Participation, most relevantly 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:

(F) The Development Site at Application is at least in part the Development Site at pre-application, and the census tract number listed at pre-application is the same at



Application. The site at full Application may not require notification to any person or entity not required to have been notified at pre-application[.]

Staff previously determined that the change in Site Control location from Pre-Application to Application precluded eligibility for Pre-Application points under 10 TAC §11.9(e)(3) related to Pre-Application Participation. Specifically, staff confirmed the Pre-Application included Site Control documentation for a site in Houston while the full Application included documentation for Dallas. On appeal, you claimed an error with regard to the Applicant's inability to revoke the incorrect submission after 4:05 pm central time was the cause for not providing the correct Site Control documentation. However, no other Applicants expressed technological difficulties with regard to the ability to revoke and resubmit prior to the end of the Pre-Application submission deadline. Staff also did not receive any notification from the Applicant regarding the alleged error at the time of Pre-Application submission. Accordingly, I find staff were correct in issuing a Notice of Scoring Adjustment denying points under this scoring item.

Leveraging of Federal, State, and Private Resources

10 TAC §11.9(e)(4) of the QAP related to Leveraging of Federal, State, and Private Resources states:

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

(A) An Application may qualify to receive up to three (3) points if at least 5% of the total Units are restricted to serve households at or below 30% of AMGI (restrictions elected under other point items may count) and the Housing Tax Credit funding request for the proposed Development meet one of the levels described in clauses

(i) - (iv) of this subparagraph:

(i) the Development leverages CDBG Disaster Recovery, HOPE VI, RAD, or Choice Neighborhoods funding and the Housing Tax Credit Funding Request is less than 9% of the Total Housing Development Cost (3 points). The Application must include a commitment of such funding; or

(ii) if the Housing Tax Credit funding request is less than 9% of the Total Housing Development Cost (3 points); or

(iii) if the Housing Tax Credit funding request is less than 10% of the Total Housing Development Cost (2 points); or

(iv) if the Housing Tax Credit funding request is less than 11% of the Total Housing Development Cost (1 point).

(B) The calculation of the percentages stated in subparagraph (A) of this paragraph will be based strictly on the figures listed in the Funding Request and Development Cost Schedule. Should staff issue an Administrative Deficiency that requires a change in either form, then the calculation will be performed again and the score adjusted, as necessary. **However, points may not increase based on changes to the Application. In order to be eligible for points, no more than 50% of the Developer Fee can be deferred.** Where costs or financing change after completion of underwriting or award (whichever occurs later), the points attributed to an

Application under this scoring item will not be reassessed unless there is clear evidence that the information in the Application was intentionally misleading or incorrect. (Emphasis added).

Staff received a Third Party Request for Administrative Deficiency highlighting the ineligibility of this Application to earn points under this scoring item. Staff issued an Administrative Deficiency asking for clarification on the issue. In response, you stated:

Residences at Alpha's site has an existing commercial building on it. Part of this building will be demolished for the new project, but a portion will be retained. That is shown on the site plan in Tab 22 of the application. Exhibit D the Contract to Purchase and Sell under Tab 12 has a list of the commercial tenants, rents and lease expirations. The tenant in the portion of the building that will remain is Verizon. They have a lease that doesn't expire until 10/31/2027. It is the applicant's intention to retain Verizon at this location. The rent will be a minimum of \$5,925 per month and a short-term loan in the amount of \$350,000 will be obtained using the income from Verizon lease to pay the interest and principal. This loan will be made to the applicant as they will be the lessee and the proceeds will be used only to pay developer's fee, so the deferred developer's fee will be less than 50%. The attached revised Tab 31 - Schedule of Sources includes his loan and we are providing a letter from Bank of Oklahoma indicates the proposed terms. Tab 17 – Development Narrative has been attached with the information about the commercial building added.

This is a unique situation. This secondary financing is collateralized only by the Verizon lease. This commercial lease has only a six-year term remaining so can't be used to help amortize the permanent debt. It's not clear in the rules where to include this type of funds source or income in the application.

Regardless of the categorization of the potential receipt of funds related to a commercial building, the initial Application submission clearly shows \$1,353,548 of the \$2,504,000 total Developer Fee will be deferred (see Development Cost Schedule and Schedule of Sources and Uses). The status of the aforementioned funds ultimately has no bearing with regard to this Application's ineligibility to score points under 10 TAC §11.9(e)(4) related to Leveraging of Federal, State, and Private Resources. The rule explicitly precludes an Application from scoring points if the amount of Deferred Developer Fee exceeds 50% of the total Developer Fee, which is the case here. The original Application documents indicate approximately 54% of the Developer Fee will be deferred. Staff were correct in determining the Application submission documents substantiated the need to issue a Notice of Scoring Adjustment assigning zero (0) points under this scoring item.

Accordingly, the Notice of Scoring Adjustment is affirmed on both counts 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,

Appeal Response for 2021 Housing Tax Credit Application 21149, Residences at Alpha

July 1, 2021

Page 4

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 black ink, appearing to read "Bobby Wilkinson" with a stylized flourish at the end.

Bobby Wilkinson
Executive Director

cc: Christian Garcia
Robby Block

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 21185 Weslaco Village Apartments

RECOMMENDED ACTION

WHEREAS, the appeal relates to Competitive Housing Tax Credit (HTC) Application 21185 Weslaco Village 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 21185 Weslaco Village 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 Reconstruction of 50 Units for the general population in Weslaco, of which 44 will be restricted and six will be market rate.

Upon review, staff determined the Application did not qualify for points under 10 TAC §11.9(d)(7) related to Concerted Revitalization Plan (CRP) of the 2021 Qualified Allocation Plan (QAP). Moreover, because of the material nature of the deficiencies staff discovered during its normal course of CRP review, 10 TAC §11.10 did not require staff issue a deficiency.

Specifically, staff determined the CRP itself failed to meet threshold CRP criteria for which clarification cannot remedy. Most importantly, 10 TAC §11.9(d)(7)(A), related to Concerted Revitalization Plan includes the requirements for CRP in 10 TAC §11.9(d)(7)(A)(i) – (iii). Under 10

TAC §11.9(d)(7)(B) an Application will be eligible to receive points if, and only if, the Urban CRP is an *acceptable plan* that meets the criteria required in (I-IV).

Most relevantly, 10 TAC §11.9(d)(7)(A)(iii)(II) and (III) provide:

(II) The problems in the revitalization area must be identified through a process in which affected local residents had an opportunity to express their views on problems facing the area, and how those problems should be addressed and prioritized...

(III) The goals of the adopted plan must have a history of sufficient, documented and committed funding to accomplish its purposes on its established timetable. This funding must be flowing in accordance with the plan, such that the problems identified within the plan are currently being or have been sufficiently addressed.

In regard to these requirements, the Applicant appealed staff's determination. Per the appeal,

"As noted in the City of Weslaco's cover letter dated November 4, 2020, which accompanied the CRP and was included in the Application, the Southeast Community was identified approximately 10 years ago as an area in need of revitalization. Since that time, the City has been funding money to support infrastructure in the area, and has seen documented improvement. The City's work in the Southeast Community was part of a concerted effort but was not specifically documented in a written plan."

The appeal claims the CRP documentation identifies infrastructure and related improvements in the area that have been ongoing for approximately ten years. However, the ongoing efforts were not part of a documented concerted revitalization plan, as required under 10 TAC §11.9(d)(7)(A)(iii)(III). Rather staff and the Executive director determined the failure to meet this specific criteria directly relates to the basic requirements of a CRP for Developments in Urban areas. Per 10 TAC §11.9(d)(7)(A),

(A) For Developments located in an Urban Area:

(i) An Application may qualify to receive points if the Development Site is located in a distinct area that was once vital and has lapsed into a condition requiring concerted revitalization, ***and where a concerted revitalization plan (plan or CRP) has been developed and executed.*** (emphasis added)

Failure to establish the documented history of an executed and ongoing plan is further indicative of the materially deficient nature of the submitted materials. Staff correctly concluded, and the appeal itself acknowledges, that the cited efforts were "not specifically documented in a written plan." Rather than cite specific efforts that have been committed to address the problem's faced by residents in the area, the plan instead relies on infrastructure improvements over a number of years, which could also be characterized as the types of maintenance work generally undertaken by a local government. This does not establish the required history of sufficient, documented and

committed funding to accomplish the plan's purposes on its established timetable pursuant to 10 TAC §11.9(d)(7)(A)(iii)(III). Indeed, it seems temporally impossible to have "a history of sufficient, documented and committed funding to accomplish [the] purposes [of a developed and executed Concerted Revitalization Plan] on its established timetable" when the plan, itself, was developed and executed a decade after associated improvements.

This is further indicative of the lack of public participation and the process for development of a CRP that is required by the QAP. Per the appeal:

"Early in 2020 [or late in 2019?], Prospera Housing and Community Services, which is a Texas non-profit organization (the "Developer") approached the City of Weslaco about the potential reconstruction of the Weslaco Village Apartments, which are in the Southeast Community. The City was supportive of this endeavor and inquired about the ways in which it could support the proposal. The Developer described ways for the City to support the Development within the QAP, including the provision of funding and the passage of certain resolutions of support, including an acknowledgement that the Development would contribute most significantly to the concerted revitalization efforts in the area. The City noted that it had a revitalization effort for the Southeast Community, but that it had not been formalized in writing. ***Desirous of facilitating the reconstruction of the Development, the City set out to seek public input and draft and finalize the CRP, taking care to make sure it would be sufficient under TDHCA's rules.***

The CRP was approved at a meeting of the Weslaco City Council on February 18, 2020. At that same meeting, the City Council approved a resolution of support for the Development (the "2020 Application Support Resolution"). The Developer included the February 2020 Support Resolution and the CRP in a Tax Credit Application for the Development in 2020. That Application was subsequently terminated.

The Developer re-applied for Tax Credits for the Development in the 2021 Application Round. Once again, the Application included the CRP. Additionally, the Weslaco City Council approved a support resolution for the 2021 Application. The support resolution, dated November 3, 2020 (the "2021 Application Support Resolution"), was included in the Application. (emphasis added)"

While the City and Developer had documented efforts regarding the desire to reconstruct the Development Site, there was insufficient evidence of engagement with the public regarding problems in the revitalization area that affect local residents. The Executive Director found staff were correct in concluding the CRP documentation provided did not meet the requirements of a CRP as described in 10 TAC §11.9(d)(7)(A)(iii)(II) and (III).

Accordingly, the Executive Director sustained the Notice of Scoring Adjustment revising the Application's score under 10 TAC §11.9(d)(7) and denied the appeal. Staff recommend the Board also deny the appeal.

21185 Weslaco Village Apartments

Scoring Adjustment



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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May 17, 2021

Writer's direct dial: (512) 936-7834
Email: alena.morgan@tdhca.state.tx.us

Bradford McMurray
TG 105 Weslaco Village, LP
3419 Nacogdoches Road
San Antonio, TX 78217

RE: NOTICE OF SCORING ADJUSTMENT: 21185, WESLACO VILLAGE APARTMENTS

Dear Mr. McMurray:

The Texas Department of Housing and Community Affairs (the Department) is in receipt of the Application named above. Upon review, staff determined the Application does not qualify for points under 10 TAC §11.9(d)(7)(related to Concerted Revitalization Plan (CRP)), of the 2021 Qualified Allocation Plan (QAP) because the documentation provided does not meet the requirements for an acceptable CRP.

Most relevantly, 10 TAC §11.9(d)(7)(A) requires that a CRP have a history of sufficient, documented and committed funding. Staff review indicates the resolution for the creation of the CRP was not approved by the City Commission of the City of Weslaco until February 18, 2020. This occurred the same date the City approved the resolution of support for the Application, for which the record indicates the plan was approved for the purpose of assisting "the State funding [the] application for the reconstruction of Weslaco Village Apartments". Taken in consideration with the overall documentation provided in the CRP, the CRP does not establish an acceptable history of sufficient, committed funding.

Accordingly, the Application has been assigned a score of zero points under 10 TAC §11.9(d)(7). An appeals process exists for the Housing Tax Credit Program. The restrictions and requirements related to the filing of an appeal can be found in §11.902 of the QAP. If you wish to appeal this decision to the Executive Director, the appeal must be filed, in writing, with the Department not later than seven (7) calendar days after the date of this notification. 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.



Notice of Scoring Adjustment: 21185, Weslaco Village Apartments

May 17, 2021

Page 2

If you have questions or require further information, please contact me.

Sincerely,

Alena R. Morgan, JD
Competitive HTC Administrator



Concerted Revitalization Plan (CRP) Application Packet

The purpose of the packet is to formalize the process by which Concerted Revitalization Plans (CRP) are described and submitted pursuant to 10 TAC §11.9(d)(7) of the Qualified Allocation Plan (QAP). The CRP and all supporting documentation must be uploaded to the Department's ServU system along with this packet, as a separate document from the Application. Refer to the Multifamily Programs Procedures Manual posted at <http://www.tdhca.state.tx.us/multifamily/apply-for-funds.htm> for an explanation of the process to set-up a Serv-U Account if needed.

Application # 21185 Development Name Weslaco Village Apartments

Development City Weslaco Development County Hidalgo

The Application claims no points under 10 TAC §11.9(c)(4) related to Opportunity Index.

My Development Site is located in an area that is:

Urban

Rural (skip to page 4 of the packet)

My Development Site is located in a distinct area known locally as (or named by the CRP as) Southwest Community that is larger than the assisted housing footprint.

This packet includes a description of the area targeted for revitalization, including common attributes and problems, which can be found at (document name, page number(s), etc.) Southeast Community Revitalization Plan, pages 1,3, and 14.

This packet includes a description of how this area was once vital and how it has lapsed into a condition requiring concerted revitalization, which can be found at (document name, page number(s), etc.) Southeast Community Revitalization Plan, page 1.

A CRP covering the area mentioned above has been developed and executed. The CRP consists of the following local planning document(s):

City of Weslaco Southeast Community Revitalization Plan

The document(s) is included in its entirety.

The document(s) can be found online at _____.

NOTE: Per the requirements of 10 TAC §11.9(d)(7)(A)(ii), a plan may consist of one or multiple, but complementary, local planning documents that together create a cohesive agenda for the plan's specific area. **No more than two (2) local plans may be submitted for each proposed Development.** A Consolidated Plan, One-year Action Plan or any other plan prepared to meet HUD requirements will not meet the requirements, unless evidence is presented that additional efforts have been undertaken to meet the requirements in the QAP. The concerted revitalization plan may be a Tax Increment Reinvestment Zone (TIRZ) or Tax Increment Finance (TIF) or similar plan. A city-wide or county-wide comprehensive plan, by itself, does not equate to a concerted revitalization plan.

The URBAN CRP meets the following criteria as required by 10 TAC §11.9(d)(7)(A)(iii)(I-IV):

1. The concerted revitalization plan, or each of the local planning documents that compose the plan, must have been adopted by the municipality or county in which the Development Site is located.
 - This packet includes the resolution(s) adopting the plan or local planning documents that compose the plan; or
 - This packet includes the resolution(s) of delegation and other evidence in the form of certifications by authorized persons confirming the adoption of the plan(s) and budget(s).

2. The problems in the revitalization area must be identified through a process in which affected local residents had an opportunity to express their views on problems facing the area, and how those problems should be addressed and prioritized. A description of eligible problems for a CRP are found at 10 TAC §11.9(d)(7)(A)(iii)(II)(a) through (c).
 - A description of the process for public input on the problems in the plan can be found at (document name, page number(s), etc.) Southeast Community Revitalization Plan, page 7 (Community-Based Process).
 - A description of the problems identified by the process can be found at (document name, page number(s), etc.) Southeast Community Revitalization Plan, pages 8-10 (Revitalization Goals and Objectives).
 - A description of how the process determined how the problems should be addressed and prioritized can be found at (document name, page number(s), etc.) Southeast Community Revitalization Plan, pages 8-10 (Revitalization Goals and Objectives), and page 13 (Plan Implementation).

3. The goals of the adopted plan must have a history of sufficient, documented and committed funding to accomplish its purposes on its established timetable. This funding must be flowing in accordance with the plan, such that the problems identified within the plan are currently being or have been sufficiently addressed.
 - A description of the goals of the plan can be found at (document name, page number(s), etc.) Southeast Community Revitalization Plan, pages 8-10 (Revitalization Goals and Objectives).
 - A description of the plan's timetable can be found at (document name, page number(s), etc.) Southeast Community Revitalization Plan, page 8.
 - A description of sufficient, documented and committed funding for the plan can be found at (document name, page number(s), etc.) Southeast Community Revitalization Plan, pages 10-12 (List of Improvement Projects and Programs), and CRP letter from local official, which documents at least \$64 million in funding for the plan.
 - Evidence that the funding has been flowing to address the problems identified in the plan, or that the problems have been sufficiently addressed, can be found at (document name, page number(s), etc.) Southeast Community Revitalization Plan, pages 10-12 (List of Improvement Projects and Programs), and CRP letter from local official.

4. The plan must either be current at the time of Application and must officially continue for a minimum of three years thereafter OR the work to address the items in need of mitigation or rehabilitation has begun and, additionally, the Applicant must include confirmation from a public official who oversees the plan that accomplishment of those objectives is on schedule and there are no budgetary or other obstacles to accomplishing the purposes of the plan.
 - The plan is current at the time of Application, and the effective period for the plan is 10 years or "until all of the planned improvements are completed and the goals have been accomplished or initiated" and can be found at (document name, page number(s), etc.) Southeast Community Revitalization Plan, page 8; or
 - Evidence that the work to address problems in the plan has begun can be found at (document name, page number(s), etc.) Southeast Community Revitalization Plan, pages 10-12 (List of Improvement Projects and Programs), and CRP letter from local official; AND.
 - Confirmation from a public official that accomplishment of those objectives is on schedule and there are no budgetary or other obstacles can be found at (document name, page number(s), etc.) See attached CRP letter from local official.

Provide any comments or additional information in the box below, if applicable.

The section titled *Revitalization Goals and Objectives* lists a variety of funding sources for accomplishing the goals identified in the plan including, the city’s general fund, municipal bonds, school district bonds, TxDOT funds, and funding from private entities. Evidence that these funds are being expended is included in the CRP letter from the local official and with the lists of completed and planned improvement projects.

URBAN CRP Requested Scoring

Points may be selected under 1, 2, and 3 below for no more than a total of 7 points.

1. Applications will receive four (4) points for a letter from the appropriate local official providing documentation of measurable improvements within the revitalization area based on the targeted efforts outlined in the plan and in reference to the requirements of 10 TAC §11.9(d)(7)(A)(iii)(I-IV). The letter must also discuss how the improvements will lead to an appropriate area for the placement of housing.

A letter from a public official is included in this packet (an adopted resolution may be submitted in place of a letter).

2. Applications may receive (2) points in addition to those above if the Development is explicitly identified in a resolution by the municipality or county as contributing more than any other to the concerted revitalization efforts of the municipality or county (as applicable).

An adopted resolution from the city of Weslaco is included in this packet (a letter MAY NOT be submitted in place of a resolution).

An adopted resolution from _____ county is included in this packet (a letter MAY NOT be submitted in place of a resolution).

NOTE: A municipality or county may only identify one Development per CRP area during each Application Round for the additional points under this subclause, unless the concerted revitalization plan includes more than one distinct area within the city or county, in which case a resolution may be provided for each Development in its respective area. The resolution from the Governing Body of the municipality or county that approved the plan is required to be submitted in the Application. If multiple Applications submit resolutions under this subclause from the same Governing Body for the same CRP area, none of the Applications shall be eligible for the additional points, unless the resolutions address the respective and distinct areas described in the plan.

3. Applications will receive (1) point in addition to those under No. 1 and 2 above, if the development is in a location that would score at least 4 points under Opportunity Index, §11.9(c)(4)(B), except for the criteria found in §11.9(c)(4)(A) and subparagraphs §11.9(c)(4)(A)(i) and §11.9(c)(4)(A)(ii).

Development Site is within the required radius of the eligible amenities and/or services listed below, pursuant to §11.9(c)(4)(B)(i) of the QAP.

A map showing the Development Site, location of and distance to the amenities, and evidence that the amenity meets all requirements of the rule, as applicable, is included.

Site is within ½ mile or less from a public park. Margo Elementary public park/playground (1701 S. Bridge Ave.) is located 500 feet from the site.	Site is within 2 miles of an outdoor recreation facility. Weslaco Skatepark (799 S. Bridge Ave.) is located 0.6 miles from the site.
Site is within 2 miles of a full-service grocery store. Walmart Neighborhood Market (1600 S. Texas Blvd) is located 0.8 miles from the site.	Site is located within 2 miles of a public library. Mayor Joe Sanchez Public Library (525 S. Kansas Ave.) is located 0.9 miles from the site.

Site is within 2 miles of a pharmacy. Walmart Neighborhood Market Pharmacy (1600 S. Texas Blvd) is located 0.8 miles from the site.	Site is located in the attendance zone of schools rated A or B. Margo Elementary, Cuellar Middle School, and Weslaco East High School each of 2019 TEA "B" rating.
Site is within 2 miles of a community, civic or service organization. Bridge Avenue Church of Christ (1220 S. Bridge Ave.) is located 0.2 miles from the site.	
Site is within 4 miles of a health-related facility. Weslaco Medical Clinic (906 S. Bridge Ave.) is located 0.4 miles from the site.	

Provide any comments or additional information in the box below, if applicable.

The RURAL CRP meets the following criteria as required by 10 TAC §11.9(d)(7)(B)(i-iii):

Points may be selected under 1, 2, and 3 below for no more than a total of 7 points.

- Applications will receive 4 points for the Rehabilitation or demolition and Reconstruction of a development in a rural area that has been leased at 85% or greater for the six months preceding Application by low income households and which was initially constructed 25 or more years prior to Application submission as either public housing or as affordable housing with support from USDA, HUD, the HOME program, or the CDBG program.

The Application proposes Rehabilitation; or

The Application proposes demolition and Reconstruction; and

Evidence that the development has been leased at 85% or greater for the six months preceding Application by low income households can be found at (document name, page number(s), etc.) _____; and

Evidence that the development was initially constructed 25 or more years prior to Application submission as either public housing or as affordable housing with support from USDA, HUD, the HOME program, or the CDBG program can be found at (document name, page number(s), etc.) _____.

Note: The occupancy percentage will not include Units that cannot be occupied due to needed repairs, as confirmed by the PCA or CNA. Demolition and relocation of units must be determined locally to be necessary to comply with the Affirmatively Furthering Fair Housing Rule, or if necessary to create an acceptable distance form Undesirable Site Features or Neighborhood Risk Factors.

- Applications may receive (2) points in addition to those above if the Development is explicitly identified in a resolution by the municipality (or county if the Development Site is completely outside of a city) as contributing more than any other to the concerted revitalization efforts of the municipality or county (as applicable).

An adopted resolution from the city of _____ is included in this packet (a letter MAY NOT be submitted in place of a resolution); or

An adopted resolution from _____ county is included in this packet (a letter MAY NOT be submitted in place of a resolution);

Note: Where a Development Site crosses jurisdictional boundaries, resolutions from all applicable governing bodies must be submitted. A municipality or county may only identify one single Development during each Application Round for each specific

area to be eligible for the additional points under this subclause. If multiple Applications submit resolutions under this subclause from the same Governing Body for a specific area described in the plan, none of the Applications shall be eligible for the additional points.

3. Applications may receive (1) additional point if the development is in a location that would score at least five (5) points under Opportunity Index, §11.9(c)(4)(B), except for the criteria found in §11.9(c)(4)(A) and subparagraphs §11.9(c)(4)(A)(i) and §11.9(c)(4)(A)(ii).

Development Site is within the required radius of the eligible amenities and/or services listed below, pursuant to §11.9(c)(4)(B)(ii) of the QAP.

A map showing the Development Site, scale showing radius, location of the amenities, and evidence that the amenity meets all requirements of the rule, as applicable, is included.

Provide any comments or additional information in the box below, if applicable.

CRP Letter from Local Official

City of Weslaco

"The City on the Grow"



David Suarez, Mayor
Letty Lopez, Mayor Pro-Tem, District 5
Leo Muñoz, Commissioner, District 1
Greg Kerr, Commissioner, District 2
Jose "J.P." Rodriguez, Commissioner, District 3
Adrian Farias, Commissioner, District 4
Josh Pedraza, Commissioner, District 6

Mike R. Perez, City Manager

November 4, 2020

Mr. Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Low-Income Housing Tax Credit Program
PO Box 13941
Austin, TX 78711-3941

Re: Weslaco Village Apartments

Dear Mr. Wilkinson,

This letter provides documentation required by the Texas Department of Housing and Community Affairs (TDHCA) Competitive Housing Tax Credit Program under the 2021 Qualified Allocation Plan §11.9(d)(7)(A)(iv)(l) Concerted Revitalization Plan.

Weslaco Village Apartments located at 1601 South Bridge Avenue is located within the boundaries of the Southeast Community Revitalization Plan area adopted by the City of Weslaco on February 18, 2020. The designated revitalization area is southeast of downtown Weslaco and is bounded by IH-2/U.S. 83 Expressway to the North, South Texas Blvd. to the West, FM 1015 to the East, and West 18th Street to the South. The City of Weslaco is in support of the proposed reconstruction of Weslaco Village Apartments as it will further contribute to the City's ongoing revitalization efforts.

The City of Weslaco's Southeast Community has previously been characterized as a neglected area as investments and community development tended to be focused in other parts of the city, such as downtown. However, as a result of targeted investment by the City and others to revitalize the area, significant measurable improvements have occurred in recent years which prompted city officials and stakeholders to create the Southeast Community Revitalization Plan to ensure continued improvement. I have outlined several improvements that have taken place, as well as some that are planned for the area below.

In census tract 227.01, where Weslaco Village Apartments is located, the unemployment rate fell from 7.9% in 2017 to 4.9% in 2018, the median home value increased from \$56,800 in 2017 to \$58,700 in 2018, and the median household income increased from \$37,257 in 2017 to \$41,692 in 2018 according to the U.S. Census Bureau American Community Survey 5-year Estimates. These demographic trends represent positive economic development within the revitalization area, which is one of the six major improvement goals listed in the Southeast Community Revitalization Plan and serves as evidence of measurable improvements occurring in the area.

The Weslaco Independent School District (WISD) recently completed approximately \$9 million in facility improvements to schools within the revitalization area. The facility upgrades included

improvements to lighting, perimeter fencing, flooring, roofs, and the addition of a new band hall for Weslaco East High School. School improvement is highlighted as one of the primary goals in the Plan as access to high quality educational opportunities is vital to building a strong community.

The Weslaco Economic Development Corporation (WEDC) has reported that in 2018 the Knapp Medical Center earned an "A" for patient safety from the Leapfrog Group, a national healthcare ratings organization. The Knapp Medical Center is listed in the Plan as one of the area's largest assets that received funding for improvements after being purchased by Prime Healthcare Services. The addition of new jobs and national recognition for healthcare in the area directly aligns with the economic and business development goals outlined in the Plan.

Funding for infrastructure improvements is continuing as a variety of street and drainage improvement projects by the City and the Texas Department of Transportation (TxDOT) are underway which will positively impact the Plan area and continue its revitalization. For example, a \$10 million drainage improvement bond was approved by voters in May 2019 that provides funding for stormwater detention ponds and new drainage culverts within the revitalization area promoting further development and economic growth. In January 2020, the City broke ground on a new regional detention pond facility adjacent to Leisure World RV Park, which is located less than half a mile from Weslaco Village Apartments. Once completed, the new facility will help to significantly reduce the risk of flooding in that area, improving the lives and safety of area residents and preventing potential damage to homes and businesses from heavy rain and hurricanes, which have increased in recent years.

Finally, this letter confirms the City's commitment to contribute funding of at least \$500 in the form of fee waivers or other similar assistance in support of the proposed reconstruction of the Weslaco Village Apartments. This contribution provides a direct benefit to this project by reducing development costs and represents additional sufficient, documented and committed funding to help accomplish the goals of the Plan.

Revitalization has been ongoing in the Southeast Community and continues to progress. The Southeast Community Revitalization Plan will continue to guide improvements in resident mobility, safety, economic development, and educational quality for residents. The area continues to be an appropriate area for the placement of housing and based on the goals and objectives outlined in the Southeast Community Revitalization Plan the City of Weslaco is confident that the area will continue its revitalization. Please feel free to contact me if you have any questions.

Sincerely,



Rebekah de la Fuente
Planning Director
City of Weslaco



"The City on the Grow"

Resolution identifying the development as contributing more than any other to the concerted revitalization efforts of the municipality.

RESOLUTION NO. 2020-32

A RESOLUTION OF THE CITY OF WESLACO, TEXAS, AUTHORIZING THE PROJECT KNOWN AS WESLACO VILLAGE APARTMENTS AS A DEVELOPMENT THAT WILL CONTRIBUTE MOST SIGNIFICANTLY TO THE CONCERTED REVITALIZATION EFFORTS OF THE CITY OF WESLACO- SOUTHEAST COMMUNITY REVITALIZATION PLAN

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSIONERS OF THE CITY OF WESLACO, TEXAS:

WHEREAS, TG 105, Inc. ("Applicant") and Housing and Community Services Inc. (dba Prospera Housing Community Services) ("Developer"), have proposed a development for affordable rental housing at 1601 S. Bridge Avenue, Weslaco, Texas 78596 named Weslaco Village Apartments in the City of Weslaco, Texas; and

WHEREAS, the City of Weslaco has considered the revitalization needs of the Southeast Community Area (the "Designated Area") and adopted a Community Revitalization Plan referred to as the City of Weslaco Southeast Community Revitalization Plan (the "Plan") for the Designated Area on February 18, 2020; and

WHEREAS, in furtherance of the community revitalization activities noted in the Plan, Applicant along with Developer propose to demolish and reconstruct an existing affordable housing development with 44 affordable units and add six (6) market units for a total of 50 units in the Designated Area, to be known as Weslaco Village Apartments; and

WHEREAS, Applicant and Developer have advised that they intend to submit an application to the Texas Department of Housing and Community Affairs for 2021 Competitive 9% Housing Tax Credits for Weslaco Village Apartments; and

WHEREAS, the City supports the proposed development because of the Applicant's and Developer's experience and the anticipated community revitalization impact for the Designated Area; and

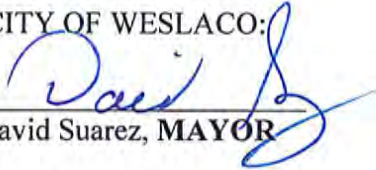
IT IS HEREBY RESOLVED, that the City of Weslaco, acting through its governing body, hereby confirms that the Weslaco Village Apartments located at 1601 S. Bridge Avenue, as proposed contributes more than any other Development to the City of Weslaco concerted revitalization efforts as described in the City of Weslaco's Southeast Community Revitalization Plan; and

FURTHER RESOLVED that for and on behalf of the City Commission of the City of Weslaco, the City Clerk is hereby authorized, empowered, and directed to certify this resolution to the Texas Department of Housing and Community Affairs.

This resolution shall take effect immediately from and after its passage.

PASSED AND APPROVED this 3rd day of November 2020, by the City Commissioners of the City of Weslaco, Texas.


CITY OF WESLACO:


David Suarez, MAYOR

ATTEST:


Norma A. Cantu, CITY SECRETARY

APPROVED AS TO FORM:


Juan E. Gonzalez, CITY ATTORNEY

City of Weslaco
Southeast Community
Revitalization Plan

City of Weslaco

"The City on the Grow"



- David Suarez, Mayor
- Letty Lopez, Mayor Pro-Tem, District 5
- Leo Muñoz, Commissioner, District 1
- Greg Kerr, Commissioner, District 2
- Jose "J.P." Rodriguez, Commissioner, District 3
- Adrian Farias, Commissioner, District 4
- Josh Pedraza, Commissioner, District 6

Mike R. Perez, City Manager

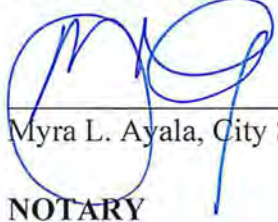
CERTIFICATE

I, Myra L. Ayala, City Secretary of the City of Weslaco, Texas, I hereby certify that the Weslaco City Commission at their Regular Meeting of February 18, 2020 approved item(s) as follows under **VII. NEW BUSINESS:**

- A. After public hearing to adopt the proposed City of Weslaco Southeast Community Revitalization Plan described as approximately four and one half (4.5) square mile area located Southeast of downtown Weslaco bounded by IH-2/U.S. 83 Expressway to the North, S. Texas Blvd. to the West, FM 1015 or S. International Blvd. to the East, and W. 18th Street to the South and authorized the Mayor to execute any related documents.

DATED this 21st day of February 2020.

CITY OF WESLACO

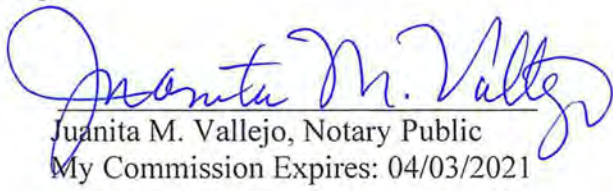


Myra L. Ayala, City Secretary

NOTARY

SWORN AND SUBSCRIBED before me, this 21st day of February 2020 and that the above facts are true and correct to the best of her knowledge.





Juanita M. Vallejo, Notary Public
My Commission Expires: 04/03/2021

STATE OF TEXAS



**A REGULAR MEETING
OF THE WESLACO CITY COMMISSION
TUESDAY, FEBRUARY 18, 2020**

NOTICE IS HEREBY GIVEN THAT the City Commission of the City of Weslaco, Texas will hold a Regular Meeting in the Legislative Chamber of City Hall, located at 255 South Kansas Avenue, on Tuesday, February 18, 2020 at 5:30 PM for the purpose of discussing the following items:

NOTE: If during the course of the meeting, any discussion of any item on the agenda should be held in executive or closed session, the Weslaco City Commission will convene in such executive or closed session whether or not such item is posted as an executive session item at any time during the meeting when authorized by the provisions of the Texas Open Meetings Act.

I. CALL TO ORDER

- A. Certification of Public Notice.
- B. Invocation.
- C. Pledge of Allegiance.
- D. Mayoral recognition.
- E. Roll Call.

II. PUBLIC COMMENTS

The Public Comments portion of the meeting promotes a fair and open process for the governance of the City. This portion of the meeting is not intended to be an extended discussion or a debate and is limited to three minutes for each presenter. Due to the Texas Open Meetings Act, the Mayor and City Commissioners do not reply; they listen. Matters under litigation are not to be addressed and comments regarding specific City employees and elected officials may be prohibited.

The Public may comment on anything on the agenda, however if you comment on something not included on the agenda, the Commission cannot take any formal action until it is placed on an agenda and notice of the meeting is properly posted. Registration for Public Comments must be submitted to the City Secretary before the City Commission meeting is called to order. As the Mayor calls upon those who submitted a registration form with the City Secretary, please step to the podium and state your name and address before beginning your presentation.

III. PUBLIC HEARING

- A. To solicit input on the adoption of the proposed City of Weslaco Southeast Community Revitalization Plan described as approximately four and one half (4.5) square mile area located Southeast of downtown Weslaco is bounded by IH-2/U.S. 83 Expressway to the North, S. Texas Blvd. to the West, FM 1015 or S. International Blvd. to the East, and W. 18th Street to the South.

IV. CONSENT AGENDA

The following items are of a routine or administrative nature. The City Commission has been furnished with background and support material on each item, and/or it had been discussed at a previous meeting. All items will be acted upon by one vote without being discussed separately unless requested by one commission member, in which event the item or items will immediately be withdrawn for individual consideration in its normal sequence after the items not requiring separate discussion have been acted upon. The remaining items will be adopted by one vote. Possible action.

- A. Approval of the request from the Weslaco Area Chamber of Commerce to hold the 31st Annual Texas Onion Fest on Saturday, March 28, 2020 at the Mayor Pablo G. Peña City Park, to sell beer during the event, to place a banner promoting the event at the intersection of Texas and Los Torritos St. and Westgate and Frontage for two weeks prior to the event, to waive appropriate fees from ordinances associated with event and authorize the Mayor to execute any related documents. (Requested by Weslaco Area Chamber of Commerce.)
- B. Approval of Memorandum of Understanding between The American Red Cross and City of Weslaco in preparing for, responding to, and recovering from emergencies and disasters and authorize the Mayor to execute any related documents. (Staffed by Weslaco Emergency Management.) Attachment
- C. Approval of a Memorandum of Understanding (MOU) with the City of South Padre Island and City of Weslaco for Weslaco Fire Department AmBus operations during Spring Break 2020 at a cost of \$10,500 and authorize the Mayor to execute any related documents. (Staffed by Weslaco Fire-EMS Department.) Attachment
- D. Approval of a one-year renewal Advanced Education Consultant Agreement between the City of Weslaco and Armando A. Martinez to advance the EMS Training and Continuing Education of the Weslaco Fire Department EMS Division and authorize the Mayor to execute any related documents. (Staffed by Weslaco Fire-EMS Department.) Attachment
- E. Approval of a Memorandum of Understanding between U.S. Immigration and Customs Enforcement and Weslaco Police Department for assistance with Homeland Security Investigations and authorize the Mayor to execute any related documents. (Staffed by Police Department.) Attachment
- F. Authorization to purchase 3 CID unmarked 2020 Chevy Malibus from Lake Country Chevrolet with a GoodBuy Purchasing Program contract and 2 Patrol marked 2020 Chevy Tahoe police units from Caldwell Country Chevrolet through BuyBoard BID contract in an amount not to exceed \$174,570 and authorize the Mayor to execute any related documents. (Staffed by Police Department.)
- G. Authorization to ratify Chief of Police Joel Rivera, PhD, signature on a Memorandum of Understanding (MOU) between Weslaco Police Department (WPD) and the Texas

Department of Public Safety regarding License Plate Reader Information and authorize Mayor to execute any related documents. (Staffed by Police Department.) Attachment

- H. Authorization to enter into an Interlocal Cooperation Act Agreement between the City of Weslaco Police Department and the Texas Department of Public Safety for the use of the Weslaco Police Department's Shooting Range for Training and authorize the Mayor to execute any related documents. (Staffed by Police Department.) Attachment
- I. Authorization of Resolution 2020-08 authorizing the submission to the Office of the Governor's Local Border Security Program (LBSP) Grant application in an amount not to exceed \$160,000 with **NO MATCH REQUIRED**, authorize acceptance upon award and authorize the Mayor to execute any related documents. (Staffed by Police Department.)
- J. Authorization of Resolution 2020-09 authorizing the submission to the Office of the Governor's Criminal Justice Program Grant application in an amount not to exceed \$150,000 with **NO MATCH REQUIRED**, authorize acceptance upon award and authorize the Mayor to execute any related documents. (Staffed by Police Department.) Attachment
- K. Authorization of Resolution 2020-10 authorizing the submission to the Office of the Governor's General Victim Assistance Grant Program application in an amount not to exceed \$75,000 with **20% MATCH REQUIRED**, authorize acceptance upon award and authorize the Mayor to execute any related documents. (Staffed by Police Department.) Attachment
- L. Authorization of Resolution 2020-11 authorizing the submission to the Office of the Governor's Juvenile Justice and Truancy Prevention Grant Program application in an amount not to exceed \$80,000 with **NO MATCH REQUIRED**, authorize acceptance upon award and authorize the Mayor to execute any related documents. (Staffed by Police Department.) Attachment
- M. Authorization of Resolution 2020-12 authorizing the submission to the Office of the Governor's Rifle-Resistant Body Armor Grant Program application in an amount not to exceed \$5,000 with **NO MATCH REQUIRED**, authorize acceptance upon award and authorize the Mayor to execute any related documents. (Staffed by Police Department.) Attachment
- N. Authorization of Resolution 2020-13 authorizing the submission to the Office of the Governor's Texas Conversion to the National Incident-Based Reporting System (NIBRS) Grant application in an amount not to exceed \$500,000 with **NO MATCH REQUIRED**, authorize acceptance upon award and authorize the Mayor to execute any related documents. (Staffed by Police Department.) Attachment

- O. Authorization of Resolution 2020-14 authorizing the submission to the Office of the Governor's Operation Stonegarden Grant application in an amount not to exceed \$230,000 with **NO MATCH REQUIRED**, authorize acceptance upon award and authorize the Mayor to execute any related documents. (Staffed by Police Department.) Attachment

V. APPOINTMENTS

- A. Discussion and consideration to accept the resignation of Diana Fuentes Aguilar from the Weslaco Economic Development Corporation and approve Resolution 2020-15 appointing a member to an unexpired term and authorize the Mayor to execute any related documents. Possible action. (Staffed by Weslaco Economic Development Corporation.) Attachment

VI. OLD BUSINESS

- A. Discussion and consideration to approve Proposal PSF20-013-00 from Raba Kistner Environmental, Inc. in the amount not to exceed \$190,800 for the four-year Landfill Post Closure Care Monitoring as stated on RFQ 2019-20-05 and authorize the Mayor to execute any related documents. Possible action. (This item was tabled on February 4, 2020; Staffed by Public Works Department.) Attachment

VII. NEW BUSINESS

- A. Discussion and consideration after public hearing to adopt the proposed City of Weslaco Southeast Community Revitalization Plan described as approximately four and one half (4.5) square mile area located Southeast of downtown Weslaco bounded by IH-2/U.S. 83 Expressway to the North, S. Texas Blvd. to the West, FM 1015 or S. International Blvd. to the East, and W. 18th Street to the South and authorize the Mayor to execute any related documents. Possible action. (Staffed by Planning & Code Enforcement Department.) Attachment
- B. Discussion and consideration to adopt Resolution 2020-16 authorizing the project known as Weslaco Village Apartments as a development that will contribute most significantly to the concerted revitalization efforts of the City of Weslaco- Southeast Community Revitalization Plan and authorize the Mayor to execute any related documents. Possible action. (Staffed by Planning & Code Enforcement Department.) Attachment
- C. Discussion and consideration to execute a Utility Easement between Auriel Investments and the City of Weslaco for the construction of a sanitary sewer line for the proposed Harbor Freight development and authorize the Mayor to execute any related documents. Possible action. (Staffed by Planning & Code Enforcement Department.) Attachment

- D. Discussion and authorization to combine Clean Sweep/Census Event on April 18, 2020. Possible action. (Staffed by Planning and Code Enforcement Department.) Attachment
- E. Discussion and consideration for the Final Plat for Harbor Freight Subdivision – A Tract of land containing 4.015 acres being a part or portion out of Farm Tract 137, Block 162, West & Adams Tract Subdivision, Hidalgo County, Texas. Approximately 726 ft. East of the intersection of Westgate Drive & U.S. Expressway 83 and authorize the Mayor to execute any related documents. Possible action. (Staffed by Planning & Code Enforcement Department.) Attachment
- F. Discussion and consideration to approve a Professional Services Agreement with Montalvo Insurance Agency for Loss Control and Risk Management and authorize the Mayor to execute any related documents. Possible action. (Staffed by Human Resources Department.) Attachment
- G. Discussion and consideration on request from Inframark on proposed amendment letter for FY 2019-2020 budget to the Fourth Amendment to the Water and Wastewater System Operation and Maintenance Agreement and authorize the Mayor to execute any related documents. Possible action. (Staffed by City Manager.)
- H. Discussion and consideration to approve demolition of residential structure at South Cemetery RDF as recommended by Drainage Advisory Board and authorize the Mayor to execute any related documents. Possible action. (Staffed by Public Works Department.) Attachment
- I. Discussion and consideration to award a contract for Request for Bids No. 2019-20-10 for Aviation Fuel and Service for the Weslaco Mid Valley Airport and authorize the Mayor to execute any related documents. Possible action. (Staffed by Airport.) Attachment
- J. Discussion and consideration on possible dates for a joint workshop with the Weslaco School Board. Possible action. (Staffed by City Manager.)
- K. Discussion and consideration to approve the submission of the final proposed annual work plan for the City of Weslaco under the Hidalgo County Urban County Program, approve Resolution 2020-17 for year 33 (2020) and to accept the allocation of approximately \$285,782 and authorize the Mayor to execute any related documents. Possible action. (Staffed by Finance Department.) Attachment
- L. Discussion and consideration to select a firm from the Request for Qualifications #2019-20-07 for Architectural / Engineering Design Services for a New Fire Station and Police Station with Municipal / Judicial Court and authorize the Mayor to execute

any related documents. Possible action. (Staffed by City Manager.) Attachment

VIII.

**EXECUTIVE
SESSION**

Texas Government Code, Section 551 Open Meetings:

§551.145. Closed Meeting Without Certified Agenda or Tape Recording; Offense; Penalty

(a) A member of a government body commits an offense if the member participates in a closed meeting of the governmental body knowing that a certified agenda of the closed meeting is not being kept or that a tape recording of the closed meeting is not being made.

(b) An offense under Subsection (a) is a Class C misdemeanor.

§551.146. Disclosure of Certified Agenda or Tape Recording of Closed Meeting; Offense; Penalty; Civil Liability

(a) An individual, corporation, or partnership that without lawful authority knowingly discloses to a member of the public the certified agenda or tape recording of a meeting that was lawfully closed to the public under this chapter:

(1) commits an offense; and

(2) is liable to a person injured or damaged by the disclosure for:

(A) actual damages, including damages for personal injury or damage, lost wages, defamation, or mental or other emotional distress;

(B) reasonable attorney fees and court costs; and

(C) at the discretion of the trier of fact, exemplary damages.

(b) An offense under Subsection (a)(1) is a Class B misdemeanor.

(c) It is a defense to prosecution under Subsection (a)(1) and an affirmative defense to a civil action under Subsection

(a)(2) that:

(1) the defendant had good reason to believe the disclosure was lawful; or

(2) the disclosure was the result of a mistake of fact concerning the nature or content of the certified agenda or tape recording. (Added by Acts 1993, 73rd Leg., ch 268, § 1, eff. Sept. 1, 1993.)

NOTE: Any documentation related to the following items will be maintained as part of the certified agenda.

- A. Personnel - Discussion regarding the goals, objectives, and evaluation of the City Manager for the City of Weslaco as authorized by section §551.074 of the Texas Government Code.
- B. Legal Consultation - Seek City Attorney opinion relating to the lawsuit with CDM as authorized by section §551.071 of the Texas Government Code.
- C. Legal Consultation – Seek City Attorney opinion on arbitration proceedings by the Weslaco Firefighters Association (IAFF-WFFA Local 3207) as authorized by section §551.071 of the Texas Government Code.
- D. Real Property - Consultation with City Attorney on the sale, exchange, lease or value of real property located at Bridge Avenue and Highway Business 83 as authorized by section §551.072 of the Texas Government Code.
- E. Real Property– Consultation with City Attorney on the acquisition of real property legally described as Lot 16, Block 2, La Paloma De La Sombras Subdivision for the Pleasantview drainage improvements project as authorized by section §551.072 of the Texas Government Code.

- F. Legal Consultation - Consultation with City Attorney regarding Justin Becerra as authorized by section §551.071 of the Texas Government Code.
- G. Legal Consultation - Seek City Attorney opinion regarding service contract with Republic Services as authorized by section §551.071 of the Texas Government Code.

IX. POSSIBLE ACTION ON WHAT IS DISCUSSED IN EXECUTIVE SESSION

X. ADJOURNMENT

I hereby certify this **Notice of a Regular Meeting of the Weslaco City Commission** was posted in accordance with the Open Meetings Act on the outside bulletin board at City Hall of the City of Weslaco, located at the 255 South Kansas Avenue entrance, visible and accessible to the general public during and after regular working hours. This notice was posted on this 14th day of February, 2020 at 5:00 p.m. and will remain so posted continuously for at least 72-hours preceding the scheduled time of this meeting in accordance with Chapter 551 of the Texas Government Code.

/s/ Myra Ayala, City Secretary

NOTE: If any accommodation for a disability is required, please notify the City Secretary’s Office at (956) 968-3181, Ext. 3100 prior to the meeting date.

Regular Meetings of the Weslaco City Commission stream live online at <http://www.weslacotx.gov/open-government/open-meetings>. Archived video of some meetings are also available.

Removed from Bulletin Board	Date:	Initials:
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City of Weslaco Southeast Community Revitalization Plan

**Adopted by the City Commission
February 18, 2020**

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INTRODUCTION

The City of Weslaco is located in Hidalgo County Texas in the heart of the Rio Grande Valley, near the Rio Grande River and within driving distance of beautiful South Padre Island and the Texas Gulf Coast. Weslaco is a small-town community with a population of 39,420 residents. The City is situated along the Texas-Mexico border and is well-known for its historic landmarks, unique architecture, vibrant downtown, family-friendly atmosphere, and rich cultural heritage.

Founded in 1919, Weslaco is one of the oldest towns in South Texas. Originally, the town was part of a Spanish Land Grant and was used for ranching before it was sold to the W.E. Stewart Land Company in 1917, which is where the name Weslaco is derived from. The City's one-of-a-kind history and legacy serve as one of the community's greatest assets, but today the City's economy is primarily driven by the manufacturing, distribution, and service industries.

In an effort to protect and preserve the City's history, character, and economic vitality it has become necessary to develop a coordinated revitalization plan for parts of the city that may not have received the same level of investment as other areas to ensure that older, lower income areas are not left behind or neglected, such as the City's Southeast side.

The City's Southeast Community was once a vibrant collection of neighborhoods with low rates of poverty and crime, affordable homes, high performing schools, well-maintained streets, and an abundance of economic opportunity for residents. However, demographic data suggests that this part of our community has not kept pace with the growth and development seen in other parts of Weslaco and the area has begun to decline.

Housing production is one of the best-known indicators of the economic strength of a community and that has remained consistent over the last few years, but homes are becoming increasingly unaffordable for some residents as poverty rates in the area have increased and wages have remained stagnant for years, all while the population has expanded. Today, the Southeast Community is marked by rising property taxes, low wages, vacant housing units, and limited economic growth.

To address these and other critical issues facing the area, residents and stakeholders have partnered with the City of Weslaco to create the **Southeast Community Revitalization Plan**. The topics addressed in this plan include economic development, affordable housing, transportation and mobility, infrastructure improvements, community facilities, and public safety. The Southeast Community Revitalization Plan incorporates fundamental urban planning principles and community development ideas from a broad group of stakeholders.

Revitalization efforts that include prioritizing local small business development, improving area streets, attracting new companies and community development organizations, investing in area schools, and reimagining public spaces will lead to the creation of new jobs and the enhancement of the overall standard of living for area residents. Focusing revitalization efforts in the City's Southeast Community will help to level the playing field in the community and provide current and future residents with a higher quality of life for years to come.

As with any revitalization initiative, it is important to ensure that private and public property is kept safe from the negative effects associated with unchecked economic growth and community development. Problems such as gentrification, environmental degradation, and over-commercialization can easily occur in a rapidly expanding economy and must be addressed carefully. In short, the purpose of this plan is to document the extent of the revitalization already underway in the City's Southeast side and to create a framework for continued revitalization of the area referred to in this plan as the "Southeast Community".

Investment in the Southeast Community has been ongoing for more than a decade. Funding for infrastructure projects and other improvements within the Southeast Community come from a variety of sources, including a collection of local and state organizations and private entities. These organizations include: The City of Weslaco through its various capital improvement projects, the Weslaco Independent School District (WISD) with its bond initiatives and other school improvement programs, the Texas Department of Transportation (TxDOT) with its infrastructure projects, and other private businesses.

The City of Weslaco and its community partners have included in this revitalization plan a list of improvement projects already completed in the area and those planned for the near future. By compiling a list of recent improvements, the City and other interested parties will be able to calculate the level of investment in the area more accurately. This will ensure that the development taking place is well-documented, resources are being allocated efficiently, information is accessible to the public, and most importantly the Southeast Community is not neglected or left behind to become blighted or harmful to area residents.

The Southeast Community Revitalization Plan serves a key role in communicating the desires of Southeast side residents with the Mayor, City Commissioners, and other stakeholders. The goals and objectives for revitalizing the Southeast Community have been outlined in this planning document to provide a guide for future development. By prioritizing economic development and investing in critical infrastructure such as schools, streets, and utilities the Southeast Community will become a healthier, happier, and more vibrant place for people to live, work, and play.

PLAN BOUNDARIES

The Southeast Community Revitalization Plan Area encompasses an approximately four and one half (4.5) square mile area located Southeast of downtown Weslaco. The revitalization area is bounded by IH-2/U.S. 83 Expressway to the North, S. Texas Blvd. to the West, FM 1015 or S. International Blvd. to the East, and W. 18th Street to the South. The revitalization area is pictured below and on a larger map (**EXHIBIT 1**) at the end of this document.

The revitalization area was identified based on several factors, including input from community stakeholders, physical boundaries such as railroads or highways, area demographics, completed or planned improvement projects, and the presence of important community assets, such as schools or hospitals. The area was also identified because of the community's desire to focus resources and revitalization efforts in certain older areas to ensure they receive the same or similar levels of investment as other parts of the City. The area is primarily residential with a good mix of single-family and multi-family housing and nodes of commercial and industrial development at the peripheries of the revitalization area.

FM 1015 or South International Blvd forms the eastern edge of the revitalization area and was selected because it is commonly referred to as the eastern edge of the City as a whole. It also acts as a physical barrier separating the Southeast Community from the more rural area on the opposite side of the street. IH-2/U.S. 83 Expressway forms the northern edge of the revitalization area and was selected because it is the largest physical barrier separating the North and South sides of the City, thus it acts as the northern edge of the Southeast side.

South Texas Blvd. was selected as the western edge of the revitalization area, because (other than the highway) it is the primary transportation corridor or "main street" that connects downtown Weslaco to all other parts of the City. It is lined by an assortment of businesses including grocery/convenient stores, auto shops, fast food restaurants, banks, churches, and retail. It provides a direct access route to downtown and is viewed as the de facto edge of downtown. Finally, West 18th Street was identified as the southern edge of the revitalization area because it serves as the primary arterial road connecting the east and west side of Weslaco south of IH-2.



DEMOGRAPHICS

The current population of Weslaco is 39,420, the median age is 31.9 years old, and the median household income is \$37,558 according to the U.S. Census Bureau 2013-2017 American Community Survey (ACS) 5-Year Estimates. Historically, the City has experienced low population density, limited growth, and incomes far below the U.S. median household income (\$57,652), but it has experienced marginal growth in these areas over the past decade. In 2010, the population was estimated at 34,544, and by 2017 it had increased fourteen percent (14%) to 39,420. Additionally, the median household income went from \$31,790 in 2009 to \$37,558 in 2017. Even moderate shifts in population and income can impact housing markets and development activity, as well as expanding the need for additional city services, therefore it is important for communities to consider why these demographic shifts are happening and what can be done to change or improve them.

The Southeast Community however, which is located in census tracts 227.01, 226, and part of 225.02 (see **EXHIBIT 2**), has experienced a different set of demographic trends. As shown in **Table 1**, the population in each census tract has fluctuated by small amounts between 2012 and 2017, but the current population data indicates the population is decreasing. Notably, census tract 227.01 is the only census tract between the three that showed an overall increase in population since 2012.

**Table 1. Population in Southeast Community by Census Tract & Year
U.S. Census Bureau 2013-2017 ACS 5-Year Estimates**

Year	Census Tract 227.01	Percentage Difference	Census Tract 226	Percentage Difference	Census Tract 225.02	Percentage Difference
2017	5,550	-1%	2,167	-3%	5,241	-5%
2016	5,624	+1%	2,225	+5%	5,492	-5%
2015	5,542	-0.8%	2,113	-4%	5,785	+1%
2014	5,584	+7%	2,209	-7%	5,706	+8%
2013	5,223	+3%	2,363	-2%	5,280	-1%
2012	5,067	--	2,407	--	5,321	--

Incomes in Weslaco have remained mostly stagnant over the last decade, which is a trend found in cities throughout the U.S. The median household income for the City of Weslaco increased less than five percent (5%) in seven years. In 2010, the median household income in Weslaco was \$35,851 and by 2017 it increased to only \$37,558. **Table 2** below represents the changes in median household income in the revitalization area since 2012. Census tract 227.01 and 226 saw a small decrease in median household income over this time, while census tract 225.02 saw a fifteen percent (15%) increase in 2017. This is likely because census tract 225.02 extends beyond the revitalization area and partially encompasses a part

of the city with higher incomes, i.e. the north side. However, census tract 227.01 is completely within the revitalization area and is one of the lowest income census tracts in the City. According to the data provided below, the median household income in this census tract dropped five percent (5%) in 2017, which is higher than both other census tracts represented and is trending downward

**Table 2. Median Household Income by Census Tract & Year
U.S. Census Bureau 2013-2017 ACS 5-Year Estimates**

Year	Census Tract 227.01	Percentage Difference	Census Tract 226	Percentage Difference	Census Tract 225.02	Percentage Difference
2017	\$37,257	-5%	\$24,853	-3%	\$28,042	+15%
2016	\$39,111	-1%	\$25,521	+1%	\$24,351	+1%
2015	\$39,512	-0.5%	\$25,156	-5%	\$24,052	-5%
2014	\$39,684	+2%	\$26,542	+11%	\$25,353	+2%
2013	\$39,010	+1%	\$23,989	-7%	\$24,763	+5%
2012	\$38,519	--	\$25,833	--	\$23,569	--

In addition, poverty rates have increased in the Southeast Community, which might indicate either a lack of economic opportunities or a lack of access to high-paying jobs. In 2012 the percentage of individuals living below the poverty level in census tract 227.01 was 26.1 percent, but by 2017 it had increased to 27.6 percent. In census tract 226, the poverty rate went from 24.7 percent in 2012 to 30.6 percent in 2017. However, similar to the median income the poverty rate in census tract 225.02 decreased, going from 39.3 percent in 2012 to 31.3 percent in 2017.

The Southeast Community has a slightly older population compared to other parts of Weslaco, which is represented below. The median age for male and female residents in census tract 227.01 is 44 years old. The median age for male and female residents in census tract 226 is 46 years old and in census tract 225.02 the median age is 29 years old. An aging population is not by itself responsible for creating a weak local economy, however it can lead to issues like a shortage of workers, those who are working may have to pay higher taxes, and a larger portion of people’s incomes is likely to be spent on healthcare.

44 years
Median Age in
census tract 227.01

46 years
Median Age in
census tract 226

29 years
Median Age in
census tract 225.02

The racial and ethnic composition of Weslaco based on the 2013-2017 American Community Survey 5-Year Estimates is 87.7% Hispanic or Latino (of any race), 11% White, 0.2% Black or African American, and 1.1% Asian. Hispanic or Latino residents make up a substantial majority of the population, which is clearly rooted in the area's proximity to Mexico and the area's Hispanic heritage. However, a lack of cultural diversity in a community can have a variety of economic impacts. The types of businesses that exist in the area, the restaurants people go to, the recreational activities people enjoy, and other consumer trends can all be impacted by race and culture. Therefore, it is important to plan for a diverse population to maximize the economic opportunities for all residents.

Housing occupancy status provides vital information on the number of vacant housing units in a given area for either renter or owner-occupied housing. The amount of vacant housing units versus occupied housing units in the Southeast Community Revitalization Area according to recent census data is represented in **Table 3** below. The data indicates fifty-four percent (54%) of housing units in census tract 227.01 are vacant, eleven percent (11%) of housing units in census tract 226 are vacant, and eighteen percent (18%) are vacant in census tract 225.02. Having a high number of vacant units could be attributed to an oversupply of housing, it could mean there is a lack of employment opportunities, or that there is a limited supply of new housing in the area, so people are leaving for newly developed areas.

**Table 3. Housing Occupancy Status
U.S. Census Bureau 2013-2017 ACS 5-Year Estimates**

Status	Census Tract 227.01	Census Tract 226	Census Tract 225.02
Occupied	2,067	770	1,550
Vacant	1,124	86	280
Total	3,191	856	1,830
% Vacant	54%	11%	18%

Despite some concerning demographic trends over the last five to ten years in terms of income and poverty, the Southeast Community is equipped with a variety of strong community assets, educational opportunities, and the potential for rapid economic growth and community development. However, some of the trends discussed above can escalate quickly and become more problematic if ignored. Household incomes in the Southeast Community have not kept pace with increases in housing and transportation costs, which may lead to increased housing affordability issues for residents. Approximately thirty-three percent (33%) of the City's total population, or 12,958 people live within the revitalization area on the City's Southeast side, therefore it is imperative that the City allocate adequate resources and dispatch services in an equitable manner to ensure that the Southeast Community is not disproportionately neglected.

COMMUNITY-BASED PROCESS

The Southeast Community Revitalization Plan was developed through a series of public meetings and community meetings. The meeting and notification dates are listed below. The planning process was conducted in accordance with the policies set forth by the City's Planning and Codes department. Throughout the planning process, City staff and stakeholders worked diligently to solicit public participation in the development of the Plan. The revitalization goals and objectives outlines in the Plan are based on a comprehensive review of existing issues, goals and objectives affecting the area and input received about the various issues in the area.

PUBLIC MEETINGS

1. January 14th, 21st and 28th- Noticed of public hearing posted in local newspaper
2. February 5, 2020- City of Weslaco Planning & Zoning Commission Plan Review Meeting
3. February 18, 2020- City of Weslaco City Commission meeting

COMMUNITY ASSETS

One of the goals of this revitalization plan is to create a list of community assets or resources that currently exist in the community that can be leveraged to help the community meet its needs. Community assets include organizations, people, partnerships, facilities, funding, policies, regulations, and a community's collective experience. Any positive aspect of the community is an asset that can be leveraged to develop effective solutions. There are two approaches to identifying community assets. The first approach is to identify the assets that are already known for supporting the community, and the second approach is to build upon the experiences of other communities to highlight resources that may be available.

Weslaco's Southeast Community has several important assets that can help the community meet its needs and distinguish the area as an economic generator for the city and region. For example, the Knapp Medical Center located between E. 6th and 8th streets on Knapp Medical Blvd. provides high-quality, comprehensive health care services to individuals and families throughout the Rio Grande Valley while simultaneously providing jobs and other benefits to the area. Trade and retail from U.S./Mexico are also significant assets.

Below is a short list of community assets that benefit the Southeast Community and can be leveraged to help revitalize the area. These assets should be supported and enhanced by the City and other influential parties through improvements to the surrounding infrastructure to bolster their impact in the community.

- Weslaco Water Tower (historically significant)
- Original City Hall, converted into fire station (historically significant)
- Knapp Medical Center (Prime Healthcare Services)
- Weslaco Nursing and Rehabilitation Center
- Weslaco Skatepark
- South Texas College Mid Valley Campus
- Frontera Audubon Nature Center
- Mayor Pablo Peña Park
- Kapal Industries

REVITALIZATION GOALS AND OBJECTIVES

The Southeast Community Revitalization Plan has a variety of goals and objectives organized into six major improvement areas: Economic Development, Public Safety, Street Improvements and Mobility, Schools, Housing, and Social and Recreational Facilities. Collectively, these goals summarize the needs of the community and the revitalization efforts already underway in the area while providing a vision for the future based on the problems facing the area.

The goals, objectives, and improvements included in this plan and discussed in detail below should be incorporated into the community within the next ten years and have historically been funded through the City's general fund, City bond programs, the Weslaco ISD bond programs, the Texas Department of Transportation (TxDOT), and investments from other private entities. Funding for infrastructure and other improvement projects in the area is based on the concentration of projects and programs already completed in the Southeast Community. This funding is expected to continue until all of the planned improvements are completed and the goals have been accomplished or initiated.

- 1. Economic Development** – The overarching economic development goal is to create an economically viable community through a well-trained workforce with safe, attractive corridors that have a diverse mix of businesses. The corridors and the transportation network of the Southeast Community would benefit from an investment of new businesses and a redesign of roadways to reduce traffic congestion and make streets more pedestrian and bicycle friendly, which will increase consumer spending and sales tax revenues. Improving pedestrian linkages and enhancing streetscapes will encourage patronage of businesses within the Southeast Community. It is also important to encourage sustainability, resiliency, and continuity of economic development programs through secure funding

sources. Cooperation between businesses, community organizations, and property owners is also encouraged to enhance economic viability.

2. Public Safety – The underlying public safety goal is to create a community that is safe and clean for all residents. Specifically, the public safety goals for the area includes increasing the presence and quality of police protection through shorter response times and improved customer service, eliminating illegal dumping of refuse materials, creating safer streets by reducing speeding on residential streets, installing additional traffic signals that are synchronized and well-maintained, and installing low-energy and/or solar-powered lighting along roadways and in public spaces to improve night driving and reduce the potential for criminal activity. Some goals that will indirectly improve public safety within the Southeast Community are addressed in other sections of this plan, such as goals related to economic development, housing, transportation and infrastructure, and community facilities.



*View at the intersection of East 18th Street and S. Bridge Ave.
Looking East*

- 3. Street Improvements and Mobility –** The street improvement and mobility goals are to enhance the aesthetics and service level of road infrastructure in the Southeast Community through improvement to current systems so that transportation networks for all modes of transportation function safely and efficiently. This can be accomplished by incorporating street design with improved curb cuts, new street markings, and drainage enhancements. Investing in street improvements that will make the area more attractive and improve mobility is always a worthwhile investment.
- 4. Schools –** Education is at the heart of any community. Therefore, it is critical that the City and the Weslaco Independent School District continue to invest and upgrade school facilities and programs in the Southeast Community to provide students with the best possible educational opportunities. Weslaco ISD has been investing in facility upgrades for years, but it is important to continue and even increase these investments. Another school improvement goal is to improve the high school graduation rates. According to the U.S. Census Bureau, seventy-one percent (71%) of the population is a high school graduate or higher, however, of the population twenty-five years and over nineteen percent (19.2%) has less than a 9th grade educational attainment. Education is a key determining factor in an individual's earning potential over time, so it is important to emphasize the need to improve these metrics.

5. **Housing** – The long-term housing goal is to have a well-maintained community with a diverse housing supply that meets the needs of current and future residents through all stages of life. The City should encourage the development and/or rehabilitation of diverse housing options near schools for families with school age children, promote the development of affordable housing and preserve existing affordable housing units for lower income community members. The community should work to increase the diversity of housing for young adults and seniors, encourage home ownership, promote programs that aid residents in their home ownership goals, and identify owners of properties that are habitually in disrepair and hold them accountable for required maintenance. Several homes and apartments in the area have fallen into disrepair as fencing needs to be replaced, roofs and siding have deteriorated and need replacing, and trees are dangerously close to power lines. 2017 census data indicates there are 1,490 vacant homes in the Southeast Revitalization Area. High housing vacancy can lead to lower property values and represents a loss in property tax revenue for the City. Residents want to ensure that housing meets the needs of the community, it is decent, clean, and safe, and is built to enhance the community’s overall image, therefore it is critical to improve housing conditions and options within the Southeast Community.

6. **Social and Recreational Facilities** – Social and recreational facilities are important community assets that provide a variety of benefits for residents. Parks and community facilities that are well-maintained assist with improving physical and mental health, as well as providing space for the public to congregate and participate in social events. The social and recreational goals of this plan are to enhance existing park facilities to include additional playground equipment and seating areas that are ADA compliant, to build a new community center that provides youth and adult education classes on a regular basis to help community members develop new skills and achieve personal goals. It is critical for the City to work in an ongoing partnership with residents to identify new opportunities for social and recreational activity. New recreational areas such as dog parks, hiking/biking trails, fixed exercise equipment, covered seating areas, etc. will also help to improve overall health in the community.

COMPLETED COMMUNITY AND ECONOMIC DEVELOPMENT IMPROVEMENT PROJECTS AND PROGRAMS

The community development projects and programs listed below represent completed projects located within the Southeast Community Revitalization Area. These projects have been implemented to assist with revitalizing the area. The improvement projects listed have been funded through a variety of organizations interested in helping the area thrive and have been working to improve conditions for more than ten years. **The total investment in the area generated from these projects and programs is over \$19 million.** See **EXHIBIT 3** for a map of project locations.

- 1. Project Name:** Knapp Medical Center Improvements
Description: After Knapp MC was acquired by Prime Healthcare in 2013, the organization invested \$10 million in facility improvements.
Funding Amount: \$10 million
Funding Source: Prime Healthcare Services
- 2. Project Name:** Weslaco Independent School District (WISD) Facility Improvements
Description: Electrical upgrades and parking lot lighting at Margo Elementary
Funding Amount: \$466,400
Funding Source: WISD
- 3. Project Name:** Weslaco Independent School District (WISD) Facility Improvements
Description: Tile replacement at Margo Elementary and Weslaco East High School
Funding Amount: \$480,118
Funding Source: WISD
- 4. Project Name:** Weslaco Independent School District (WISD) Facility Improvements
Description: New fencing added at Margo Elementary, completed June 2018.
Funding Amount: \$463,251
Funding Source: WISD
- 5. Project Name:** Weslaco Independent School District (WISD) Facility Improvements
Description: Roofing Improvements to Cuellar Middle School gym, completed August 2018.
Funding Amount: \$2,215,896
Funding Source: WISD
- 6. Project Name:** Weslaco Independent School District (WISD) Facility Improvements
Description: Weslaco East High School New Band Hall, completed March 2019
Funding Amount: \$6 million
Funding Source: WISD

PLANNED COMMUNITY AND ECONOMIC DEVELOPMENT IMPROVEMENT PROJECTS

In addition to the completed projects listed above, the following improvements are underway or planned for the revitalization area and are expected to be completed in the next three to five years. Over \$44 million has been approved for improvements planned in the revitalization area.

- 7. Project Name:** Drainage Bond
Description: Drainage capital improvement bond approved by voters in May 2019.
Funding Amount: \$10 million
Funding Source: City of Weslaco
- 8. Project Name:** Kapal Industries warehouse expansion
Description: Kapal Industries, a cabinet manufacturing company recently moved their warehouse operations to Weslaco at 508 S. Nevada Ave. The new facility is expected to bring 30 new jobs to the City by 2020.
Funding Amount: Unavailable
Funding Source: Private
- 9. Project Name:** Road Improvements on S. Bridge Ave.
Description: Widening one mile of S. Bridge Avenue from Pike Blvd. to 10th Street.
Funding Amount: \$3,976,377
Funding Source: Texas Department of Transportation (TxDOT)
- 10. Project Name:** Road Improvements on Business 83
Description: General road improvements, including improved drainage, pavement markings, and signage along a 14-mile stretch of U.S. Business 83 from FM 1426 to Mercedes
Funding Amount: \$1,090,303
Funding Source: Texas Department of Transportation (TxDOT)
- 11. Project Name:** Road Improvements on FM 1015 (S. International Blvd.)
Description: Substantial road construction to include widening the road and adding new lanes and shoulders along a 4-mile stretch of FM 1015.
Funding Amount: \$29,750,000
Funding Source: Texas Department of Transportation (TxDOT)

PLAN IMPLEMENTATION

The success of the Southeast Community Revitalization plan is dependent upon the City's ability to create a coalition of stakeholders and organize a successful implementation strategy. Southeast community residents and City leaders will need to work together toward achieving the goals and objectives that are outlined in this revitalization plan. The City of Weslaco plans to organize a core group of dedicated stakeholders, a "Plan Implementation Team", that will meet on a regular basis and is charged with establishing specific action items that will lead to the implementation of the community's goals and objectives.

The Plan Implementation Team should:

1. Organize members into committees and sub-committees as needed to oversee implementation of major plan topics.
2. The team should provide outreach to increase community participation and attendance at public meetings and to establish partnerships that will aid in the implementation of the plan's goals.
3. The team should also be responsible for ensuring reliable and timely implementation of the plan by prioritizing objectives and routinely monitoring plan progress.

MAPS
EXHIBIT 1: REVITALIZATION AREA



EXHIBIT 2: REVITALIZATION AREA CENSUS TRACT MAP



EXHIBIT 3: MAP OF COMPLETED AND PLANNED IMPROVEMENT PROJECTS

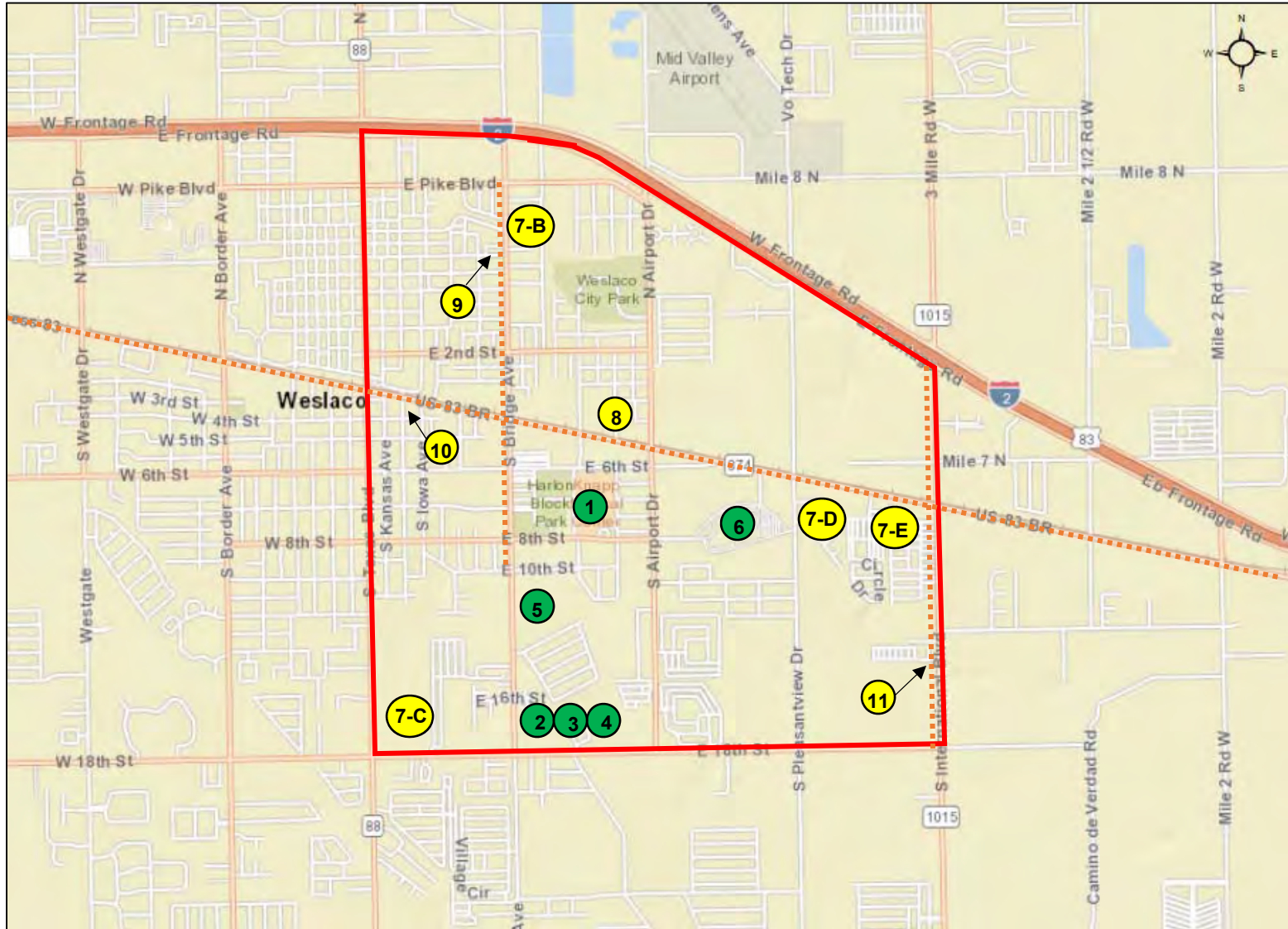


EXHIBIT 4: LIST OF COMPLETED AND PLANNED IMPROVEMENT PROJECTS

COMPLETED PROJECTS

FUNDING AMT.

1	Knapp Medical Center Improvements	\$10,000,000
2	Weslaco ISD Facility Improvements #1 (Lighting)	\$466,400
3	Weslaco ISD Facility Improvements #2 (Tile)	\$480,118
4	Weslaco ISD Facility Improvements #3 (Fencing)	\$463,251
5	Weslaco ISD Facility Improvements #3 (Roofing)	\$2,215,896
6	Weslaco ISD Facility Improvements #4 (New Band Hall)	\$6,000,000

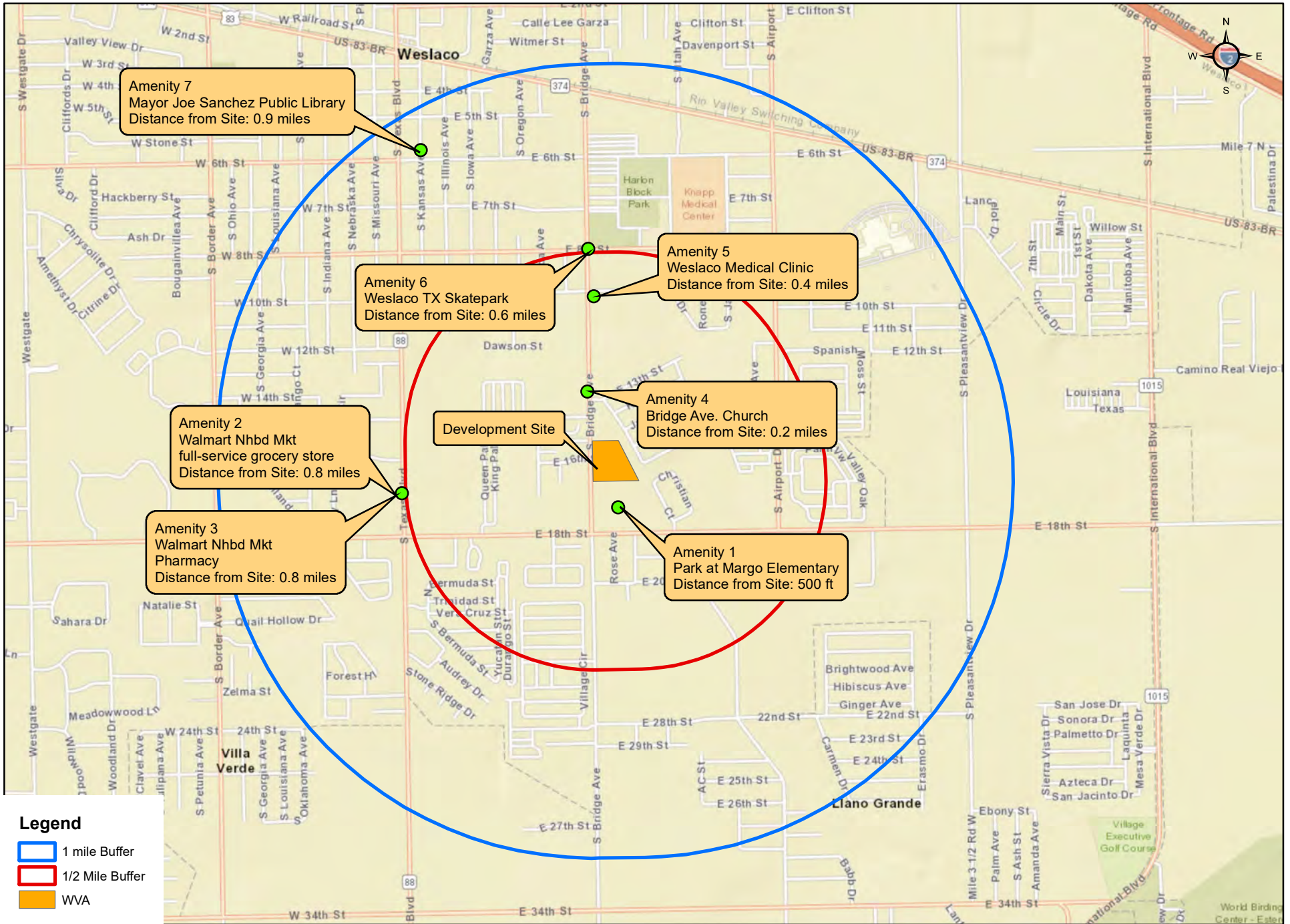
PLANNED PROJECTS

FUNDING AMT.

7	Drainage Bond Project (locations B, C, D, E)	\$10,000,000
8	Kapal Industries Warehouse Expansion	Unavailable
9	TxDOT Project #1 (S. Bridge Ave. Improvements)	\$3,976,377
10	TxDOT Project #2 (Business 83 Improvements)	\$1,090,303
11	TxDOT Project #3 (FM 1015 Improvements)	\$29,750,000

Map showing the Development Site, location of and distance to the amenities, and evidence that the amenity meets all requirements of the rule

Weslaco Village Apartments CRP Amenities Map



Legend

- 1 mile Buffer
- 1/2 Mile Buffer
- WVA



Weslaco Village
Apartments

S Bridge Ave

S Bridge Ave

S Bridge Ave

om Cir

S Cherry

Public Park with
Playground at
adjacent school
500 ft from Site



Search



Weslaco

Neighborhood Market #6159
1600 S Texas Blvd, Weslaco, TX 78596

Open until 12 am

[Get directions](#)

[956-854-2566](tel:956-854-2566)

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Find Another Store

Store Overview | Find Items | **Weekly Ad** | News & Events | Coupons | Find Another Store

Stores / Texas / Weslaco / Weslaco Neighborhood Market / Weekly Ad

See What's In Store | Valid Jan 12 - Jan 30 | Refine by | Category



There are no other currently available weekly ads.

Walmart Neighborhood Market

- Select Two Good Yogurts 5.3 oz. **\$1.24** each
- Bellhouse Farms Fruit Smoothie - Green Goodness 52 FL oz. **\$4.98**
- Great Value Cream Cheese Spread 8 oz. **\$2.36**
- Dave's Killer Bread **\$4.56**

Healthy picks at low prices

- Butterball Turkey Sausage 12 oz. **\$2.28**

\$6.98

Birch Benders Keto Pancake & Waffle Mix 10 oz. Paleo 17 oz. \$4.88

\$4.98

Hillshire Farms Oven Roasted Turkey 10 oz.

- Dave's Killer Bread 20.5 oz. **\$4.56**
- Sargento Shred Pepper Jack Cheese 5.9 oz. **\$2.88**

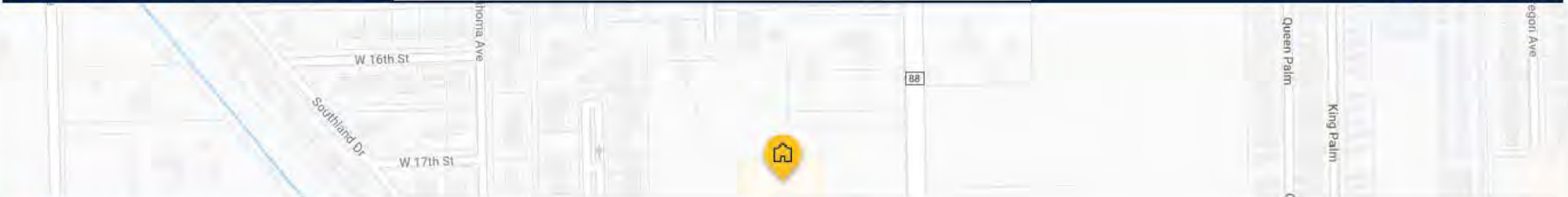
\$1.38 each

Dippin' Stix Apples or Carrots with Dip 2.75 oz.

\$2.68

Great Value Instant Mashed Potatoes 26.7 oz.

Great Value Green Beans



Weslaco
Neighborhood Market #6159
1600 S Texas Blvd, Weslaco, TX 78596

Open until 12 am
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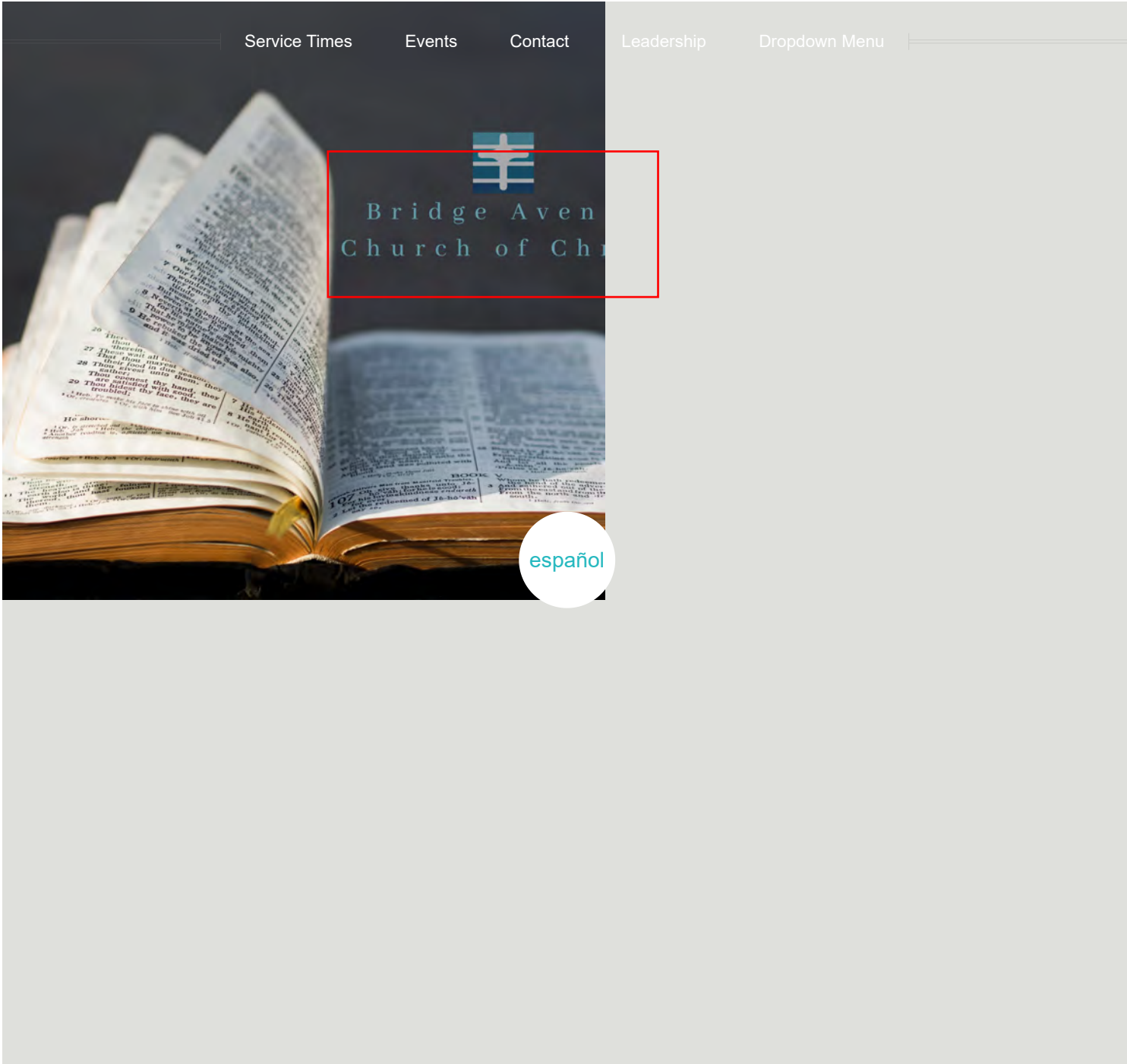
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Services, Hours & Contact Info

Main Store	Open until 12 am Mon - Sun 6 am - 12 am	956-854-2566
Pharmacy	Open until 9 pm Mon - Fri 9 am - 9 pm Sat 9 am - 7 pm Sun 10 am - 6 pm	956-854-2573 Refill a prescription \$4 Prescriptions
Pickup	Open until 8 pm	

[See All](#)



Updated Announcement Concerning Church Services Sunday

English Worship Service 9 a.m.

Spanish Worship Service 11 a.m.

Wednesday Evening Service 7 p.m.

Mask Required



BULLETIN 1/24/2021

BULETIN ESPAÑOL 1/24/2021

WATCH VIDEOS

LISTEN TO SERMONS

ONLINE GIVING



Confraternidad

January 7 2022

Spanish Event



Youth Lock-In

March 19 2021

Ages 12 & up



Ladies' Day

March 2021

Date TBA



"WHAT MUST I DO TO BE SAVED?"

Our goal at the Bridge Avenue church of Christ is for all of us to go to heaven and make sure we do all we can to get you there too. You can know today, without a doubt, that when the time comes you too will be with God. We would love to study with you to learn what the Bible says about this. Give us a call!

God's Plan of Salvation

HEAR:

So then faith comes by hearing, and hearing by the word of God. Romans 10:17

BELIEVE:

But these are written that you may believe that Jesus is the Christ, the Son of God, and that believing you may have life in His name. John 20:31

REPENT:

Truly, these times of ignorance God overlooked, but now commands all men everywhere to repent. Acts 17:30

CONFESS:

Therefore whoever confesses Me before men, him I will also confess before My Father who is in heaven. Matthew 10:32

BE BAPTIZED:

...Repent, and let every one of you be baptized in the name of Jesus Christ for the remission of sins; and you shall receive the gift of the Holy Spirit.

Acts 2:38

REMAIN FAITHFUL:

...Be faithful until death, and I will give you the crown of life. Revelation 2:10

Would you like to have a Bible study?

Please call the church office at 956-968-7457 to set up an appointment.

Church Leaders and Servants



Vigil Aniceto-Deacon



Matt McCain-Deacon



Randy Summers-Deacon



Hugo Camacho-Minister

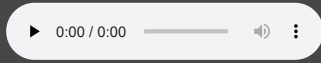


Cary Gillis-Minister



Lukewarm Christianity

March 24, 2019



Examine, Decide, Commit, Grow

May 20, 2020

There's No Substitute

August 23, 2020

Weigh Them In God's Balance

August 30, 2020

The Power of Vulnerability

March 31, 2019

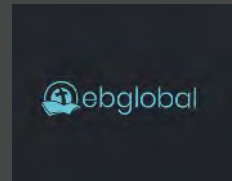


The Longsuffering of our Lord Is Salvation

September 20, 2020

Do You Love Me?

September 13, 2020



Contact

E-Mail

bridgeavenuechurchofchrist@yahoo.com

Address

Bridge Avenue church of Christ

1220 S. Bridge Ave.

P.O. Box 501

Weslaco, TX 78596

Office Phone: 956.968.7457

Map



TOP

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000001851

SERVICES

One of the first fully integrated clinics in the Rio Grande Valley using electronic Health Records.

INTERNAL MEDICINE SERVICES

DIABETES

According to the Diabetes Association, 25.8 million people in the United States, or 8.3% of the population, have diabetes. At our clinics, our competent and experienced medical providers will assist you in staying one step ahead of your diabetes with the most up-to-date treatment interventions. Treatment, monitoring, and coping strategies make up the focus of our care. We offer group education classes teaching the management and coping of diabetes.

CARDIOVASCULAR

The biggest causes of deaths are related to cardiovascular diseases. From arrhythmia, cholesterol heart attacks, diabetes and stroke, our medical providers focus on the management of your cardiovascular condition. The American Heart Association recommends well-balanced nutrition, physical activity, weight and stress management and no smoking as key contributors to a healthy cardiovascular system. Our medical providers focus on your specific needs, work with you all along the process, and provide you with the treatment your cardiovascular condition needs.

PULMONARY

The American Lung Association reports that “the average adult takes 15 to 20 breaths a minute – over 20,000 breaths a day”. Your nose, throat, windpipe (trachea) and lungs make up your respiratory system. All of these organs bring air into the body when you breathe. Keeping your lungs healthy is an important part of an overall healthy lifestyle. At our practice, we help you manage your pulmonary condition.

WEIGHT CONTROL PROGRAMS

Managing weight is central to other medical conditions like diabetes and cardiovascular diseases. At our practice we pride ourselves in providing the most up-to-date information and resources on weight management. As our patient, we commit to assisting you through information and treatment.

LABORATORY SERVICES





As a convenience to our patients, our clinics are equipped to conduct most laboratory analysis. This saves our patients time. Our medical providers are able to obtain immediate information to assist the treatment of your medical condition.



PJP VALLEY HEALTH

- [Home \(index.html\)](#)
- [Quality Improvement](#)
- [Services](#)
- [About Us](#)
- [Patient Resources](#)
- [Contact Us](#)

WESLACO CLINIC

-  906 South Bridge Ave, Weslaco, Texas 78596
-  www.pjpvalleyhealth.com
-  (956) 447-8600
-  (956) 447-0332
- Fax: (956) 447-0335

MERCEDES CLINIC

-  330 N. Ohio Ave, Mercedes, TX 78570
-  www.pjpvalleyhealth.com
-  (956) 565-1561
- Fax: (956) 565-5373

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At both medical clinics, our internal medicine services include the treatment and management of diabetes, cardiovascular conditions, and pulmonary conditions, as well as weight control programs and laboratory services. Our goal is to be your trusted primary care physicians. Within reason and appropriate medical wisdom, we will strive to manage your medical conditions to your satisfaction and meet your medical needs. We will take time with you and provide you with personalized attention.



PARKS & REC

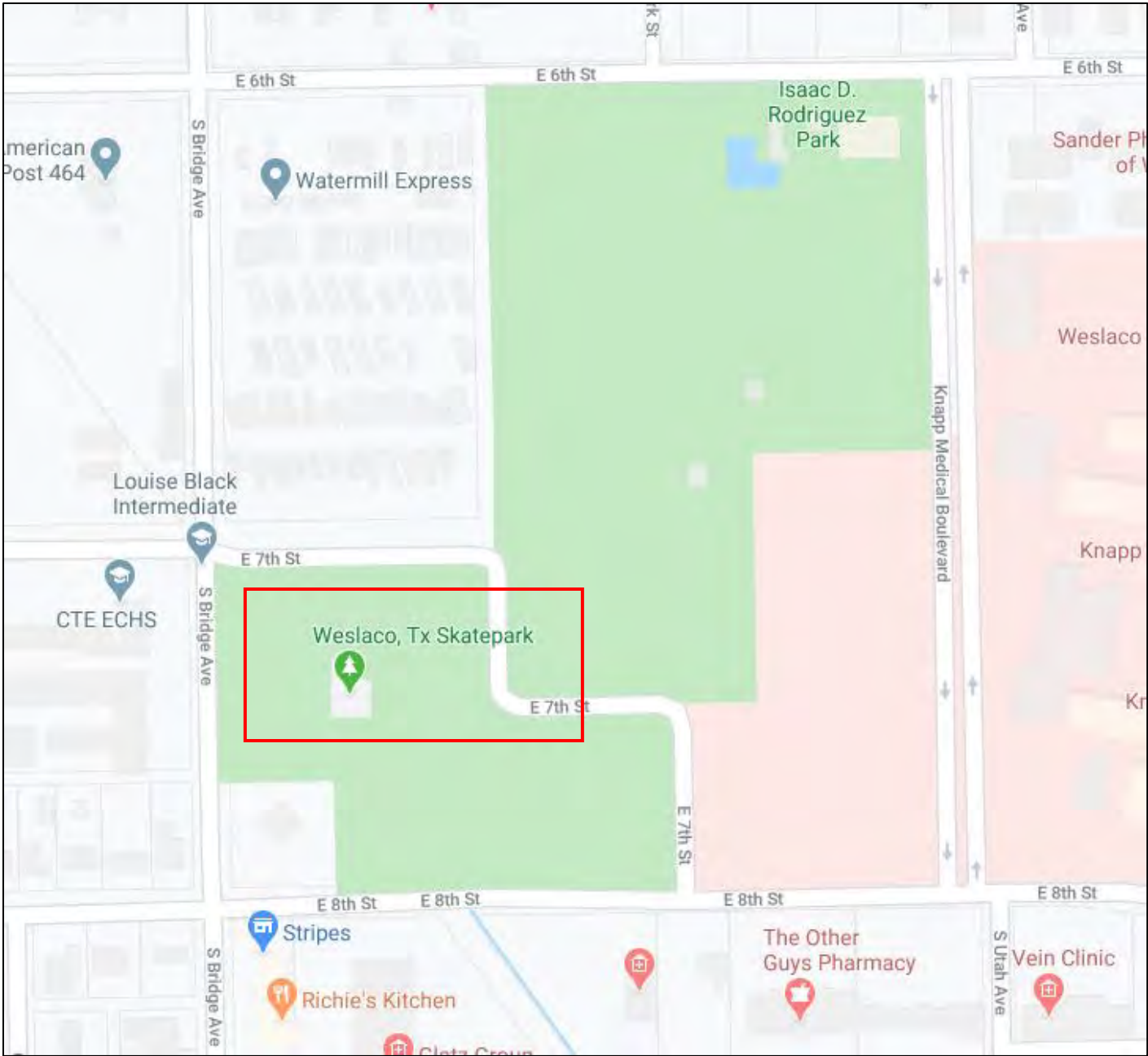
DEPARTMENT DESCRIPTION

In partnership with our citizens, the Parks and Recreation Department is dedicated to enrich the quality of life for present and future generations of Weslaco residents.



City Parks with Amenities - Map with Park Locations

- **Harlon Block Sports Complex** - 1020 West 18th Street
 - 3 Softball Fields (2,3,4), 1 Baseball Field, 2 Basketball Courts, Workout/weight station, Walking Trail (length 1.1 miles), 2 Pavilions (34,38), Shelters, Dog Park, Open Space for multiple events.
- **Mayor Pablo Peña Park (City Park)** - 300 North Airport Drive
 - 3 Softball Fields (1, 2, 3), 9 Tennis Courts, Workout/weight station, Paved Walking Trail (length .9 miles), Pavilions (23, 24, 25, 26), 3 Soccer fields, Open Space for multiple events.
- **Isaac Rodriguez Park** - 1200 East 6th Street
 - Skate Park, 2 Baseball Fields, Playground, Weslaco Service Center
- **Gibson Park** - 301 South Border Avenue
 - Valley Nature Center, Swimming Pool, Pavilions (2, 5)
- **La Plazita Park** - 310 North Kansas Avenue
 - Shelters, Pavilion, Playground, Basketball Court





Contact Us

Library Hours

Monday: 8am - 8pm
Tuesday: 8am - 8pm
Wednesday: 8am - 8pm
Thursday: 8am - 8pm
Friday: 8am - 5pm
Saturday: 11am - 5pm

Call Us

(956) 968-4533

Address

Mayor Joe V. Sanchez Public Library
525 S. Kansas Ave, Weslaco, TX 78596

Get Directions

Send a Message

First Name

Last Name

Have a Question?

Our Librarians can help find any information you're looking for.

Ask a Librarian

Need a book?

Our Librarians can help find any book you're looking for.

Request a Book

Porter Doss Memorial

Library Building

Open to the public from
Monday through Friday 3pm to 5pm

Learn More

Mayor Eugene A. Braught

Memorial Theater

Our theatre is located adjacent to the MJVS Library. Make it out to a show!

Learn More See Theater Events

Directory

Get to know our staff

Email Address

Phone Number



BOOKS, MOVIES,
MORE

EVENTS

YOUTH

EDUCATION &
RESEARCH

SERVICES

CONTACT



message

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City of Weslaco

General information and services available from Weslaco local government

Employee Email Access



Home

About MJVS Public Library

MJVS Public Library Hours

Porter Doss Memorial Library Building Hours

Events

Support the Library

Monday-Thursday: 8am to 8pm

Monday-Friday: 3pm to 5pm

Youth

Volunteer

Friday: 8am to 5pm

Education & Research

Saturday: 11am to 5pm

Services

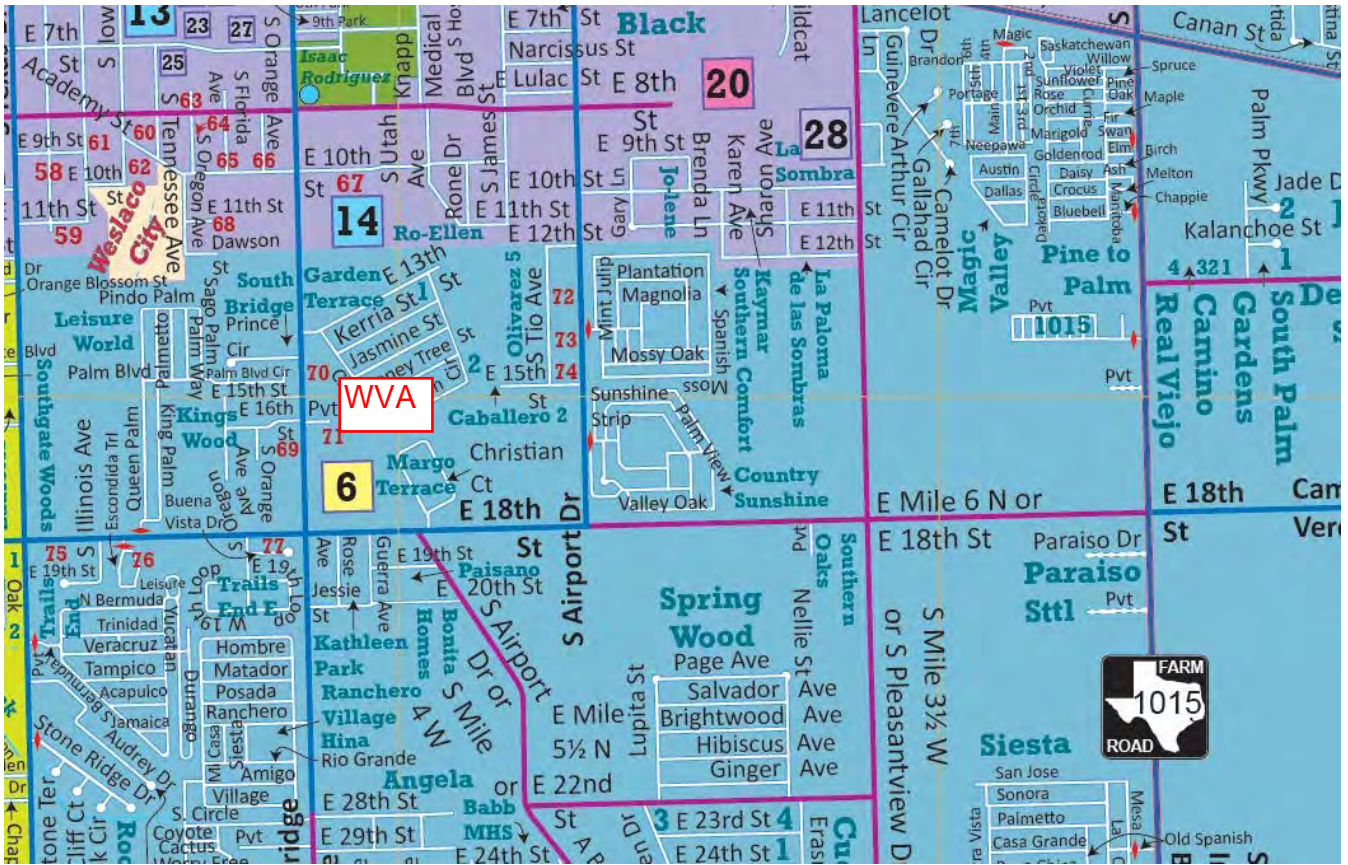
Contact

525 S. Kansas Ave. Weslaco, TX 78596

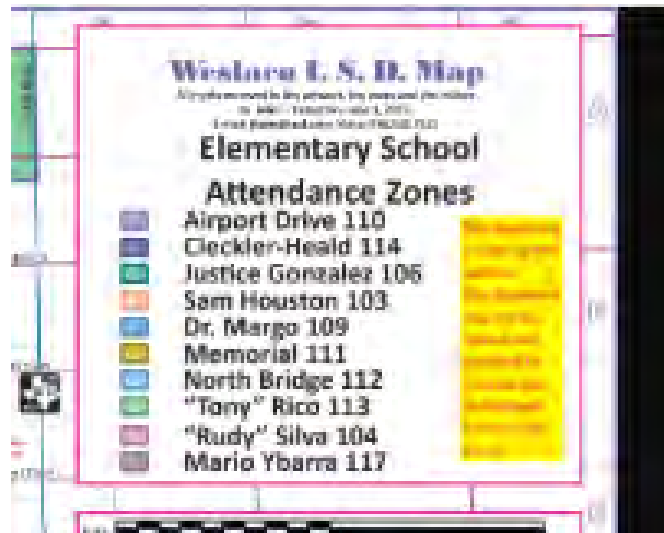
Phone: (956) 968-4533

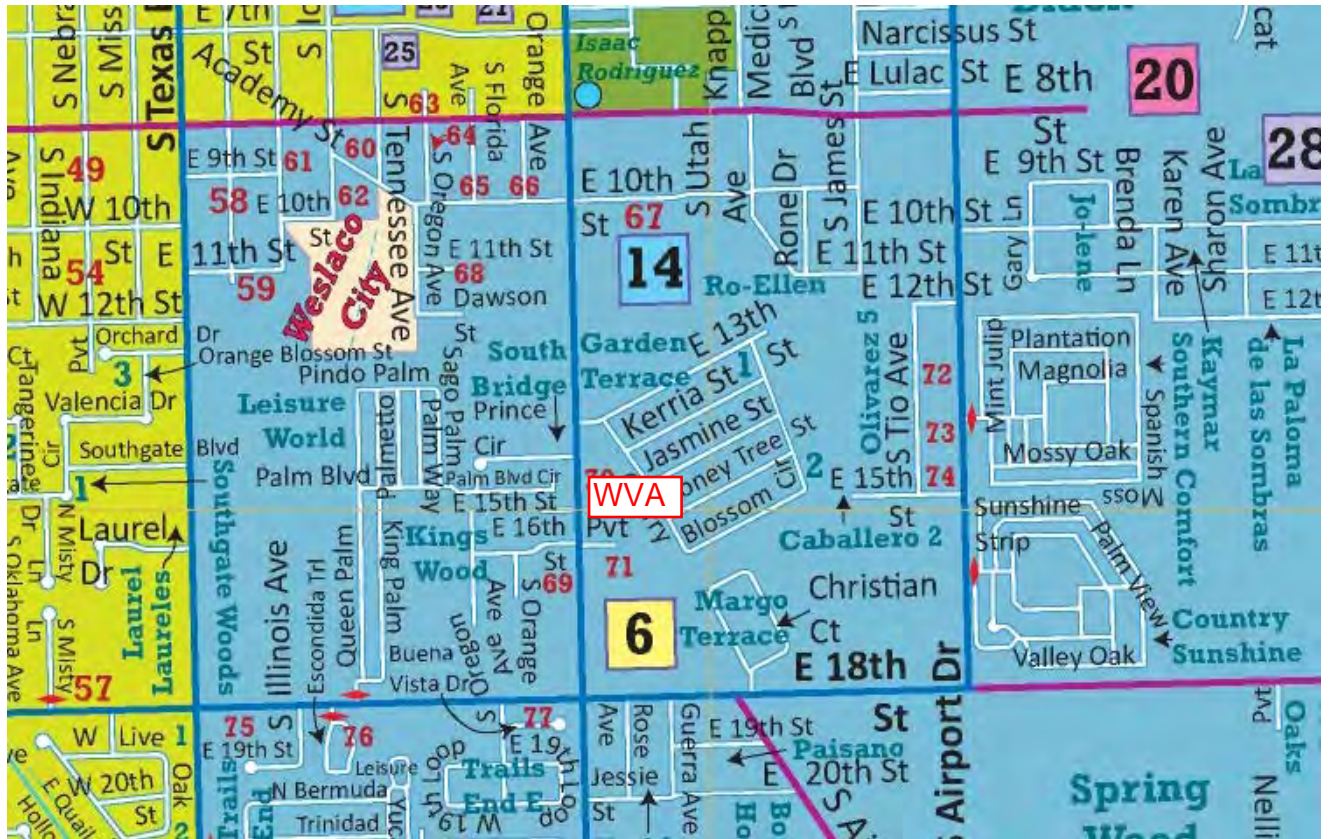
Fax: (956) 969-2665



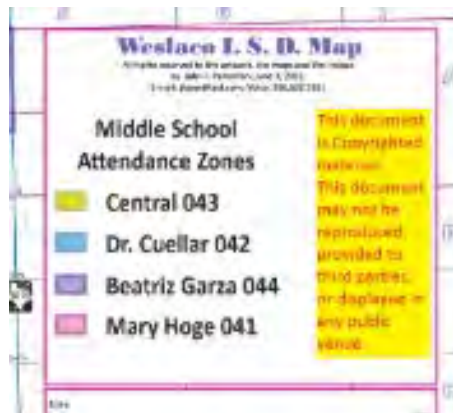


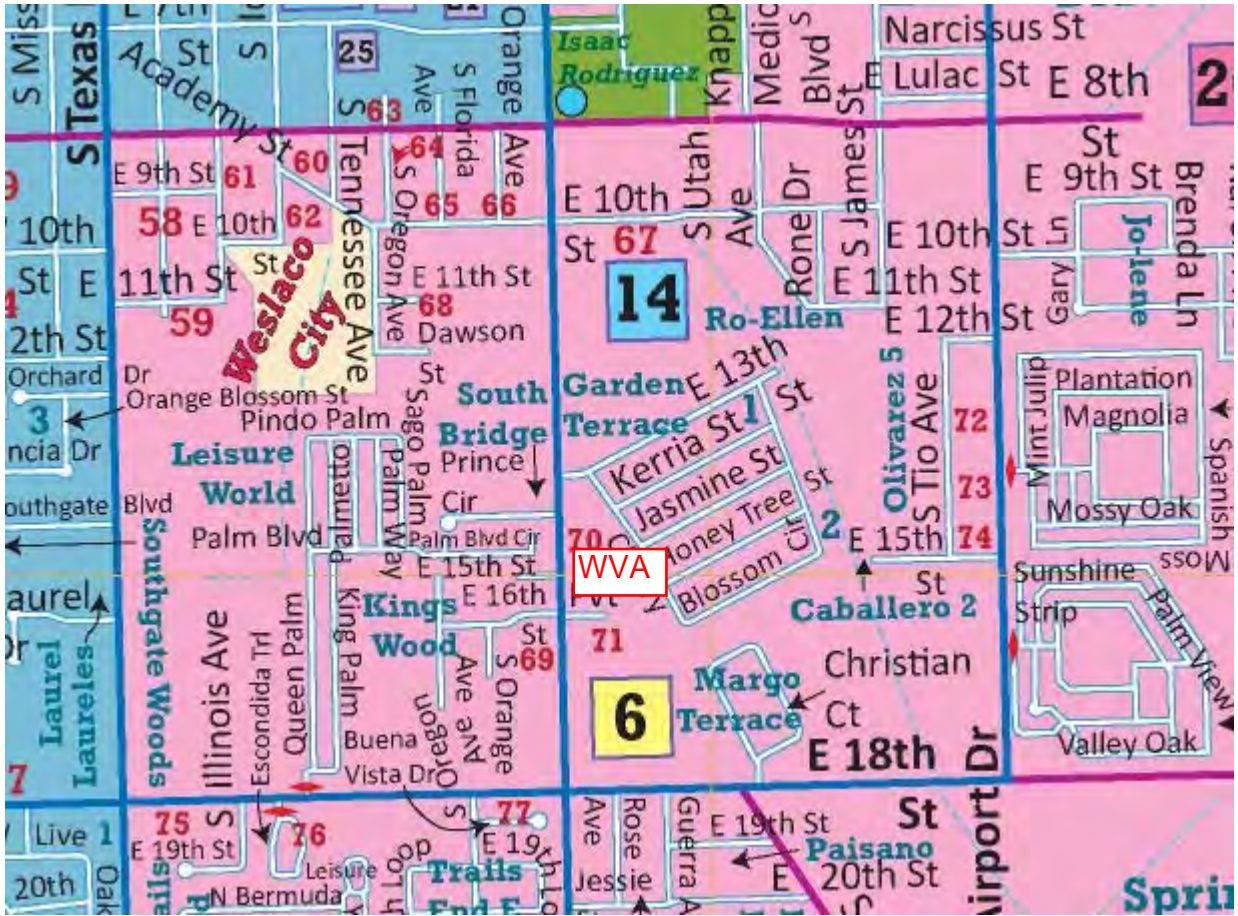
WVA = Weslaco Village Apartments



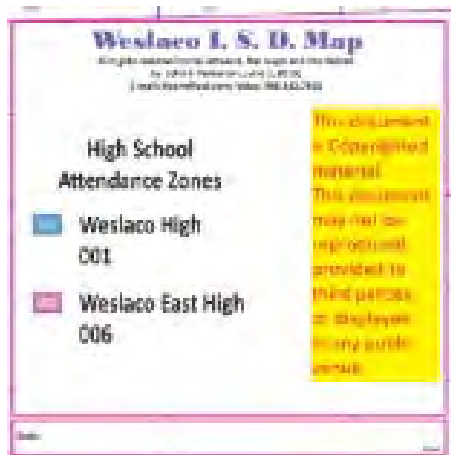


WVA = Weslaco Village Apartments





WVA = Weslaco Village Apartments



Texas Education Agency 2019 Accountability Ratings Overall Summary DR R E MARGO EL (108913109) - WESLACO ISD

Accountability Rating Summary

	Component Score	Scaled Score	Rating
Overall		89	B
Student Achievement		80	B
STAAR Performance	53	80	
College, Career and Military Readiness			
Graduation Rate			
School Progress		89	B
Academic Growth	75	80	B
Relative Performance (Eco Dis: 89.1%)	53	89	B
Closing the Gaps	94	89	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	Not Earned
Mathematics	Not Earned
Science	Earned
Social Studies	Not Eligible
Comparative Academic Growth	Not Earned
Postsecondary Readiness	Not Earned
Comparative Closing the Gaps	Not Earned

Texas Education Agency
2019 Accountability Ratings Overall Summary
ARMANDO CUELLAR MIDDLE (108913042) - WESLACO ISD

Accountability Rating Summary

	Component Score	Scaled Score	Rating
Overall		80	B
Student Achievement		76	C
STAAR Performance	45	76	
College, Career and Military Readiness			
Graduation Rate			
School Progress		87	B
Academic Growth	62	60	D
Relative Performance (Eco Dis: 85.0%)	45	87	B
Closing the Gaps	15	62	D

Identification of Schools for Improvement

This campus is identified for targeted support and improvement.

Distinction Designations

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

Texas Education Agency 2019 Accountability Ratings Overall Summary WESLACO EAST H S (108913006) - WESLACO ISD

Accountability Rating Summary

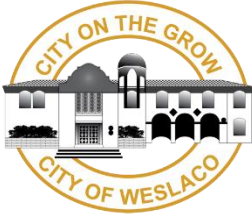
	Component Score	Scaled Score	Rating
Overall		82	B
Student Achievement		80	B
STAAR Performance	39	67	
College, Career and Military Readiness	68	92	
Graduation Rate	94.2	80	
School Progress		85	B
Academic Growth	64	72	C
Relative Performance (Eco Dis: 88.8%)	54	85	B
Closing the Gaps	55	76	C

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



**MINUTES
REGULAR MEETING
OF THE WESLACO CITY COMMISSION
TUESDAY, FEBRUARY 18, 2020**

On Tuesday, February 18, 2020, at 5:31 p.m. the City Commission of the City of Weslaco, Texas convened in a Regular Meeting at City Hall in the Legislative Chamber, located at 255 South Kansas Avenue with the following members present:

PRESENT:	Mayor	David Suarez
	Mayor Pro Tem	Letty Lopez
	Commissioner	Greg Kerr
	Commissioner	Leo Muñoz
	Commissioner	Adrian Farias
ABSENT:	Commissioner	J.P. Rodriguez
STAFF:	City Manager	Mike Perez
	City Secretary	Myra L. Ayala Garza
	City Attorney	Juan E. Gonzalez

Also present: Andrew Munoz, Asst. City Manager/Airport Director; Vidal Roman, Finance Director, Omar Rodriguez, Parks and Recreation Director, Jose Martin Vela, Information Technology Director; Robert Lopez, Asst. Police Chief, Antonio Lopez, Fire Chief, Veronica Ramirez, HR Director; Pete Garcia, Public Works Director; Arnold Becho, Library Director; Rebekah de la Fuente, Planning and Code Enforcement Director, Rosa Huerta, Court Coordinator, Molly Vallejo and other staff members and citizens.

I. CALL TO ORDER

A. Certification of Public Notice.

Mayor Suarez called the meeting to order and certified the public notice of the meeting as properly posted Friday, February 14, 2020.

B. Invocation.

Deacon Sergio Gonzalez, St. Pius Catholic Church, led the invocation.

C. Pledge of Allegiance.

Mayor Suarez led the Pledge of Allegiance and Texas Flag.

D. Mayoral Recognition.

None.

D. Roll Call.

Myra L. Ayala, City Secretary, called the roll, noting at the time of roll call the absence of Commissioner Rodriguez and a quorum present.

II. PUBLIC COMMENT

None.

III. PUBLIC HEARING

Mayor Pro Tem Lopez, seconded by Commissioner Kerr, moved to open the public hearing concurrently at 5:35 p.m. The motion carried unanimously; Mayor Suarez was present and voting.

A. To solicit input on the adoption of the proposed City of Weslaco Southeast Community Revitalization Plan described as approximately four and one half (4.5) square mile area located Southeast of downtown Weslaco is bounded by IH-2/U.S. 83 Expressway to the North, S. Texas Blvd. to the West, FM 1015 or S. International Blvd. to the East, and W. 18th Street to the South.

There were no comments.

Mayor Pro Tem Lopez, seconded by Commissioner Pedraza moved to close the public hearing at 5:43 p.m. The motion carried unanimously; Mayor Suarez was present and voting.

IV. CONSENT AGENDA

The following items are of a routine or administrative nature. The City Commission has been furnished with background and support material on each item, and/or it had been discussed at a previous meeting. All items will be acted upon by one vote without being discussed separately unless requested by one commission member, in which event the item or items will immediately be withdrawn for individual consideration in its normal sequence after the items not requiring separate discussion have been acted upon. The remaining items will be adopted by one vote. Possible action.

A. Approval of the request from the Weslaco Area Chamber of Commerce to hold the 31st Annual Texas Onion Fest on Saturday, March 28, 2020 at the Mayor Pablo G. Peña City Park, to sell beer during the event, to place a banner promoting the event at the intersection of Texas and Los Torritos St. and Westgate and Frontage for two weeks prior to the event, to waive appropriate fees from ordinances associated with event and authorize the Mayor to execute any related documents.

B. Approval of Memorandum of Understanding between The American Red Cross and City of Weslaco in preparing for, responding to, and recovering from emergencies and disasters and authorize the Mayor to execute any related documents.

C. Approval of a Memorandum of Understanding (MOU) with the City of South Padre Island and City of Weslaco for Weslaco Fire Department AmBus operations during Spring Break 2020 at a cost of \$10,500 and authorize the Mayor to execute any related documents.

D. Approval of a one-year renewal Advanced Education Consultant Agreement between the City of Weslaco and Armando A. Martinez to advance the EMS Training and Continuing Education of the Weslaco Fire Department EMS Division and authorize the Mayor to execute any related documents.

Antonio Lopez, Fire Chief, stated that Armando Martinez conducts the EMS training and Continuing Education for the Fire Department EMS Division.

Commissioner Kerr, second by Commissioner Pedraza, moved to approve consent agenda item D as presented. The motion carried unanimously; Mayor Suarez was present and voting.

E. Approval of a Memorandum of Understanding between U.S. Immigration and Customs Enforcement and Weslaco Police Department for assistance with Homeland Security Investigations and authorize the Mayor to execute any related documents.

F. Authorization to purchase 3 CID unmarked 2020 Chevy Malibus from Lake Country Chevrolet with a GoodBuy Purchasing Program contract and 2 Patrol marked 2020 Chevy Tahoe police units from Caldwell Country Chevrolet through BuyBoard BID contract in an amount not to exceed \$174,570 and authorize the Mayor to execute any related documents.

Commissioner Farias abstained from discussion and vote.

Robert Lopez, Asst. Police Chief, is requesting to replace older units of three (3) CID cars and two (2) patrol units.

Commissioner Pedraza, second by Mayor Pro Tem Lopez, moved to approve consent agenda item F as presented. The motion was carried with Commissioner Farias abstaining; Mayor Suarez was present and voting.

G. Authorization to ratify Chief of Police Joel Rivera, PhD, signature on a Memorandum of Understanding (MOU) between Weslaco Police Department (WPD) and the Texas Department of Public Safety regarding License Plate Reader Information and authorize Mayor to execute any related documents.

H. Authorization to enter into an Interlocal Cooperation Act Agreement between the City of Weslaco Police Department and the Texas Department of Public Safety for the use of the Weslaco Police Department's Shooting Range for Training and authorize the Mayor to execute any related documents.

I. Authorization of Resolution 2020-08 authorizing the submission to the Office of the Governor's Local Border Security Program (LBSP) Grant application in an amount not to exceed \$160,000 with NO MATCH REQUIRED, authorize acceptance upon award and authorize the Mayor to execute any related documents.

J. Authorization of Resolution 2020-09 authorizing the submission to the Office of the Governor's Criminal Justice Program Grant application in an amount not to exceed \$150,000 with NO MATCH REQUIRED, authorize acceptance upon award and authorize the Mayor to execute any related documents.

K. Authorization of Resolution 2020-10 authorizing the submission to the Office of the Governor's General Victim Assistance Grant Program application in an amount not to exceed \$75,000 with 20% MATCH REQUIRED, authorize acceptance upon award and authorize the Mayor to execute any related documents.

L. Authorization of Resolution 2020-11 authorizing the submission to the Office of the Governor's Juvenile Justice and Truancy Prevention Grant Program application in an amount not to exceed \$80,000 with NO MATCH REQUIRED, authorize acceptance upon award and authorize the Mayor to execute any related documents.

M. Authorization of Resolution 2020-12 authorizing the submission to the Office of the Governor's Rifle-Resistant Body Armor Grant Program application in an amount not to exceed \$5,000 with NO MATCH REQUIRED, authorize acceptance upon award and authorize the Mayor to execute any related documents.

N. Authorization of Resolution 2020-13 authorizing the submission to the Office of the Governor's Texas Conversion to the National Incident-Based Reporting System (NIBRS) Grant application in an amount not to exceed \$500,000 with NO MATCH REQUIRED, authorize acceptance upon award and authorize the Mayor to execute any related documents.

O. Authorization of Resolution 2020-14 authorizing the submission to the Office of the Governor's Operation Stonegarden Grant application in an amount not to exceed \$230,000 with NO MATCH REQUIRED, authorize acceptance upon award and authorize the Mayor to execute any related documents.

Commissioner Kerr, seconded by Commissioner Pedraza, moved to approve consent agenda items A, B, C, E, G, H, I, J, K, L, M, N and O, withholding items D and F as presented. The motion carried unanimously; Mayor Suarez was present and voting.

V. APPOINTMENTS

A. Discussion and consideration to accept the resignation of Diana Fuentes Aguilar from the Weslaco Economic Development Corporation and approve Resolution 2020-15 appointing a member to an unexpired term and authorize the Mayor to execute any related documents. Possible action.

Commissioner Pedraza, seconded by Commissioner Kerr moved to approve the resignation of Diana Fuentes and approve Resolution 2020-15 appointing Patrick Gonzalez to the Weslaco EDC Board as presented. The motion carried unanimously; Mayor Suarez was present and voting

VI. OLD BUSINESS

A. Discussion and consideration to approve Proposal PSF20-013-00 from Raba Kistner Environmental, Inc. in the amount not to exceed \$190,800 for the four-year Landfill Post Closure Care Monitoring as stated on RFQ 2019-20-05 and authorize the Mayor to execute any related documents. Possible action. (This item was tabled on February 4, 2020)

Commissioner Kerr, seconded by Mayor Pro Tem Lopez, moved to remove the item from the table. The motion carried unanimously; Mayor Suarez was present and voting.

Olga Garza, Asst. Public Works Director, is requesting to approve a contractual 4-year Landfill Post Closure Care Monitoring with Raba Kistner.

Commissioner Kerr, seconded by Mayor Pro Tem Lopez, moved to approve Proposal PSF20-013-00 for four (4) year landfill Post Closure Care Monitoring with Raba Kistner Environmental as discussed. The motion carried unanimously; Mayor Suarez was present and voting.

VII. NEW BUSINESS

A. Discussion and consideration after public hearing to adopt the proposed City of Weslaco Southeast Community Revitalization Plan described as approximately four and one half (4.5) square mile area located Southeast of downtown Weslaco bounded by IH-2/U.S. 83 Expressway to the North, S. Texas Blvd. to the West, FM 1015 or S. International Blvd. to the East, and W. 18th Street to the South and authorize the Mayor to execute any related documents. Possible action.

Rebekah De La Fuente, Planning Director, reported that the proposed revitalization plan identifies economic development, affordable housing, transportation and mobility, infrastructure improvements, community facilities, and public safety. The proposed revitalization plan will assist the State funding application for the reconstruction of Weslaco Village Apartments.

Commissioner Pedraza, seconded by Mayor Pro Tem Lopez, moved to adopt the proposed City of Weslaco Southeast Community Revitalization Plan as presented. The motion carried unanimously; Mayor Suarez was present and voting.

B. Discussion and consideration to adopt Resolution 2020-16 authorizing the project known as Weslaco Village Apartments as a development that will contribute most significantly to the concerted revitalization efforts of the City of Weslaco- Southeast Community Revitalization Plan and authorize the Mayor to execute any related documents. Possible action.

Rebekah De La Fuente stated the proposed project is for reconstruction of Weslaco Village Apartments located at 1601 S. Bridge Avenue. The proposed resolution will assist them with the application and funding of the project. Staff is recommending approval.

Commissioner Kerr, seconded by Commissioner Pedraza, moved to adopt Resolution 2020-16 authorizing project known as Weslaco Village Apartments as presented. The motion carried unanimously; Mayor Suarez was present and voting.

C. Discussion and consideration to execute a Utility Easement between Auriel Investments and the City of Weslaco for the construction of a sanitary sewer line for the proposed Harbor Freight development and authorize the Mayor to execute any related documents.

Rebekah De La Fuente stated the proposed utility easement will be granted to the City from Weslaco Plaza Subdivision to allow an access point to extend sanitary sewer to the Harbor Freight

Development located on the west side of Weslaco Plaza Subdivision. Staff is recommending approval.

Commissioner Pedraza, seconded by Mayor Pro Tem Lopez, moved to approve Utility Easement between Auriel Investments and City of Weslaco for construction of sanitary sewer line as presented. The motion carried unanimously; Mayor Suarez was present and voting.

D. Discussion and authorization to combine Clean Sweep/Census Event on April 18, 2020. Possible action.

Joe Pedraza, Asst. Planning Director, stated staff is proposing to host a Clean Sweep and Census Day Event on April 18, 2020. The targeted area for Clean Sweep will be from Railroad to Pike Blvd. and Texas Blvd. to Border Avenue. South Texas College will be providing the staging and allow the City to use their computer room so that citizens can participate in the Census via internet.

Commissioner Pedraza, seconded by Mayor Pro Tem Lopez, moved to approve Clean Sweep/Census Event on April 18, 2020 as presented. The motion carried unanimously; Mayor Suarez was present and voting.

E. Discussion and consideration for the Final Plat for Harbor Freight Subdivision – A Tract of land containing 4.015 acres being a part or portion out of Farm Tract 137, Block 162, West & Adams Tract Subdivision, Hidalgo County, Texas. Approximately 726 ft. East of the intersection of Westgate Drive & U.S. Expressway 83 and authorize the Mayor to execute any related documents. Possible action.

Rebekah De La Fuente stated the proposed two (2) lot subdivision are inside the City of Weslaco city limits. This subdivision is being served with water by the City through an 8” waterline and sewer by City services through 10” sewer line. Staff is recommending approval of the Final Plat.

Commissioner Pedraza, seconded by Mayor Pro Tem Lopez, moved to approve Final Plat for Harbor Freight Subdivision as presented. The motion carried unanimously; Mayor Suarez was present and voting.

F. Discussion and consideration to approve a Professional Services Agreement with Montalvo Insurance Agency for Loss Control and Risk Management and authorize the Mayor to execute any related documents. Possible action.

Veronica Ramirez, HR Director, stated the professional services agreement is up for renewal for Loss Control and Risk Management. She presented two options: 1) to provide 160 hours of training for \$27,500 (current option) or 2) to provide 225 hours of training at \$36,000 to continue conducting additional trainings and audits to city departments.

Mr. Ramon Montalvo stated the additional 65 hours they are proposing would be to provide more on-site spot checks and continue training especially for the field workers and to comply with OSHA training guidelines. Danny Charles stated he’s noticed a tremendous change in employees following guidelines especially with their PPE/ safety equipment. He also emphasized continuous spot checks on employees and to be more proactive. The City has made tremendous improvements.

Commissioner Farias, seconded by Mayor Pro Tem Lopez, moved to approve a Professional Services Agreement with Montalvo Insurance Agency with Option #2 as presented. The motion carried unanimously; Mayor Suarez was present and voting.

G. Discussion and consideration on request from Inframark on proposed amendment letter for FY 2019-2020 budget to the Fourth Amendment to the Water and Wastewater System Operation and Maintenance Agreement and authorize the Mayor to execute any related documents. Possible action.

Commissioner Kerr, seconded by Mayor Pro Tem Lopez, moved to discuss in executive session the Fourth Amendment to the Water and Wastewater System Operation and Maintenance Agreement. The motion carried unanimously; Mayor Suarez was present and voting.

Juan E. Gonzalez, City Attorney, recommends accepting a Fourth Amendment to the contract for the Water and Wastewater System Operation and Maintenance Agreement as discussed in executive session.

Commissioner Kerr, seconded by Mayor Pro Tem Lopez, moved to approve the proposed FY 2019-2020 Budget to Fourth Amendment to the Water and Wastewater System Operation and Maintenance Agreement as presented. The motion carried unanimously; Mayor Suarez was present and voting.

H. Discussion and consideration to approve demolition of residential structure at South Cemetery RDF as recommended by Drainage Advisory Board and authorize the Mayor to execute any related documents. Possible action.

Pete Garcia, Public Works Director, stated that pictures of the residential/house structure at South Cemetery RDF were presented to the Drainage Advisory Board meeting on January 30, 2020. The Drainage Advisory Board is recommending demolishing the residential structure for betterment of the RDF.

Commissioner Kerr, seconded by Mayor Pro Tem Lopez, moved to approve demolition of residential structure at South Cemetery RDF as presented. The motion carried unanimously; Mayor Suarez was present and voting.

I. Discussion and consideration to award a contract for Request for Bids No. 2019-20-10 for Aviation Fuel and Service for the Weslaco Mid Valley Airport and authorize the Mayor to execute any related documents. Possible action.

Andrew Muñoz, ACM/Aviation Director, stated the current fuel delivery and services for Aviation Fuel expires May 2020. Staff advertised for 30 consecutive days and staff received three (3) bids - Avfuel, Arrow and Titan. Avfuel Company came in the lowest which includes rack fees and taxes. Staff recommends to award to Avfuel with 3-year base agreement with 2 one-year options.

Mayor Pro Tem Lopez, seconded by Commissioner Pedraza, moved to award contract for Request for Bids 2019-20-10 to Avfuel Corporation for Aviation Fuel and Service for Weslaco Mid Valley Airport as presented. The motion carried unanimously; Mayor Suarez was present and voting.

J. Discussion and consideration on possible dates for a joint workshop with the Weslaco School Board. Possible action.

Mike R. Perez, City Manager, discussed several potential meeting dates for a joint workshop with Weslaco Independent School District Board to discuss RDF items at Cleckler-Heald, Memorial School, Roosevelt Schools and some paving projects. A date of March 31, 2020 was determined for the joint workshop.

Commissioner Muñoz, seconded by Commissioner Pedraza, moved to approve a joint workshop for March 31, 2020 with Weslaco Independent School District Board as presented. The motion carried unanimously; Mayor Suarez was present and voting.

K. Discussion and consideration to approve the submission of the final proposed annual work plan for the City of Weslaco under the Hidalgo County Urban County Program, approve Resolution 2020-17 for year 33 (2020) and to accept the allocation of approximately \$285,782 and authorize the Mayor to execute any related documents. Possible action.

Vidal Roman, Finance Director, stated the City held a public hearing and approved the submission of the workplan for the Urban County Fiscal Year 33 (2020) on October 15, 2019, regarding flood drainage improvements to include upgrade and expansion of the storm sewer system at Lee Garza Street and Cantu Street. The workplan summary sheet consists of \$3,000 for General Administration, \$277,782 for Water/Sewer Improvements and \$5,000 for Senior Services.

Mayor Pro Tem Lopez, seconded by Commissioner Pedraza, moved to approve submission of the final proposed annual work plan for City of Weslaco under the Hidalgo County Urban County Program as presented. The motion carried unanimously; Mayor Suarez was present and voting.

L. Discussion and consideration to select a firm from the Request for Qualifications #2019-20-07 for Architectural / Engineering Design Services for a New Fire Station and Police Station with Municipal / Judicial Court and authorize the Mayor to execute any related documents.

Commissioner Muñoz abstained from vote and discussion and filed a conflict disclosure statement.

Andrew Muñoz stated firms drew to determine order, with 15 minutes allocated for each presentation and 5 minutes for questions and answers. Those firms not presenting left the Legislative Chambers until called as a professional courtesy.

Boultinghouse, Martinez Architects, Gignac, ERO, The Warren Group, Alvarado Architects and Milnet, each in turn presented their qualifications, emphasizing their project experience and team expertise.

Andrew Muñoz stated that Staff's recommendation is to award the Design Services to ERO as they scored the highest points.

Commissioner Pedraza, seconded by Mayor Pro Tem Lopez, moved to approve to select ERO for the Architectural / Engineering Design Services as presented. The motion carried with Commissioner Munoz abstaining; Mayor Suarez was present and voting.

VII. EXECUTIVE SESSION

At 6:07 p.m. Commissioner Kerr, seconded by Mayor Pro Tem Lopez, moved to convene the regular meeting in Executive Session. The motion carried unanimously; Mayor Suarez was present and voting.

At 6:40 p.m. Mayor Suarez stated the City Commission had completed its Executive Session and reconvened the regular meeting as open to the public.

VIII. POSSIBLE ACTION ON WHAT IS DISCUSSED IN EXECUTIVE SESSION

A. Personnel - Discussion regarding the goals, objectives, and evaluation of the City Manager for the City of Weslaco as authorized by §551.074 of the Texas Government Code.

No action.

B. Legal Consultation - Seek City Attorney opinion relating to the lawsuit with CDM as authorized by §551.071 of the Texas Government Code.

No action.

C. Consultation – Seek City Attorney opinion on arbitration proceedings by the Weslaco Firefighters Association (IAFF-WFFA Local 3207) as authorized by §551.071 of the Texas Government Code.

No action.

D. Real Property - Consultation with City Attorney on the sale, exchange, lease or value of real property located at Bridge Avenue and Highway Business 83 as authorized by section §551.072 of the Texas Government Code.

No action.

E. Real Property– Consultation with City Attorney on the acquisition of real property legally described as Lot 16, Block 2, La Paloma De La Sombras Subdivision for the Pleasantview drainage improvements project as authorized by section §551.072 of the Texas Government Code.

No action.

F. Legal Consultation - Consultation with City Attorney regarding Justin Becerra as authorized by section §551.071 of the Texas Government Code.

No action.

G. Legal Consultation - Seek City Attorney opinion regarding service contract with Republic Services as authorized by section §551.071 of the Texas Government Code.

No action.

IX. ADJOURNMENT

Commissioner Pedraza, seconded by Commissioner Muñoz, moved to adjourn the February 18, 2020 meeting at 9:28 p.m. The motion carried unanimously; Mayor Suarez was present and voting.

CITY OF WESLACO

MAYOR, David Suarez

ATTEST:

Myra L. Ayala Garza, CITY SECRETARY

MAYOR PRO-TEM, Letty Lopez

COMMISSIONER, Leo Muñoz

ABSENT

COMMISSIONER, Jose "J.P." Rodriguez

COMMISSIONER, Adrian Farias

COMMISSIONER, Greg Kerr

COMMISSIONER, Josh Pedraza

Applicant Appeal Documents



600 Congress, Suite 2200
Austin, TX 78701
Telephone: 512-305-4700
Fax: 512-305-4800
www.lockelord.com

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

May 24, 2021

Via Electronic Mail

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

Re: #21185, Weslaco Village Apartments (the "**Development**")

Dear Mr. Wilkinson:

We represent TG 105 Weslaco Village, LP ("**Applicant**"), which has applied for housing tax credits for the Development referenced above. This letter responds to the Notice of Scoring Adjustment issued May 17, 2021 in which TDHCA denied the Applicant's request for points under §11.9(d)(7) of the Qualified Allocation Plan (the "**QAP**") regarding the City of Weslaco Southeast Community Revitalization Plan (the "**CRP**"). Specifically, TDHCA stated:

Most relevantly, 10 TAC §11.9(d)(7)(A) requires that a CRP have a history of sufficient, documented and committed funding. Staff review indicates the resolution for the creation of the CRP was not approved by the City Commission of the City of Weslaco until February 18, 2020. This occurred the same date the City approved the resolution of support for the Application, for which the record indicates the plan was approved for the purpose of assisting "the State funding [the] application for the reconstruction of Weslaco Village Apartments". Taken in consideration with the overall documentation provided in the CRP, the CRP does not establish an acceptable history of sufficient, committed funding.

The above statement displays a misunderstanding of the information presented in the CRP. In the presence of an inconsistency or lack of clarity, an Administrative Deficiency¹ is appropriate to address concerns such as this. The Applicant was not afforded that opportunity. The CRP does, in fact, have an acceptable history of sufficient, committed funding, and the points should be restored.

¹ Capitalized terms used but not defined in this letter shall have the meanings given them in the QAP.

Introductory Information

As noted in the City of Weslaco's cover letter dated November 4, 2020, which accompanied the CRP and was included in the Application, the Southeast Community was identified approximately 10 years ago as an area in need of revitalization. Since that time, the City has been funding money to support infrastructure in the area, and has seen documented improvement. The City's work in the Southeast Community was part of a concerted effort but was not specifically documented in a written plan.

Early in 2020 [or late in 2019?], Prospera Housing and Community Services, which is a Texas non-profit organization (the "**Developer**") approached the City of Weslaco about the potential reconstruction of the Weslaco Village Apartments, which are in the Southeast Community. The City was supportive of this endeavor and inquired about the ways in which it could support the proposal. The Developer described ways for the City to support the Development within the QAP, including the provision of funding and the passage of certain resolutions of support, including an acknowledgement that the Development would contribute most significantly to the concerted revitalization efforts in the area. The City noted that it had a revitalization effort for the Southeast Community, but that it had not been formalized in writing. Desirous of facilitating the reconstruction of the Development, the City set out to seek public input and draft and finalize the CRP, taking care to make sure it would be sufficient under TDHCA's rules.

The CRP was approved at a meeting of the Weslaco City Council on February 18, 2020. At that same meeting, the City Council approved a resolution of support for the Development (the "**2020 Application Support Resolution**"). The Developer included the February 2020 Support Resolution and the CRP in a Tax Credit Application for the Development in 2020. That Application was subsequently terminated.

The Developer re-applied for Tax Credits for the Development in the 2021 Application Round. Once again, the Application included the CRP. Additionally, the Weslaco City Council approved a support resolution for the 2021 Application. The support resolution, dated November 3, 2020 (the "**2021 Application Support Resolution**"), was included in the Application.

Legal References

The QAP lists five specific criteria (enumerated I through V) for a CRP in an Urban Area. In its Notice of Scoring Adjustment, TDHCA asserts that the Applicant has failed to meet only one of them. The applicable language from the QAP² is as follows:

(III) The goals of the adopted plan must have a history of sufficient, documented and committed funding to accomplish its purposes on its established timetable. This funding must be flowing in accordance with the plan, such that the problems identified within the plan are currently being or have been sufficiently addressed.

Analysis

The Application includes abundant information with regard to revitalization efforts in the Southeast Community. However, TDHCA seems to question only the “history of sufficient, documented and committed funding.” Evidence of a history of sufficient, document and committed funding for the CRP can be found as follows:

- “Investment in the Southeast Community has been ongoing for more than a decade. Funding for infrastructure projects and other improvements within the Southeast Community come from a variety of sources, including a collection of local and state organizations and private entities. These organizations include: The City of Weslao through its various captial improvement projects, the Weslaco Independent School District (WISD), with its bond initiatives and other school improvement programs, the Texas Department of Transportation (TxDOT) with its infrastructure projects, and other private businesses.” Page 2
- “The City of Weslaco and its community partners have included in this revitalization plan a list of improvement projects already completed in the area and those planned for the near future. By compiling a list of recent improvements, the City and other interested parties will be able to calculate the level of inestment in the area more accurately. This will ensure that the development taking place is well-documented, resources are being allocated efficiently, information is accessible to the public, and most importantly the Southeast Community is not neglected or left behind to become blighted or harmful to area residents.” Page 2
- “The goals and objectives for revitalizaing the Southeast Community have been outlined in this planning document to provide a guide for future development. By prioritizing economic development and investing in critical infrastructure such as schools, streets, and utilies the Southeast Community will become a healthier, happier, and more vibrant place for people to live, work, and play.” Page 2

² §11.9(d)(7)(A)(iii)(III).

- “. . . it is imperative that the City allocate adequate resources and dispatch services in an equitable manner to ensure that the Southeast Community is not disproportionately neglected.” Page 6
- Completed Community and Economic Development Improvement Projects and Programs. “The total investment in the area generated from these projects and programs is over \$19 million.” Page 10
- Completed -- Knapp Medical Center Improvements and WISD Improvements Page 11
- Planned Community and Economic Development Improvement Projects. “. . . the following improvements are underway or planned for the revitalization area and are expected to be completed in the next three to five years. Over \$44 million has been approved for improvements planned in the revitalization area.” Page 12
- Planned -- Drainage improvements, Kapal Industries warehouse expansion, road improvements. Page 12

In the face of the evidence of funding, TDHCA seems to be concerned that the CRP was approved by the Weslaco City Council at the same time as the City Council provided a resolution to support the Development for an Application in the 2020 Application Round. TDHCA seems to imply that the simultaneous adoption delegitimizes the CRP. This is an inappropriate assumption. The CRP clearly states that revitalization and investment within the Southeast Community had been ongoing, prior to putting the plan into writing. When reconstruction of the Development was proposed, the City saw the opportunity to support this revitalization effort by fulfilling TDHCA’s rules for a CRP. There is nothing in the QAP that prohibits a city from adopting a CRP in conjunction with support of a Tax Credit Application. So long as that CRP is reflective of a plan that meets all of the QAP requirements, the city’s effort should be respected. Moreover, such proactive collaboration between a city and a developer is incentivized in other parts of the QAP and is fundamental to TDHCA’s statutory purpose of assisting local governments to provide essential public services.³ For additional information on the City of Weslaco’s position, please see the letter attached as Exhibit A.

Finally, as it relates to this particular Application, it should be noted that the CRP was approved on February 18, 2020, while the city’s resolution of support was approved on November 3, 2020. The resolution of support to which staff is referring in the Notice of Scoring Adjustment was the resolution of support for the 2020 Application Round. This is the 2021 Application Round, and the applicable resolution of support was not adopted on the same day as the CRP.

³ Tex Gov’t Code §2306.001(1)(a).

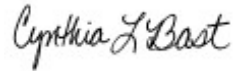
Mr. Bobby Wilkinson
May 24, 2021
Page 5

Conclusion and Request for Approval on Appeal of Scoring

The CRP meets all of the criteria of §11.9(d)(7)(A) of the QAP. TDHCA staff has not identified any concerns about the CRP other than a perception that the CRP does not have a “history of sufficient, documented and committed funding to accomplish its purposes.” This perception is flawed and ignores \$63 million of prior and future funding identified within the CRP’s pages. Further, it appears to be based upon a standard that is not articulated in the QAP.

With the above information, we respectfully request that you reinstate the CRP points and should the staff require additional information, request an Administrative Deficiency. We appreciate your consideration of this presentation. Thank you very much.

Sincerely,



Cynthia L. Bast

cc: *Prospera Housing and Community Services*

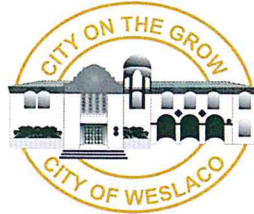
Exhibit A - Letter from City of Weslaco

Exhibit A

Letter from City of Weslaco

City of Weslaco

"The City on the Grow"



David Suarez, Mayor
Leo Muñoz, Mayor Pro-Tem, District 1
Greg Kerr, Commissioner, District 2
Jose "J.P." Rodriguez, Commissioner, District 3
Adrian Farias, Commissioner, District 4
Letty Lopez, Commissioner, District 5
Josh Pedraza, Commissioner, District 6

Mike R. Perez, City Manager

May 24, 2021

Ms. Alena Morgan
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701

Re: Weslaco Village Apartments, TDHCA No. 21185 (the "Application")

Dear Ms. Morgan:

We have reviewed your letter dated May 17, 2021, removing points from the Application and disqualifying the City of Weslaco's Southeast Community Revitalization Plan (the "Plan"). Your letter states the Plan "does not establish an acceptable history of sufficient, committed funding." We disagree with this characterization and ask you to reinstate the points to the Application.

As noted in the Plan (page 2), "Investment in the Southeast Community has been ongoing for more than a decade." The Plan identifies \$19 million of investment that has been made to date (page 10) and over \$44 million of investment to come (page 12). These amounts and projects are intended to address the needs of the community, which are clearly articulated in the Plan. In fact, we have already seen improvement, as noted in our cover letter, submitted to TDHCA with the Plan.

Your letter seems to express concern that the Plan was adopted on the same date as a resolution of support for a 2020 application for the Weslaco Village Apartments, an application that ultimately was not funded. We see nothing in TDHCA's rules that prohibits a city from adopting a Plan to aid in support of an application, if that Plan otherwise meets all the criteria in the rules. The City of Weslaco's Plan meets all of TDHCA's criteria and shows that our city has had a concerted plan to invest in this area for some time now. The adoption of the Plan simply allowed the City to formalize the ongoing work and the proposed work, while also supporting this affordable housing development.

We believe TDHCA should want a city to work proactively with a developer to advance affordable housing development. We ask you to go back and look at our Plan, in which you

will see all of the elements required by the QAP. If you have any questions about our Plan, we are happy to address them.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mike R. Perez".

Mike R. Perez
City Manager

TDHCA

Appeal Response



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott
GOVERNOR

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Kenny Marchant, *Member*
Ajay Thomas, *Member*
Sharon Thomason, *Member*

June 7, 2021

Writer's direct dial: 512.475.3296
Email: Bobby.Wilkinson@tdhca.state.tx.us

Cynthia Bast
Lock Lord LLP
c/o TG 105 Weslaco Village, LP
600 Congress, Suite 2200
Austin, TX 78701

RE: APPEAL RESPONSE FOR 2021 HOUSING TAX CREDIT APPLICATION 21185
WESLACO VILLAGE APARTMENTS

Dear Ms. Bast:

The Texas Department of Housing and Community Affairs (the Department) received your appeal dated May 24, 2021 pertaining to Concerted Revitalization Plan (CRP) points for the application indicated above. Staff previously determined the Application did not qualify for points under 10 TAC §11.9(d)(7), related to Concerted Revitalization Plan (CRP), of the 2021 Qualified Allocation Plan (QAP) because the documentation provided did not meet the requirements for an acceptable CRP. Staff issued a Notice of Scoring Adjustment revising the Application score to indicate zero CRP points under §11.9(d)(7), subject to your ability to appeal. For the reasons discussed in this letter, I am reaffirming the staff determination and denying your appeal.

The appeal first requests the opportunity to respond to the notice through the Administrative Deficiency Process. Because of the material nature of the deficiencies staff discovered during its normal course of CRP review, 10 TAC §11.10 does not require staff issue a deficiency. Specifically, staff determined the CRP itself failed to meet threshold CRP criteria for which clarification cannot remedy. Most importantly, 10 TAC §11.9(d)(7)(A), related to Concerted Revitalization Plan includes the requirements for CRP in §11.9(d)(7)(A)(i) – (iii). Under 10 TAC §11.9(d)(7)(B) an Application will be eligible to receive points if, and only if, the Urban CRP is an *acceptable plan* that meets the criteria required in (I-IV).

Most relevantly, §11.9(d)(7)(A)(iii)(II) and (III) provide:



(II) The problems in the revitalization area must be identified through a process in which affected local residents had an opportunity to express their views on problems facing the area, and how those problems should be addressed and prioritized...

(III) The goals of the adopted plan must have a history of sufficient, documented and committed funding to accomplish its purposes on its established timetable. This funding must be flowing in accordance with the plan, such that the problems identified within the plan are currently being or have been sufficiently addressed.

In regard to these requirements, the appeal states,

“As noted in the City of Weslaco’s cover letter dated November 4, 2020, which accompanied the CRP and was included in the Application, the Southeast Community was identified approximately 10 years ago as an area in need of revitalization. Since that time, the City has been funding money to support infrastructure in the area, and has seen documented improvement. The City’s work in the Southeast Community was part of a concerted effort but was not specifically documented in a written plan.”

Per the appeal, the CRP documentation identifies infrastructure and related improvements in the area that have been ongoing for approximately ten years. However, the ongoing efforts were not part of a documented concerted revitalization plan, as required under §11.9(d)(7)(A)(iii)(III). The failure to meet this specific criteria directly relates to the basic requirements of a CRP for Developments in Urban areas. Per 10 TAC §11.9(d)(7)(A),

(A) For Developments located in an Urban Area:

(i) An Application may qualify to receive points if the Development Site is located in a distinct area that was once vital and has lapsed into a condition requiring concerted revitalization, **and where a concerted revitalization plan (plan or CRP) has been developed and executed.** (emphasis added)

Failure to establish the documented history of an executed and ongoing plan is indicative of the materially deficient nature of the submitted materials. Staff correctly concluded, and the appeal itself acknowledges, that the cited efforts were “not specifically documented in a written plan.” Rather than cite specific efforts that have been committed to address the problem’s faced by residents in the area, the plan instead relies on infrastructure improvements over a number of years, which could also be characterized as the types of maintenance work generally undertaken by a local government. This does not establish the required history of sufficient, documented and committed funding to accomplish the plan’s purposes on its established timetable pursuant to §11.9(d)(7)(A)(iii)(III). Indeed, it seems temporally impossible to have “a history of sufficient, documented and committed funding to accomplish [the] purposes [of a developed and executed Concerted Revitalization Plan] on its established timetable” when the plan, itself, is developed and executed a decade after associated improvements.

This is further indicative of the lack of public participation and the process for development of a CRP that is required by the QAP. Per the appeal:

Early in 2020 [or late in 2019?], Prospera Housing and Community Services, which is a Texas non-profit organization (the “Developer”) approached the City of Weslaco about the potential reconstruction of the Weslaco Village Apartments, which are in the Southeast Community. The City was supportive of this endeavor and inquired about the ways in which it could support the proposal. The Developer described ways for the City to support the Development within the QAP, including the provision of funding and the passage of certain resolutions of support, including an acknowledgement that the Development would contribute most significantly to the concerted revitalization efforts in the area. The City noted that it had a revitalization effort for the Southeast Community, but that it had not been formalized in writing. ***Desirous of facilitating the reconstruction of the Development, the City set out to seek public input and draft and finalize the CRP***, taking care to make sure it would be sufficient under TDHCA’s rules.

The ***CRP was approved at a meeting of the Weslaco City Council on February 18, 2020. At that same meeting, the City Council approved a resolution of support for the Development*** (the “2020 Application Support Resolution”). The Developer included the February 2020 Support Resolution and the CRP in a Tax Credit Application for the Development in 2020. That Application was subsequently terminated.

The ***Developer re-applied for Tax Credits for the Development in the 2021 Application Round. Once again, the Application included the CRP. Additionally, the Weslaco City Council approved a support resolution for the 2021 Application.*** The support resolution, dated November 3, 2020 (the “2021 Application Support Resolution”), was included in the Application. (emphasis added)

While the City and Developer have documented efforts regarding the desire to reconstruct the Development Site, there is insufficient evidence of engagement with the public regarding problems in the revitalization area that affect local residents. I find staff were correct in concluding the CRP documentation provided did not meet the requirements of an acceptable CRP. Accordingly, the Notice of Scoring Adjustment revising the Application’s score under 10 TAC §11.9(d)(7) to zero is hereby sustained and your appeal is denied.

If you are not satisfied with this decision, you may file a further appeal with the 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,



Bobby Wilkinson
Executive Director

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 21259 Jackson Place Apartments

RECOMMENDED ACTION

WHEREAS, the appeal relates to Competitive Housing Tax Credit (HTC) Application 21259 Jackson Place 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(c)(7) related to Proximity to Jobs;

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 21259 Jackson Place 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 82 Units for the elderly population in Edinburg, of which 80 will be Restricted and two will be Market Rate.

Staff received a Third Party Request for Administrative Deficiency (RFAD) questioning whether the Application qualifies for points under 10 TAC §11.9(c)(7) related to Proximity to Jobs of the 2021 Qualified Allocation Plan (QAP). Per the most relevant provisions of 10 TAC §11.9(c)(7)(B)(iii)-(iv) related to Proximity to Jobs:

(B) Proximity to Jobs. A Development may qualify for points under this subparagraph if it meets one of the criteria in clauses (i) - (vi) of this subparagraph.

The data used will be based solely on that available through US Census' OnTheMap tool. Jobs counted are limited to those based on the work area, all workers, and all primary jobs. Only the 2017 data set will be used unless a newer data set is posted to the US Census website on or before October 1, 2020. The Development will use OnTheMap's function to import GPS coordinates that clearly fall within the Development Site, and the OnTheMap chart/map report submitted in the Application must include the report date. This scoring item will not apply to Applications under the At-Risk or USDA Set-Aside.

- (iii) The Development is located within 1 mile of 10,500 jobs. (4 points)
- (iv) The Development is located within 1 mile of 7,500 jobs. (3 points)
- (v) The Development is located within 1 mile of 4,500 jobs. (2 points)

Additionally, the 2021 Application Manual includes step-by-step directions for using the required OnTheMap tool. Using those steps, staff were able to locate the Development Site using the coordinates provided in Tab 47 of the Application and run a 2017 report that showed 6,326 Primary Jobs within a one mile radius. This is less than the 10,500 jobs required to score the selected four points under this item. Staff review determined that the Application did not qualify for the four points selected, but did qualify for two points under Proximity to Jobs. Accordingly, the Application had been assigned a score of two points under 10 TAC §11.9(c)(7)(B), subject to the ability to appeal.

The Applicant timely appeal and raised concerns regarding the data behind the 2017 OnTheMap Report tool. Per the appeal,

When using OnTheMap, the program uses the LODES information system which allows you to elect multiple options for work area, type of workers, primary/private jobs, and year you desire. However, all information ran is from the latest version released, since the program does not allow you to go back and run any previous versions of LODES. The state's rules stated that Applicants were to run a 2017 jobs report unless newer information was published prior to October 1, 2020. When running the 2017 report we found that there were major discrepancies between the number of jobs listed on the 2017 report vs. previous year reports for the same location and also utilizing the most recently published (prior to the start of the tax credit application period) 2018 report...

The Applicant is aware that both the Manual and QAP state to use the 2017 data set unless a newer data set is posted to the US Census website on or before October 1, 2020 but if it is confirmed by the US Census Bureau that the 2017 information utilized for this particular location is inaccurate then the Applicant shouldn't be penalized for using the most current and accurate data as recommended in writing by the US Census Bureau.

Other Applicants that have misused OTM in the past have also complained to the Department that the database is inaccurate. In those instances, the Applicants in some cases devised their own plans for generating data that is more favorable to the Application than the process outlined

in the current year's Application manual. In regards to the 2021 Application manual, the Department is aware that the program does not include any jobs after 2017 and does not capture certain jobs. As previously affirmed by the Board, this is not an inconsistency or an inaccuracy. This is the database required by the rules to be used by all applicants requesting points for this scoring item, using the directions from the Application Manual. In fact, using one set of requirements *ensures* consistency and accuracy across all applications in all regions.

Accordingly, the Executive Director affirmed the Notice of Scoring Adjustment and denied the Applicant's appeal. Staff recommend the Board similarly deny the appeal.

21259 Jackson Place
Apartments
Scoring Adjustment



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott
GOVERNOR

BOARD MEMBERS
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Paul A. Braden, Member
Kenny Marchant, Member
Ajay Thomas, Member
Sharon Thomason, Member

June 14, 2021

Rick Deyoe
Jackson Place Ltd.
1114 Lost Creek Blvd G20
Austin, TX 78746

RE: NOTICE OF SCORING ADJUSTMENT: 21259 JACKSON PLACE APARTMENTS

Dear Mr. Deyoe:

The Texas Department of Housing and Community Affairs (the Department) is in receipt of your Application named above. Pursuant to 10 TAC §11.10, staff sent an Administrative Deficiency requesting information regarding points requested for Proximity to Jobs, and you responded timely. During its review, staff determined the Application does not qualify for four (4) points under 10 TAC §11.9(c)(7)(B)(related to Proximity to Jobs), but does qualify for two (2) points.

Per 10 TAC §11.9(c)(7)(B)(iii) - (v):

(B) Proximity to Jobs. A Development may qualify for points under this subparagraph if it meets one of the criteria in clauses (i) - (vi) of this subparagraph. The data used will be based solely on that available through US Census' OnTheMap tool. Jobs counted are limited to those based on the work area, all workers, and all primary jobs. Only the 2017 data set will be used unless a newer data set is posted to the US Census website on or before October 1, 2020. The Development will use OnTheMap's function to import GPS coordinates that clearly fall within the Development Site, and the OnTheMap chart/map report submitted in the Application must include the report date. This scoring item will not apply to Applications under the At-Risk or USDA Set-Aside.

(iii) The Development is located within 1 mile of 10,500 jobs. (4 points)

(vi) The Development is located within 1 mile of 7,500 jobs. (3 points)

(v) The Development is located within 1 mile of 4,500 jobs. (2 points)



The 2021 Application Manual includes step-by-step directions for using the required OnTheMap tool. Using those steps, staff were able to locate the Development Site using the coordinates provided in Tab 47 of the Application and to run a 2017 report that showed 6,326 Primary Jobs within a one mile radius, which is less than the 10,500 jobs required to score four points under this item. Staff review determined that the Application does not qualify for the four points selected, but does qualify for two points under Proximity to Jobs. Accordingly, the Application has been assigned a score of two points under 10 TAC §11.9(c)(7)(B), subject to your ability to appeal.

An appeals process exists for the Housing Tax Credit Program. The restrictions and requirements related to the filing of an appeal can be found in §11.902 of the QAP. If you wish to appeal this decision to the Executive Director, the appeal must be filed, in writing, with the Department not later than seven (7) calendar days after the date of this notification. 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 questions or require further information, please contact me.

Sincerely,

Alena Morgan
Competitive HTC Administrator

Applicant Appeal Documents



June 18, 2021

Via Email

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

Re: Jackson Place Apartments, Edinburg (21259)
Appeal for Scoring

Dear Mr. Wilkinson:

Jackson Place, Ltd. (“Applicant”) applied for 2021 Housing Tax Credits for the Development referenced above. This letter responds to the Notice of Scoring Adjustment issued on June 14, 2021, in which TDHCA denied the Application’s request for Proximity to Job points under 10 TAC §11.9(c)(7)(B)(iii)-(v). Specifically, the letter stated:

The 2021 Application Manual includes step-by-step directions for using the required OnTheMap tool. Using those steps, staff were able to locate the Development Site using the coordinates provided in Tab 47 of the Application and to run a 2017 report that showed 6,326 Primary Jobs within a one mile radius, which is less than the 10,500 jobs required to score four points under this item. Staff review determined that the Application does not qualify for the four points selected, but does qualify for two points under Proximity to Jobs. Accordingly, the Application has been assigned a score of two points under 10 TAC §11.9(c)(7)(B), subject to your ability to appeal.

A. The Applicant believes the development is eligible for four points under §11.9(c)(7)(B).

Section §11.9(c)(7)(B) provides that a “Development may qualify for points under this subparagraph if it meets one of the criteria in clauses (i) - (vi) of this subparagraph. The data used will be based solely on that available through US Census' OnTheMap tool. Jobs counted are limited to those based on the work area, all workers, and all primary jobs. Only the 2017 data set will be used, unless a newer data set is posted to the US Census website on or before October 1, 2020. The Development will use OnTheMap's function to import GPS coordinates that clearly fall within the Development Site, and the OnTheMap chart/map report submitted in the Application must include the report date. This scoring item will not apply to Applications under the At-Risk or USDA Set-Aside.

As the full application was completed in March 2021, the Applicant used TDHCA’s 2021 Application Manual, and the steps required for the OnTheMap program in order to find the total primary jobs

located within a 1-mile radius of the proposed site. When using OnTheMap, the program uses the LODES information system which allows you to elect multiple options for work area, type of workers, primary/private jobs, and year you desire. However, all information ran is from the latest version released, since the program does not allow you to go back and run any previous versions of LODES. The state's rules stated that Applicants were to run a 2017 jobs report unless newer information was published prior to October 1, 2020. When running the 2017 report we found that there were major discrepancies between the number of jobs listed on the 2017 report vs. previous year reports for the same location and also utilizing the most recently published (prior to the start of the tax credit application period) 2018 report. We contacted the US Census Bureau regarding the publication dates and information updates to LODES, and they confirmed that the underlying data between the two OnTheMap versions should not have changed. The only change between LODES Version 6.8 and LODES Version 6.7 were the geographical boundaries, none of which significantly affected the total job count.

The Applicant is aware that both the Manual and QAP state to use the 2017 data set unless a newer data set is posted to the US Census website on or before October 1, 2020 but if it is confirmed by the US Census Bureau that the 2017 information utilized for this particular location is inaccurate then the Applicant shouldn't be penalized for using the most current and accurate data as recommended in writing by the US Census Bureau.

We have had numerous conversations with US Census Bureau personnel regarding this issue ("Exhibit A"), and we received the attachments herein that they provided. As you will specifically see on "Exhibit B", the number of jobs in the detailed "Jobs by NAICS Industry Sector Report" is fairly consistent across the board for all categories with the exception of the Educational Services Jobs (Schools). In fact, the report shows that there was an increase in educational jobs every year beginning in 2013 when the report was published through the end of 2018 with the obvious errors occurring in the jobs shown for years 2016 and 2017.

2013 -	3,526
2014 -	3,641
2015 -	3,681
2016 -	19
2017 -	16
2018 -	3,724

As you can see from "Exhibit C", the attached map shows there are six (6) public schools and the University of Texas Rio Grande Valley College all located within a one (1) mile radius of the subject site. In looking at the map, it is evident that those active schools listed would have multiple employees and well more than 16 educational jobs total within them all. Thus, as the US Census Bureau indicated in their email, and as previously discussed verbally over the phone, the only way to compare apples to apples utilizing the most accurate jobs data available would be to use the 2018 jobs report which as you can see has more than the 10,500 jobs needed to score the 4 points.

We are certain that the Applicant utilized the most up to date accurate jobs information as outlined in the QAP and believe it would be unfair to revoke points from the Applicant because the Applicant did not utilize the 2017 US Census information when the US Census Bureau itself agreed that the jobs information as stated in that report was inaccurate information which was corrected in the 2018 Report. Therefore, we would respectfully ask that you restore the two points to the Applicant's application.

Thank you for allowing us the opportunity to appeal. In the event you have any additional questions or comments, please feel free to contact us.

Sincerely,

Rick Deyoe

President
Managing Member of Jackson Place, Ltd.

EXHIBIT A

From: CES OnTheMap Feedback (CENSUS/CES) <ces.onthemap.feedback@census.gov>
Sent: Monday, June 21, 2021 10:51 AM
To: Tiffany Cornelius <tcornelius@realtexdevelopment.com>
Subject: Re: OnTheMap Question - Version 6.7 & 6.8

Hi Tiffany,

I received your call and voicemail. I apologize for the delay in getting back to you, Friday was an observance of an unexpected Federal Holiday.

I cannot give you a definitive answer of why that decrease is present in 2016 and 2017 without looking at the confidential data (and having reviewed the confidential data, I would not be able to give a precise explanation due to disclosure avoidance rules). However, without looking at the confidential data, I can give you the following background/recommendations based on general knowledge of LODES, review of OnTheMap for the area in your report, and past cases we have reviewed.

I ran an Area Profile analysis in OnTheMap for Edinburgh city and for Hidalgo county, TX for 2018 and prior years. Looking at 2018, specifically for educational services, I see two blocks with a concentration in jobs near the coordinates you sent along. One of the blocks is consistent (at least through 2010) and is near a public school system which includes University of Texas RGV (per Google Maps). The other block has the low numbers in 2016 and 2017, but is otherwise consistent. This block is in, around, or near, the campus of a public university. I recommend using the Base Map feature of OnTheMap, particularly the Education Layers to see what I'm talking about. Additionally, if you change the analysis from All Jobs to Private Jobs (which do not contain public-sector employment), you can see that the number of educational jobs is stable across the years of data (and has significantly lower employment consistent with public-sector schools being removed from the analysis). As I said, I do not know for sure why there was a decrease from 2015 to 2016 and 2017 then the subsequent increase from 2017-2018 other than flawed material being submitted. Reporting issues by firms can sometimes cause these outcomes like the one seen here. Such issues can include things like a firm providing a bad address which led to a bad geocode being included, non-reporting by a firm, or possibly a firm providing an address with little detail - causing us to impute incorrect jobs to a block.

LODES and OnTheMap should be viewed as a snapshot of the Longitudinal Employer-Household Dynamics (LEHD) infrastructure (both methodology and current data) at the time

of release, and not as a time series. Due to our disclosure avoidance procedures, when there are errors in reporting we generally do not re-release data as methodologies change or as small historical corrections are made to the underlying microdata. The 2018 report is the most accurate for your target area.

Feel free to send me any further questions.

Thank you,
Alyson

From: Tiffany Cornelius <tcornelius@realtexdevelopment.com>
Sent: Thursday, June 17, 2021 1:00 PM
To: CES OnTheMap Feedback (CENSUS/CES) <ces.onthemap.feedback@census.gov>
Subject: RE: OnTheMap Question - Version 6.7 & 6.8

Hi Alyson,

It was great speaking to you this morning. Per our conversation, you were going to review the geographical boundaries for this specific location so we can determine why the numbers have such a drastic change. I have attached a map of the site location in Edinburg, Texas as well as the report with the educational service line item highlighted for you to see the huge discrepancy between 2013-2018. Like I mentioned, we can use any coordinates located within the site boundary. Once you have a chance to review this information, please give me a call at 512-565-8945. Thank you so much for taking the time to help us!

Thanks,

Tiffany Cornelius

Vice President of Operations

Realtex
Development Corporation

1114 Lost Creek Blvd., Suite G20
Austin, Texas 78746
(P)512-306-9206 (C)512-565-8945
www.realtexdevelopment.com

EXHIBIT B

Jobs by NAICS Industry Sector

	2018		2017		2016		2015		2014		2013	
	Count	Share	Count	Share	Count	Share	Count	Share	Count	Share	Count	Share
Manufacturing	1	0.0%	1	0.0%	1	0.0%	2	0.0%	1	0.0%	1	0.0%
Wholesale Trade	25	0.2%	21	0.3%	21	0.3%	21	0.2%	73	0.9%	37	0.5%
Retail Trade	1,789	16.4%	1,518	23.7%	1,715	25.9%	1,749	18.7%	1,267	15.2%	1,102	13.4%
Transportation and Warehousing	28	0.3%	19	0.3%	8	0.1%	14	0.1%	20	0.2%	22	0.3%
Information	21	0.2%	15	0.2%	16	0.2%	17	0.2%	21	0.3%	25	0.3%
Finance and Insurance	363	3.3%	376	5.9%	401	6.1%	364	3.9%	418	5.0%	494	6.0%
Real Estate and Rental and Leasing	40	0.4%	27	0.4%	31	0.5%	41	0.4%	54	0.6%	46	0.6%
Professional, Scientific, and Technical Services	87	0.8%	98	1.5%	91	1.4%	85	0.9%	80	1.0%	127	1.5%
Management of Companies and Enterprises	0	0.0%	0	0.0%	0	0.0%	0	0.0%	2	0.0%	1	0.0%
Administration & Support, Waste Management and Remediation	223	2.0%	23	0.4%	202	3.1%	150	1.6%	213	2.5%	230	2.8%
Educational Services	3,724	34.1%	16	0.2%	19	0.3%	3,691	39.4%	3,641	43.6%	3,526	43.0%
Health Care and Social Assistance	881	8.1%	835	13.0%	1,024	15.5%	987	10.5%	892	10.7%	930	11.3%
Arts, Entertainment, and Recreation	22	0.2%	17	0.3%	19	0.3%	22	0.2%	27	0.3%	27	0.3%
Accommodation and Food Services	818	7.5%	853	13.3%	780	11.8%	803	8.6%	794	9.5%	751	9.2%
Other Services (excluding Public Administration)	34	0.3%	54	0.8%	37	0.6%	44	0.5%	93	1.1%	116	1.4%
Public Administration	2,612	23.9%	2,340	36.5%	2,005	30.3%	1,196	12.8%	504	6.0%	520	6.3%

Report Settings

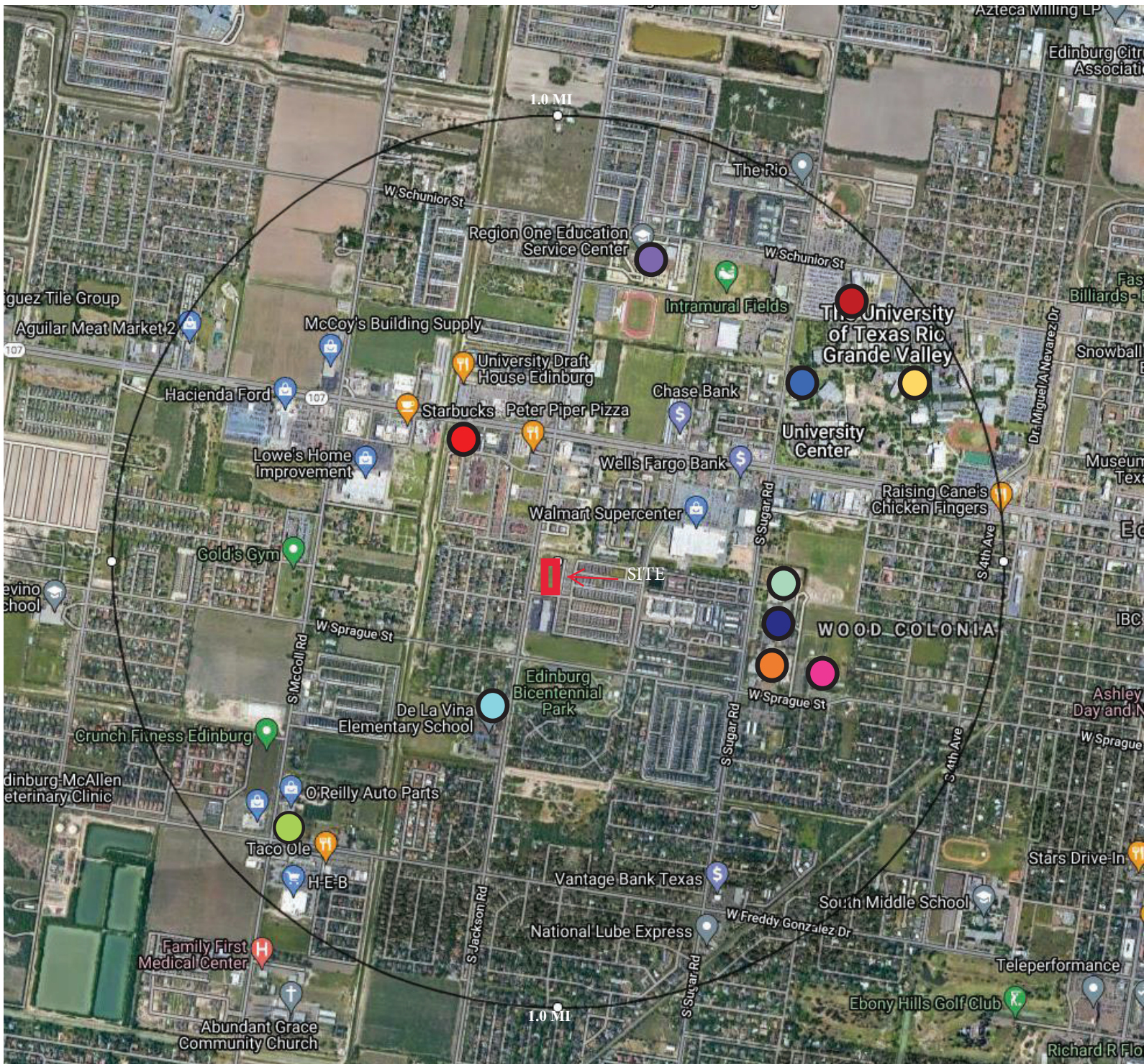
Analysis Type	Area Profile
Selection area as	Work
Year(s)	2018, 2017, 2016, 2015, 2014, 2013
Job Type	Primary Jobs
Labor Market Segment	All Workers
Selection Area	Selection Area Freehand Drawing buffered 1.00 miles
Selected Census Blocks	116
Analysis Generation Date	06/21/2021 14:25 - OnTheMap 6.8
Code Revision	5dc8e60ec2609d78ebfa7d4b188db13aacbb1ba6
LODES Data Version	20201117_1559












Source: U.S. Census Bureau, OnTheMap Application and LEHD Origin-Destination Employment Statistics (Beginning of Quarter Employment, 2nd Quarter of 2002-2018).

Notes:

1. Race, Ethnicity, Educational Attainment, and Sex statistics are beta release results and are not available before 2009.
2. Educational Attainment is only produced for workers aged 30 and over.
3. Firm Age and Firm Size statistics are beta release results for All Private jobs and are not available before 2011 and in 2018.

EXHIBIT C



- | | | |
|---|--|---|
|  De La Vina Elementary School |  The University of Texas Rio Grand Valley |  Texas PACT (Educational Testing Center) |
|  South Texas ISD World Scholars |  UTRGV (University Financial Services Building) |  Region One Education Service Center |
|  STPA Junior High Campus |  High School Equivalency Program UTRGV |  Research Education Medical School |
|  South Texas ISD Preparatory Academy |  Lee Elementary | |

TDHCA

Appeal Response



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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June 30, 2021

Rick Deyoe
Jackson Place Ltd.
1114 Lost Creek Blvd G20
Austin, TX 78746

RE: APPEAL RESPONSE FOR 2021 HOUSING TAX CREDIT APPLICATION 21259
JACKSON PLACE APARTMENTS

Dear Mr. Deyoe:

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 only qualified for two of the four points selected under 10 TAC §11.9(c)(7)(B) related to Proximity to Jobs. Staff issued a Notice of Scoring Adjustment revising the Application score under 10 TAC §11.9(c)(7), 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 §11.9(c)(7)(B)(iii)-(iv) of the 2021 Qualified Allocation Plan (QAP), related to Proximity to Job Areas, provides:

- (B) Proximity to Jobs. A Development may qualify for points under this subparagraph if it meets one of the criteria in clauses (i) -(vi) of this subparagraph. The data used will be based solely on that available through US Census' OnTheMap tool. Jobs counted are limited to those based on the work area, all workers, and all primary jobs. Only the 2017 data set will be used unless a newer data set is posted to the US Census website on or before October 1, 2020. The Development will use OnTheMap's function to import GPS coordinates that clearly fall within the Development Site, and the OnTheMap chart/map report submitted in the Application must include the report date. This scoring item will not apply to Applications under the At-Risk or USDA Set-Aside.
- (iii) The Development is located within 1 mile of 10,500 jobs. (4 points)
 - (vi) The Development is located within 1 mile of 7,500 jobs. (3 points)
 - (v) The Development is located within 1 mile of 4,500 jobs. (2 points)



Staff received a Third Party Request for Administrative Deficiency highlighting the ineligibility of this Application to earn points under this scoring item due to the failure to use the required 2017 OnTheMap (OTM) data. Staff issued an Administrative Deficiency regarding the issue but were able to address the matter by following the 2021 Application Manual.

Per the Notice, the 2021 Application Manual includes step-by-step directions for using the required OnTheMap tool. Using those steps, staff were able to locate the Development Site using the coordinates provided in Tab 47 of the Application and run a 2017 report that showed 6,326 Primary Jobs within a one mile radius. This is less than the 10,500 jobs required to score the selected four points under this item. Staff review determined that the Application did not qualify for the four points selected, but did qualify for two points under Proximity to Jobs. Accordingly, the Application had been assigned a score of two points under 10 TAC §11.9(c)(7)(B), subject to your ability to appeal.

You timely appealed, stating,

When using OnTheMap, the program uses the LODES information system which allows you to elect multiple options for work area, type of workers, primary/private jobs, and year you desire. However, all information ran is from the latest version released, since the program does not allow you to go back and run any previous versions of LODES. The state's rules stated that Applicants were to run a 2017 jobs report unless newer information was published prior to October 1, 2020. When running the 2017 report we found that there were major discrepancies between the number of jobs listed on the 2017 report vs. previous year reports for the same location and also utilizing the most recently published (prior to the start of the tax credit application period) 2018 report...

The Applicant is aware that both the Manual and QAP state to use the 2017 data set unless a newer data set is posted to the US Census website on or before October 1, 2020 but if it is confirmed by the US Census Bureau that the 2017 information utilized for this particular location is inaccurate then the Applicant shouldn't be penalized for using the most current and accurate data as recommended in writing by the US Census Bureau.

In the past, other Applicants have also complained to the Department that the database is inaccurate. In those instances, the Applicants similarly devised their own plans for generating data that is more favorable to the Application than the process outlined in the current year's Application manual. In regards to the 2021 Application manual, the Department is aware that the program does not include any jobs after 2017 and does not capture certain jobs that might be contained in 2018. The point of the rule is to set a point-in-time standard and dataset that is used by all applicants. This is not a matter of accuracy so much as consistency: this is the database required by the rules to be used by all applicants requesting points for this scoring item, using the directions from the Application Manual. In fact, using one set of requirements *ensures* consistency across all applications in all regions.

Accordingly, the Notice of Scoring Adjustment 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

June 30, 2021

Page 3

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". The signature is written in a cursive style with a double underline at the end.

Bobby Wilkinson
Executive Director