

# Notice of Meeting of the Governing Body of the City of Georgetown, Texas September 13, 2016

The Georgetown City Council will meet on September 13, 2016 at 3:00 PM at Council Chambers, 101 E. 7th St., Georgetown, Texas

The City of Georgetown is committed to compliance with the Americans with Disabilities Act (ADA). If you require assistance in participating at a public meeting due to a disability, as defined under the ADA, reasonable assistance, adaptations, or accommodations will be provided upon request. Please contact the City Secretary's Office, at least three (3) days prior to the scheduled meeting date, at (512) 930-3652 or City Hall at 113 East 8th Street for additional information; TTY users route through Relay Texas at 711.

## **Policy Development/Review Workshop -**

- A Presentation and discussion of the proposed Transit Development Plan and Accompanying Financial Agreements -- Nat Waggoner, Transportation Services Analyst, AICP, PMP
- B Presentation and discussion on a Texas Department of Transportation recommended Mobility 35 Aesthetics profile for the City of Georgetown Area -- Edward G. Polasek, AICP, Transportation Services Director
- C Presentation and discussion on a Texas Department of Transportation recommended Mobility 35 Project for the Williams Drive intersection -- Edward G. Polasek, AICP, Transportation Services Director
- D Presentation and discussion regarding possible revisions to the Georgetown Housing Tax Credit Resolution Support process -- Jennifer C. Bills, AICP, LEED AP, Housing Coordinator

## **Executive Session**

In compliance with the Open Meetings Act, Chapter 551, Government Code, Vernon's Texas Codes, Annotated, the items listed below will be discussed in closed session and are subject to action in the regular session.

- E **Sec. 551.071: Consultation with Attorney**
  - Advice from attorney about pending or contemplated litigation and other matters on which the attorney has a duty to advise the City Council, including agenda items
  - Frontier Communications of Texas Settlement
  - Status Report Pedernales Electric Cooperative
  - Settlement Agreement with KDR Equities, LLC

### **Sec. 551.072: Deliberation about Real Property**

- City lease agreements

### **Sec. 551.074: Personnel Matters**

- City Manager, City Attorney, City Secretary and Municipal Judge: Consideration of the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal

### **Sec. 551.086: Competitive Matters**

- Power Supply - Letter of Intent to purchase from Sustainable Holdings, Inc.

**Sec. 551.087: Deliberation Regarding Economic Development**  
- Project Hop

**Adjournment**

**Certificate of Posting**

I, Shelley Nowling, City Secretary for the City of Georgetown, Texas, do hereby certify that this Notice of Meeting was posted at City Hall, 113 E. 8th Street, a place readily accessible to the general public at all times, on the \_\_\_\_\_ day of \_\_\_\_\_, 2016, at \_\_\_\_\_, and remained so posted for at least 72 continuous hours preceding the scheduled time of said meeting.

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Shelley Nowling, City Secretary

**City of Georgetown, Texas**  
**City Council Workshop**  
**September 13, 2016**

**SUBJECT:**

Presentation and discussion of the proposed Transit Development Plan and Accompanying Financial Agreements -- Nat Waggoner, Transportation Services Analyst, AICP, PMP

**ITEM SUMMARY:**

In November 2014, the City of Georgetown and Capital Metro entered into an agreement to complete a Transit Development Plan (TDP), as required by Capital Metro's Service Expansion Policy.

The Transit Development Plan (TDP) provides a framework for the development of a fixed route bus system that serves transit needs within the city limits and connects to existing and future regional transit options.

In May 2016, City staff presented City Council presented service parameters, a strategic framework for public-private partnerships, a paratransit component, a recommendation on the number of fixed routes, recommendations for performance measures, revised financial and service plans, timeline for implementation, performance review and reporting. City Council directed staff to continue to develop the fixed route bus system, continue public outreach efforts and explore feasibility of a voucher program through Transportation Network Companies (TNCs).

**FINANCIAL IMPACT:**

Implementation costs of a fixed route and complimentary paratransit program are included in the City's FY2017 budget.

**SUBMITTED BY:**

Nat Waggoner, AICP, PMP

**ATTACHMENTS:**

Transit Development Plan Update Presentation  
FY17 Inter-Local Agreement with CAMPO (DRAFT)  
Georgetown Health Foundation Public Transportation Services Agreement

# Georgetown Transit Development Plan Update

**Georgetown City Council  
September 13, 2016**

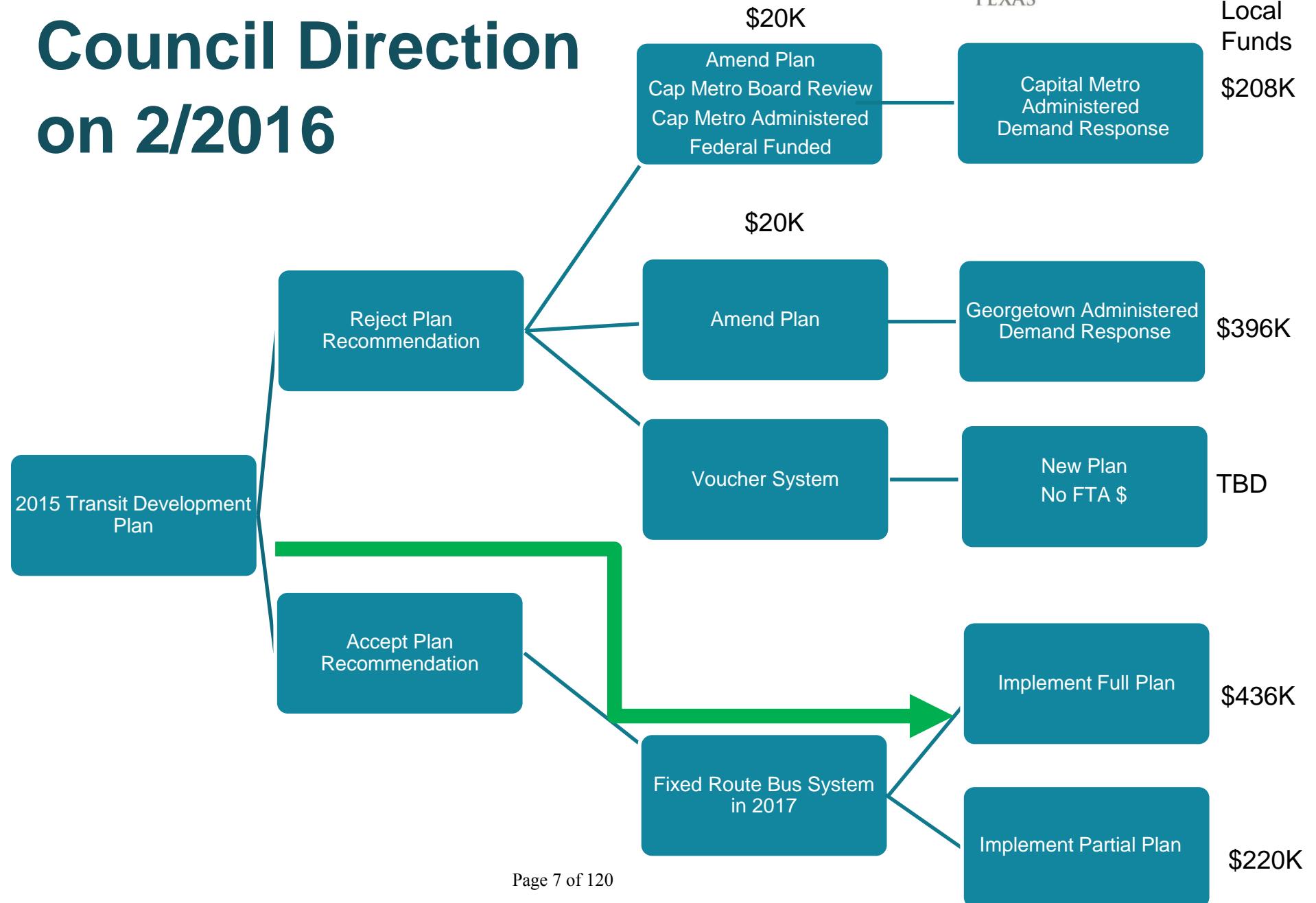
# Agenda

- Obligations with Capital Metro
- Decision Tree
- Confirm Feb and May 2016 Direction
- Actions Since Last Update
- Recommendations
- Next Steps

# Obligation with Capital Metro

- ✓ FY15 Interlocal Agreement for TDP
  - ✓ Scope was to develop fixed route system
  - ✓ \$85K of Federal 5307, \$21K Local
  - ✓ Work Began 12/2014, Ended 6/2015
- 12 Months to Consider Adoption
- ILA 2016 Ends 9/30/2016
- ILA 2017 Executed by 9/30/2016

# Council Direction on 2/2016



# City Council Guidance from 2/9

- ✓ Pursue Fixed Route Bus Plan
- ✓ Explore Strategic Partnerships
- ✓ Develop Strategic Plan to Support Those Partnerships
- ✓ Revise Routing, Service Hours, Financial Plan
- ✓ Recommend Performance Measures

# City Council Guidance from 5/24

1. Determine Criteria for Council Review of Performance Measures
  - a) Periodic Updates to Council
  - b) Anytime if triggers are met:
    - i.  $\geq \frac{1}{2}$  (3 of 6) of Performance Measures not Met
    - ii.  $\leq 50\%$  of Any 1 Measure not Met
2. Continue to explore voucher like system
3. Keep potential bus system moving forward independent of voucher exploration
4. Continue Public Input Process

# Actions Since 5/24

- ✓ Pursue Funding for Faith in Action thru FTA
- ✓ Revised TDP, ready for adoption
- ✓ Research, evaluate feasibility of voucher system
  - ✓ 4 TNCs Surveyed, by phone and email
- ✓ Agreement with Georgetown Health Foundation Secured
- ✓ Interlocal Agreement with Capital Metro Drafted

# Service Standards

- Performance measures used to assess the four fixed routes
- Routes will be reviewed individually and as a system every six months per FTA

	FY 18	FY 19	FY 20
Passengers per Revenue Hour	6	8	10
Farebox Recovery	6%	8%	10%
Cost per Passenger	\$12	\$9	\$7
Cost per Revenue Hour	\$75	\$77	\$79
On-Time Performance	95%	95%	95%
Total Annual Riders (per route)	10,000	14,000	17,000

# Planned Paratransit Capacity

Operating Plan	Demand Response Annual Rev. Hrs. FY 16	% of Accessible Rides Provided FY16	Planned Paratransit Annual Rev. Hrs. FY 18
Paratransit	0	0	3562
Demand Response	5,200	35%	0
Total Hours	5,200	1820	3562

# Voucher Research Findings

- P3- Voucher Models exist in 3 general forms:
  - 1<sup>st</sup>/Last mile
  - Guaranteed Ride Home
  - Paratransit
- Ridesharing appears a substitute for auto travel, not baseline public transit
- Ridesharing is for social, recreational transit, at night and on the weekends
- Tech-enabled services (pre-condition) key to model
- Paratransit market may offer the most impact, but hardest to administer thru a ridesharing program

# Fare Structure for Uber and Lyft

	UberX	Lyft
<b>Base Fare</b>	\$1.00	\$1.00
<b>Per Minute</b>	\$0.12	\$0.12
<b>Per Mile</b>	\$1.00	\$1.02
<b>Booking Fee (Trust And Service Fee)</b>	\$1.30	\$1.55
<b>Minimum Fare</b>	\$5.30	\$4.50
<b>Maximum Fare</b>	/	\$200.00
<b>Cancellation Fee</b>	\$5.00	\$5.00
	*the lowest-cost Uber	*solo or with up to three

# Estimate Travel Time

# Voucher Availability Model

Proposed Fixed Route	One Way (Miles)	Total Drive Time- 1 Way (Minutes)	Estimated 1 Way Trip Fare Based on Uber Avg.
Orange	2.4	12	\$ 6.14
Green	3.3	9	\$ 6.68
Blue	3.8	13	\$ 7.60
Purple	3.9	15	\$ 8.00
<b>Average</b>	<b>3.35</b>	<b>12</b>	<b>\$ 7.11</b>

Local Funding	\$ 248,000
Voucher Administration Cost (Full Time Employee)*	\$ (92,378)
<b>Available Funding Available for Vouchers</b>	<b>\$ 155,622</b>

\* FTE cost includes FICA, Workers Comp, Unemployment, Insurance, Retirement

% of Local Contribution of Avg. Fare	75%	100%	107%	113%
Value	\$ 5.30	\$ 7.11	\$ 7.60	\$ 8.00
<b>Available Vouchers</b>	Page 16 of 120	<b>4,133</b>	<b>3,081</b>	<b>2,882</b>

# Issues for Further Exploration

- 1. How would we administer in a fair and equitable manner?**
- 2. How do we comply with Federal requirements?**
- 3. How do we ensure rides are available when needed?**
- 4. How do we ensure everyone in the community can access these services?**
- 5. How do we protect against liabilities?**
- 6. Is a voucher program designed to increase access to transit or be its substitute?**

**Recommendation:**  
**Further development of issues, review potential for pilot in FY18**

# Next Steps

Recommendation to:

- Pursue grant with Faith in Action which expands service hours and capacity
- Move forward with fixed route and complimentary paratransit through adoption of TDP

# FY17 Interlocal Agreement with Capital Metro

<b>Service Cost</b>	
Local Funds (60%)	\$ 252,973
<b>Stop Amenities</b>	
Local Funds (20%)	\$ 17,890
<b>Planning</b>	
Local (20%)	\$ 6,294
<b>Total FY 17 Costs</b>	
Total Local Funds	\$ 277,157
Fare recovery, 6% of \$122,889	\$ (7,373)
Advertising Revenue (\$1K/Month/Bus) for 2 months	\$ (4,000)
FY16 ILA Local Fund Carryover	\$ (17,784)
<b>FY17 Budget Request</b>	
	\$ 248,000

# If Ready to Move Forward with Fixed Route

## Authorize Mayor to:

- Finalize and execute an agreement with the Georgetown Health Foundation (GHF) as part of the 9/13/2016 item
- Finalize and execute an ILA with Capital Metro as part of the 9/13/2016 item

## Direct Staff to:

- Develop voucher program for possible implementation in FY18

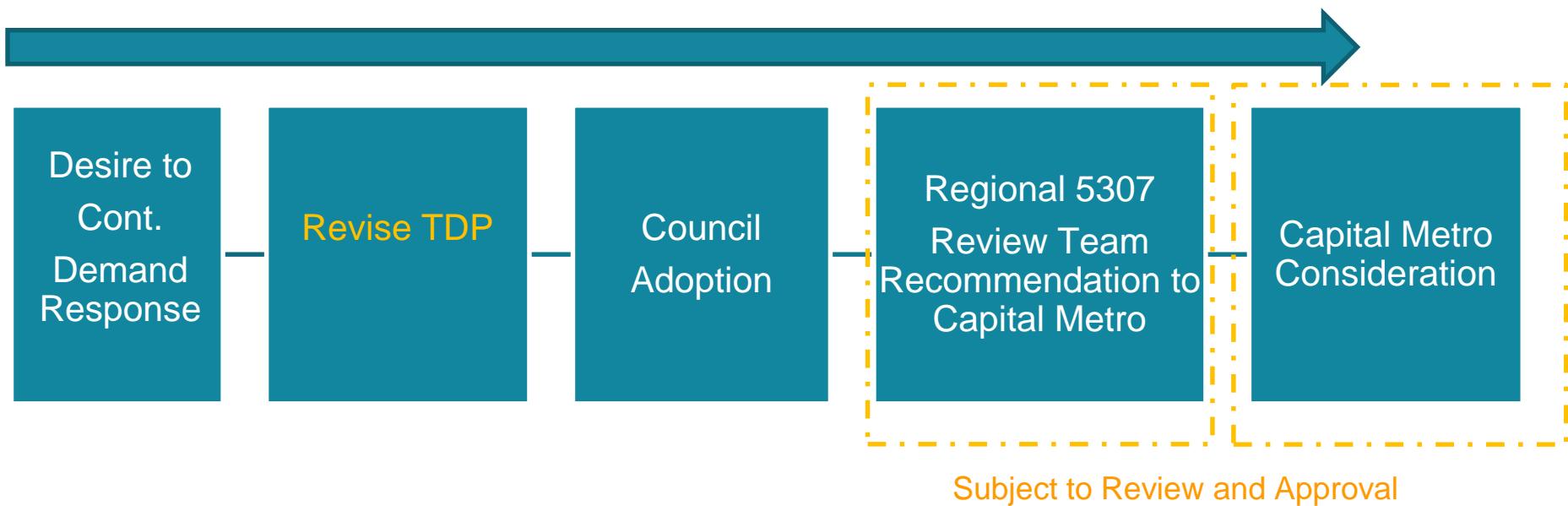
# Questions and Guidance

Nat Waggoner, PMP, AICP  
Transportation Analyst  
(512) 930-8171

# Decision Making Criteria

- Helps Address Community Concerns*
- Community Expectation/Desires*
- Ridership Current and Future*
- Cost Per Rider*
- Densities of Income, Age, Population, Car Availability*

# Demand Response Revision Process



**INTERLOCAL AGREEMENT  
BETWEEN  
THE CITY OF GEORGETOWN  
AND  
THE CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY**

This Interlocal Agreement ("Agreement") is made and entered into by and between the City of Georgetown (the "City"), a political subdivision of the State of Texas, and the Capital Metropolitan Transportation Authority ("Capital Metro"), a transportation authority and political subdivision of the State of Texas under the provisions of the Texas Transportation Code, Chapter 451, each individually referred to as a "Party" or collectively referred to as the "Parties," upon the premises and for the consideration stated herein.

**Recitals**

**WHEREAS**, Capital Metro's mission is to connect people, jobs and communities by providing high quality and sustainable transportation choices for communities in the Greater Austin Area, and,

**WHEREAS**, in June of 2008, Capital Metro's Board of Directors approved the Service Expansion Policy, which allows Capital Metro to partner with cities in the region that are not currently a part of Capital Metro's service area, and,

**WHEREAS**, in April of 2014, Capital Metro's Board of Directors approved a revised Service Expansion Policy, which provides a process for accessing federal funds by cities in the region that are not currently a part of Capital Metro's service area, and,

**WHEREAS**, the City of Georgetown, as of Census 2010, was designated a part of the Austin Urbanized Area, affecting funding for the provision of public transportation services, and,

**WHEREAS**, the City desires to obtain trip reservation, dispatch and demand response transportation (DRT) services, through a partnership with Capital Metro and CARTS, and,

**WHEREAS**, the City completed a Transit Development Plan (TDP) as required by the Service Expansion Policy and desires to transition from DRT services to fixed-route and paratransit services, through a partnership with Capital Metro and CARTS, and,

**WHEREAS**, the City intends to utilize Federal Transit Administration (FTA) funding under 49 U.S.C. 5307 ("Section 5307"), and,

**WHEREAS**, Section 5307 funding is made available to designated recipients that must be public bodies with the legal authority to receive and dispense Federal funds, and,

**WHEREAS**, the Section 5307 funds must therefore be received locally by an FTA “Designated Recipient”, and,

**WHEREAS**, Capital Metro, as a Designated Recipient, shall work with the City through the Service Expansion Policy to provide access to Section 5307 funds for transit service, and,

**WHEREAS**, the Parties desire to define their roles and responsibilities for the administration of FTA Section 5307 funds and the development and operations of transit services; and,

**WHEREAS**, the Parties intend to conform this Agreement in all respects with the Interlocal Cooperation Act, Texas Government Code Section 791.001, et seq.; and,

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements contained herein, the Parties agree as follows:

**I. Statement of Services to be Performed:**

1. Capital Metro agrees to provide DRT and related services to allow the City to provide DRT services beginning October 1, 2016 at the rates set forth in Exhibit “A”. For purposes of this Agreement, “DRT” services and DRT related services are comprised of trip reservation, dispatch services, and vehicle transport to pick up and drop off passengers and transport them to their destinations (collectively, “DRT Services”). DRT Services shall be provided through a contract with the Capital Area Rural Transportation System (“CARTS”) or other mutually agreed upon transportation provider.
2. Should the Georgetown City Council adopt the Georgetown TDP and approve implementation of fixed route services, the parties mutually agree to implement the routes identified in Exhibit “B” and complementary paratransit and related services to allow the City to transition from DRT services to fixed route services at the rates set forth in Exhibit “A”. In this scenario, this agreement contemplates approximately ten months of DRT service (October 2016 – July 2017) and approximately two months of fixed route service (August and September 2017). For purposes of this Agreement, fixed route services are defined as bus services provided on a fixed schedule basis along a specific route with vehicles stopping to pick up and deliver passengers to specific locations; each fixed route trip serves the same origins and destinations. For the purposes of this Agreement, paratransit services are defined as demand-response, shared-ride service for people whose disabilities prevent them from riding regular bus and rail service. Paratransit service complies with the Americans with Disabilities Act of 1990 (ADA). The term “paratransit” in this section refers to transit that is parallel in service to fixed-

- route bus service. Fixed route and paratransit services shall be provided through a contract with the Capital Area Rural Transportation System (“CARTS”) or other mutually agreed upon transportation provider.
3. Should the Georgetown City Council adopt the Georgetown TDP without implementation of fixed routes services, the parties mutually agree to continue DRT services through September 30, 2017 at the rates set forth for services in Exhibit “A”. The city will be required to update the Georgetown TDP in accordance with the requirements of the Capital Metro Service Expansion Policy in order to continue accessing Section 5307 funding for transit service.

4. For fixed route services, the City and Capital Metro shall form a Steering Committee that includes the City, Georgetown Health Foundation, Capital Metro and CARTS and other stakeholders to guide the planning process of the public transportation service (the “Steering Committee”). The Steering Committee will provide guidance during the development of the 2017-2018 Public Transportation Services Plan for the routes identified in Attachment “B”.
5. Capital Metro will coordinate to provide Services according to the stipulations outlined as follows:
- A. The Parties mutually understand the need for coordination and prior approval of activities and initiatives and agree to work together on planning activities in support of the services. For fixed route services, Capital Metro will provide assistance to the city in service planning, bus stop identification and placement, marketing, advertising, and community outreach at the rates set forth under planning in Attachment “B”.
  - B. Capital Metro will monitor the ridership and use of the Services, and
  - C. The Parties mutually agree to consult with each other regarding any amendments or issues to be addressed in these Services.

## **II. Insurance Coverage**

Capital Metro will provide, at a minimum, the following levels of insurance:

1. Commercial General Liability Insurance Coverage with limits of not less than One Million Dollars (\$1,000,000) each occurrence and not less than Two Million Dollars (\$2,000,000) Combined Single Limit of Liability for Bodily Injury and Property Damage including Products Liability.
2. Automobile Liability Insurance covering all owned, hired and non-owned automobiles used in connection with work with limits not less than One Million Dollars \$1,000,000 and not less than Two Million Dollars (\$2,000,000) Combined Single Limit of Liability for Bodily Injury and Property Damage.

3. Workers' Compensation Insurance Statutory Workers' Compensation coverage in the State of Texas. Employers Liability Insurance with minimum limits of liability of One Million Dollars \$1,000,000.

### **III. Term of the Agreement**

This Agreement shall begin upon signature of the last party to sign and terminate the earlier of: (i) September 30, 2017 or (ii) when the local match from City as provided herein reaches the sum of \$261,295; and/or the FTA Section 5307 funds used equal \$201,937, as described in Exhibit B.

### **IV. Financial Terms**

1. Consistent with federal funding practice, the Parties will receive the FTA's allocated funding for the Austin Urbanized Area, disbursed based on population and population density distributed as formula funds through FTA's Section 5307 program, with Capital Metro being considered the "Designated Recipient" and with the City being considered a "Subrecipient" for purposes of compliance with federal contracting requirements, including the provisions of U.S. Department of Transportation Federal Transit Administration Circular FTA C 4220.1F and any other applicable federal contracting requirements. The City's allocated portion will be offset against any payment due for services rendered.
2. As Designated Recipient of Section 5307 funding, Capital Metro will provide or contract for Services to provide the Services outlined in Section I. Capital Metro may submit requests for reimbursement to the City for the local match for Section 5307 funds no more frequently than once a month and at least once a quarter, and, if quarterly, no later than fifteen (15) calendar days from the end of the fiscal quarter. The request for local match reimbursement will include: sufficient documentation of any cost incurred during the billing period; cost allocated to Section 5307 funding and amount requested for local match; previous expenditures (5307 and match); and the balance remaining. Capital Metro will retain the tracked and invoiced administrative costs from the Section 5307 Funding received from the FTA prior to providing the remaining funds to the City. Eligible Capital Metro personnel costs will also be retained from the Section 5307 Funding received from the FTA prior to providing the remaining funds to the City.
3. For the local match, Capital Metro will submit an original and one copy of the invoice, including any supporting documentation such as check copies, bank statements, payroll records, copies of vendor invoices, etc., as applicable, to the City at the following address:

City of Georgetown  
Finance Department  
P.O. Box 409  
Georgetown, Texas 78627

4. The City will make payment within thirty (30) days of the receipt of an acceptable invoice. If an invoice is disputed, the City will pay Capital Metro the undisputed portion of the invoice or allow the re-submission of the undisputed portion of the invoice, while the dispute is being resolved.
5. Capital Metro will submit a final billing within forty-five (45) days of completion of the Services or termination of the Agreement.
6. Capital Metro will comply with applicable federal requirements for receipt of Section 5307 funds as established by the FTA and the U.S. Office of Management and Budget (“OMB”) and other federal regulations, including audit requirements contained in OMB Circular A-133 and the standards for financial administration must conform to the applicable requirements of 49 C.F.R. Part 18.20.

## **V. Purchase of Capital Assets**

A. Section 5307 funds not used to pay for the Services may be used by the City for capital acquisition. The City will be reimbursed for any such expenditures upon submission of an original and one copy of the invoice, including any supporting documentation such as check copies, bank statements, payroll records, copies of vendor invoices, etc., as applicable, to Capital Metro at the following address:

Capital Metro  
2910 E. Fifth Street  
Austin, Texas 78702

B. Capital Metro will make payment within thirty (30) days of the receipt of an acceptable invoice. If an invoice is disputed, Capital Metro will pay the City the undisputed portion of the invoice or allow the re-submission of the undisputed portion of the invoice, while the dispute is being resolved.

## **VI. Default.**

Either party shall be in default under the Agreement if either party fails to fully, timely and faithfully perform any of its material obligations under the Agreement.

## **VII. Termination**

Either party shall have the right to terminate the Agreement, in whole or in part, without cause upon ninety (90) calendar days' prior written notice without cost or penalties.

## **VIII. Certifications**

The undersigned Contracting Parties do hereby certify that each is authorized to perform the services required by this Agreement and that such services further a governmental function of the City. Payment for the services performed by the Capital Metro will be made from current revenues available to the City. That each signatory to this Agreement has the specific authority to sign this Agreement and to bind their respective business entity.

## **IX. Incorporation by Reference**

The recitals contained in the first paragraph are incorporated herein for all purposes.

## **X. Severability**

Should any section or part of this Agreement be held unconstitutional, illegal, or invalid, or the application to any person or circumstance thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair, or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this Agreement are declared to be severable.

## **Y. Amendment**

The parties may amend this Agreement in writing signed by both parties. The City's City Mayor and the Capital Metro President/CEO will have the authority to negotiate and execute amendments to this Agreement without further City Council action or action from the Capital Metro Board of Directors, but only to the extent necessary to implement and further the clear intent of the respective City Council and Capital Metro Board of Directors' approval, and not in such a way as would constitute a substantive modification of the terms and conditions hereof or otherwise violate Chapter 791 of the Texas Government Code. Any amendments that would constitute a substantive modification to the Agreement must be approved by the governing bodies of the Parties.

## **Z. Entire Agreement**

This Agreement represents the entire agreement between the Parties concerning the subject matter of this Agreement and supersedes any and all prior or contemporaneous oral or written statements, agreements, correspondence, quotations and negotiations. In executing this Agreement, the parties do not rely upon any statement, promise, or representation not expressed herein. This Agreement may not be changed except by the mutual written agreement of the Parties.

**The City of Georgetown**

**Capital Metropolitan Transportation  
Authority**

By: \_\_\_\_\_

Dale Ross  
Mayor

Date: \_\_\_\_\_

Approved as to Form:

\_\_\_\_\_

City Attorney

By: \_\_\_\_\_

Linda Watson  
President

Date: \_\_\_\_\_

By: \_\_\_\_\_

CMTA Legal Department \_\_\_\_\_

DRAFT

**Exhibit A**  
**FY 17 Financial Plan**

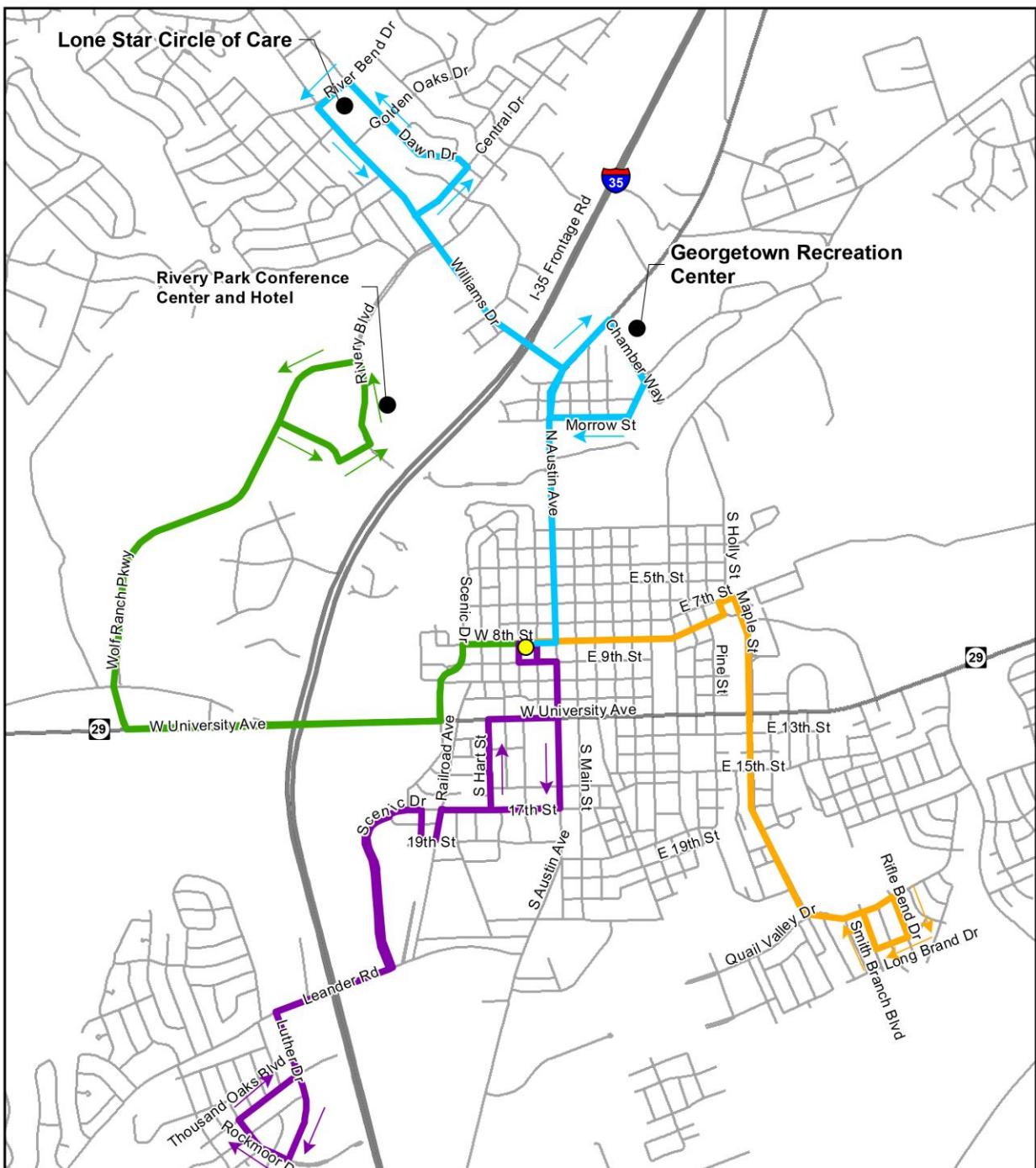
<b>Cost for CARTS Operated Service*</b>	
Total Service Hours	6,114
CARTS Hourly Rate	\$68.96
Total Service Cost	\$421,621
Local Funds (60%)	\$252,973
Section 5307 Funds (40%)	\$168,648

<b>Capital</b>	
Total Capital	\$89,452
Local Funds (20%)	\$17,890
Section 5307 Funds (80%)	\$71,562
<b>Planning</b>	
Total Planning	\$31,467
Local Funds (20%)	\$6,294
Section 5307 Funds (80%)	\$25,173

<b>Total FY 17 Costs</b>	
Total Project Cost	\$542,540
Total Local Funds	\$277,157
Total Section 5307 Funds	\$265,383

\*Estimates based on ten months of DRT service and two months of fixed route service.

**Exhibit B**  
**Fixed Route System Map**



**Legend**

- Route 1: Eastside/Southwestern University
- Route 2: Wolf Ranch Pkwy
- Route 3: Hospital/Leander Rd
- Route 4: Austin Ave/Williams
- Potential Transfer Station

**GEORGETOWN TDP  SYSTEM MAP**



## **PUBLIC TRANSPORTATION SERVICES AGREEMENT**

THIS PUBLIC TRANSPORTATION SERVICES AGREEMENT (“Agreement”) is made by and between the CITY OF GEORGETOWN, a Texas Home Rule Municipal Corporation in Williamson County, (“the City”) and the GEORGETOWN HEALTH FOUNDATION, a Texas non-profit corporation (“the Foundation”).

**WHEREAS**, the City, in partnership with Capital Metropolitan Transportation Authority and grant from the Federal Transit Administration, completed a fixed route bus feasibility study in 2015, (the “Transit Development Plan”);

**WHEREAS**, the City has designed a Fixed Route Bus network that supports mobility needs within the city limits and connects to existing and future regional transit options to form a regional transit network that would improve mobility, improve the region’s environmental and economic sustainability, and slow the increase of congestion on roadways; and

**WHEREAS**, the City, as of Census 2010, was designated a part of the Austin Urbanized Area, affecting funding for the provision of public transportation services, and,

**WHEREAS**, the Foundation supports local nonprofit organizations and agencies offering a range of safety net services, including public transportation services and other social determinants of health; and

**WHEREAS**, the City of Georgetown recognizes the value the Foundation provides through the administration of grants to local non-profit organizations.

**WHEREAS**, the City of Georgetown and the Georgetown Health Foundation desire to develop and deliver a dynamic public transportation network in 2017 that fully supports a high quality of life in Georgetown.

**NOW, THEREFORE**, in consideration of the mutual covenants and promises made by the parties, the Foundation and the City hereby agree as follows:

### **I. OBLIGATIONS OF THE CITY**

- A. Within three months of execution of this agreement, the City shall initiate a public transportation service planning meeting focused on transportation solutions serving the Foundation target population. Input from the meeting will be provided to the Steering Committee (herein defined).
- B. Within one year of execution of this agreement, the City shall provide fixed route bus service, ADA paratransit and responsive service within the corporate limits of the City. Responsive service is a transportation service which supports access to medical facilities, recreational

activities, job opportunities and educational institutions and other social determinants of health not directly served by Fixed Route bus.

- C. The City shall form a Steering Committee that includes the City, Georgetown Health Foundation, Capital Metro and CARTS and other stakeholders to guide the planning process of the public transportation service (the “Steering Committee”). The Steering Committee will provide guidance during the development of the 2017-2018 Public Transportation Services Plan, as outlined in Attachment A - Schedule of this Agreement.
- D. This Steering Committee will also meet semi-annually to review service performance measures in advance of the submittal by Capital Metro to the Federal Transit Administration (FTA), as outlined in Attachment A - Schedule of this Agreement.
- E. The City shall manage all phases of development and administration of 2017-2018 Public Transportation Services Plan including, but not limited to, procurement, contract execution, review and approval of deliverables, enforcement of contract terms and conditions, payment of invoices, and contract close-out. The City shall actively engage and partner with the Foundation throughout the process to ensure that the final plan meets the needs of the Foundation, the goals of the Foundation’s Southeast Georgetown Needs Assessment, and the TDP.
- F. The City will submit the completed 2017-2018 Public Transportation Services Plan for review by the Georgetown Health Foundation Board of Directors.
- G. During the term of this Agreement, the City will coordinate with the Foundation on any proposed and/or necessary changes to 2017-2020 Public Transportation Services Plan by way of the Steering Committee.

## **II. OBLIGATIONS OF THE GEORGETOWN HEALTH FOUNDATION**

- A. The Foundation will actively work with the City in the development of the Transit Development Plan consistent with the 2017-2018 Public Transportation Services Plan.
- B. The Foundation will appoint a representative to the Steering Committee that includes the City, Georgetown Health Foundation, Capital Metro and CARTS and other stakeholders to guide the planning process of the public transportation service, as outlined in Attachment A - Schedule of this Agreement.
- C. The Steering Committee shall meet semi-annually to review service performance measures in advance of their submittal to the Federal Transit Administration (FTA, as outlined in Attachment A - Schedule of this Agreement. The Foundation will contribute \$150,000 to the City on an annual basis to support the 2017-2020 Georgetown Public Transportation Services Plan. Annual payments shall be made as follows:
  - Payment 1: August 1, 2017
  - Payment 2: August 1, 2018
  - Payment 3: August 1, 2019
- D. The Foundation will contribute an additional \$50,000 to the City on an annual basis to support additional transportation solutions targeting communities not directly serviced by fixed route bus system in the Georgetown Public Transportation Services Plan. The first payment shall be made within sixty days after the Georgetown Public Transportation Services Plan Steering Committee identifies appropriate transportation solutions and the Foundation reviews and approves of the proposed solutions.
- E. The Foundation will present the 2017-2018 Public Transportation Services Plan to its local decision making bodies for review and possible adoption.

### **III. GENERAL PROVISIONS**

- A. **Term.** This Agreement shall be effective on the date of the last party to sign. The Agreement terminates on September 30, 2020.
  - B. **Termination for Cause.** If either party defaults in the performance of any terms or conditions of this Agreement the defaulting party shall have 30 days after receipt of written notice of such default within which to cure such default. If such default is not cured within such period of time then the offended party shall have the right without further notice to terminate this Agreement.
  - C. **Termination for Convenience.** This Agreement may be terminated, in whole or in part, by either party whenever such termination is found to be in the best interest of either party. Either party shall provide written notification to the other party at least thirty (30) days in advance of the effective date of the termination.
  - D. **Notices.** Any notice or communication permitted or required by this Agreement shall be deemed effective when personally delivered or deposited, postage prepaid, in the first class mail of the United States properly, or sent via electronic means, addressed to the appropriate party at the address set forth below:

If to the City: Ed Polasek  
Transportation Services Director  
City of Georgetown  
300-1 Industrial Ave  
Georgetown, Texas 78626

with a copy to: Nat Waggoner  
Transportation Services Analyst  
City of Georgetown  
300-1 Industrial Ave  
Georgetown, Texas 78626

If to the Foundation: Scott Alarcon  
Chief Executive Officer  
Georgetown Health Foundation  
2425 Williams Drive, Suite 101  
Georgetown, TX 78628

With a copy to: Linda Owen  
Dir. of Administration  
Georgetown Health Foundation  
2425 Williams Drive, Suite 101  
Georgetown, TX 78628

- E. **No Waiver.** The waiver by either party of a breach or violation of any provision of this Agreement shall not operate as or be construed to be a waiver of any subsequent breach hereof.
- F. **Severability.** This Agreement is severable and if any one or more parts of it are found to be invalid, such invalidity shall not affect the remainder of this Agreement if it can be given effect without the invalid parts.
- G. **Governing Law and Venue.** This Agreement shall be governed by the laws of the State of Texas. Venue shall be located in Williamson County, Texas.
- H. **Third Party Beneficiaries.** Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the City or the Consultant.
- I. **Amendments.** Any changes to the terms of this agreement will not be effective unless in writing and signed by both parties.
- J. **Entire Agreement.** This Agreement, with all exhibits, includes the entire agreement of the City and the Consultant and supersedes all prior and contemporaneous agreements between the parties, whether oral or written, relating to the subject of this agreement.

CITY OF GEORGETOWN

By: \_\_\_\_\_  
Dale Ross,  
Mayor

Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_

Title: \_\_\_\_\_

Approved as to form only:

THE GEORGETOWN HEALTH  
FOUNDATION

By: M. Scott Alarcon  
Scott Alarcon,  
Chief Executive Officer

Date: 9/7/2016

By: Suzanne Bifly  
Title: VP of Strategic Philanthropy  
Georgetown Health Foundation

**ATTACHMENT A**  
**SCHEDULE**

Calendar Year	Decision Body	Event	Action
9/13/2016	City Council	Review Agreement and Transit Development Plan	Recommend adoption scheduling for Regular Council Meeting in June 2016
Sept 2016	City Council	Council Regular Agenda	Adopt Transit Development Plan and Execute Agreement with GHF
3 <sup>rd</sup> Qtr 2016	Steering Committee	1 <sup>st</sup> Meeting	Define Committee schedule and goals
4 <sup>th</sup> Qtr 2016	Steering Committee	2 <sup>nd</sup> Meeting	Define locations, scheduling, service hours, cost
1 <sup>st</sup> Qtr 2017	Steering Committee	3 <sup>rd</sup> Meeting	Review marketing/outreach
2 <sup>nd</sup> Qtr 2017	Steering Committee	4 <sup>th</sup> Meeting	Review marketing/outreach
3rd Qtr 2017	Steering Committee	5 <sup>th</sup> Meeting	Review marketing/outreach
4 <sup>th</sup> Qtr 2017	Steering Committee	6 <sup>th</sup> Meeting	Review Performance Measures, Prepare for Launch
August 1, 2017	GHF Board	Payment	1 <sup>st</sup> Payment for 2017 Service
1 <sup>st</sup> Qtr and 4 <sup>th</sup> 2018	Steering Committee		Review 2018 Performance Measures
1 <sup>st</sup> Qtr and 4 <sup>th</sup> 2019	Steering Committee		Review 2019 Performance Measures
1 <sup>st</sup> Qtr and 4 <sup>th</sup> 2020	Steering Committee		Review 2020 Performance Measures

**City of Georgetown, Texas**  
**City Council Workshop**  
**September 13, 2016**

**SUBJECT:**

Presentation and discussion on a Texas Department of Transportation recommended Mobility 35 Aesthetics profile for the City of Georgetown Area -- Edward G. Polasek, AICP, Transportation Services Director

**ITEM SUMMARY:**

Mobility 35 is an ongoing program of study and projects to accomplish improvements to the Interstate System that was originally constructed over 50 years ago. One of the short-term projects is to improve the Williams Drive interchange with IH35. This project will be designed using the Corridor Aesthetics established on the NE Inner Loop/Lakeway Bridge, SH 29 u-turns and Leander Road u-turn with the color scheme, church railing, retaining wall design and bent cap treatments.

At a minimum staff is recommending cross street naming to aid in emergency response and identification, and as the City's updated branding strategy is created (recommended in the FY 16/17 Budget) we may recommend more changes to match the new branding strategy.

Dustin Elliott, Mobility 35 Project Manager for HNTB Corporation, Karen Lorenzini, P.E. TxDOT, I-35/Mobility 35 Program Manager Austin District and Bobby Ramthun, TxDOT Georgetown Area Office Engineer, will be on hand to present the proposal and intersection analysis study for the Williams Drive Project.

**GTAB Board Recommendation:**

At their August 12, 2016 meeting, the GTAB Board recommended the aesthetic profile presented that includes current aesthetics of cathedral styling, the irrigation planting and cross street naming and find a better solution to the large solid walls through our branding program.

**FINANCIAL IMPACT:**

N/A

**SUBMITTED BY:**

Edward Polasek

**ATTACHMENTS:**

Draft Presentation

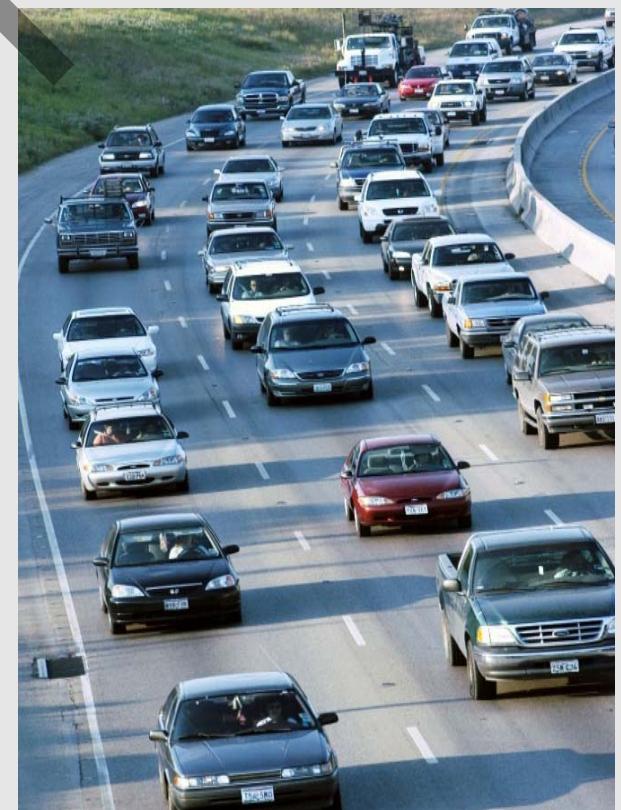


TEXAS DEPARTMENT OF TRANSPORTATION



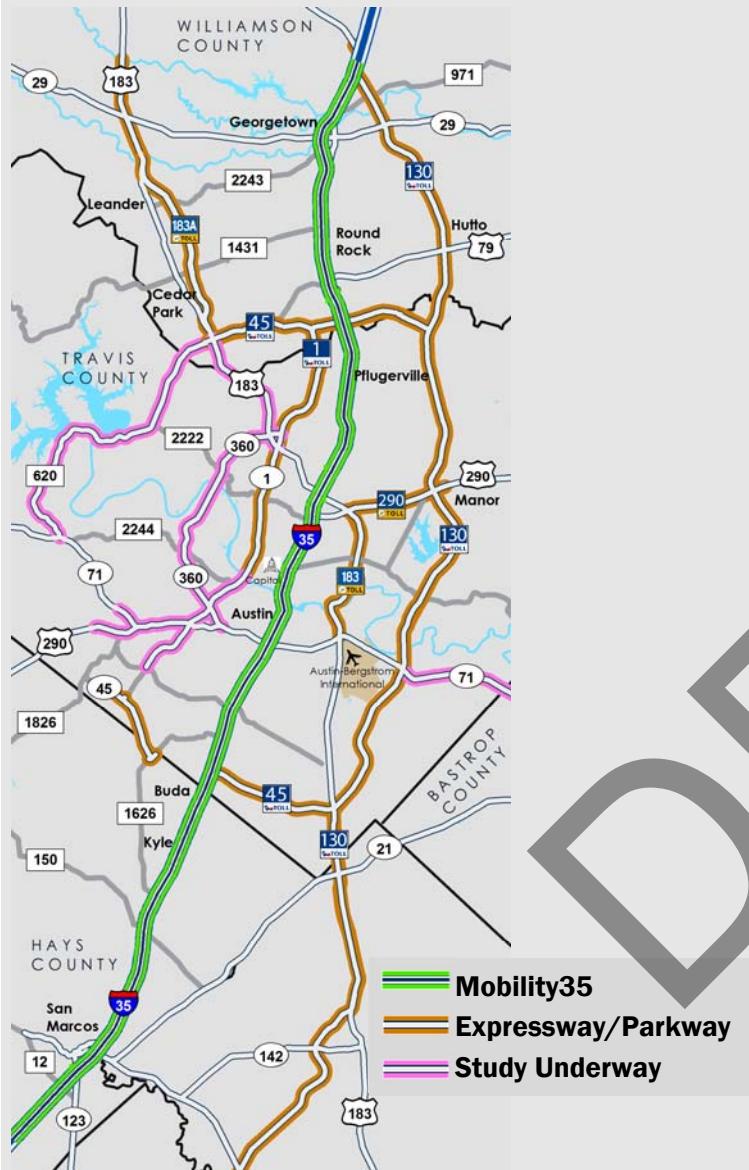
# MOBILITY35 AESTHETICS

City of Georgetown



July 5, 2016

# Mobility35 Program Overview



- A regionwide effort to improve safety and mobility on 79 miles of I-35 in Williamson, Travis, and Hays counties
  - I-35 through the heart of Austin is the #1 most congested roadway in Texas
  - Constraints to improving I-35 include:
    - Highly constrained urban environment
    - Need to maintain mobility during construction
    - Need for east/west connectivity
    - Diverse interests
    - Funding
  - Mobility35 improves safety and mobility within existing constraints and serves as part of the region's on-going transportation system upgrade

# Corridor Aesthetics for Georgetown

- **Purpose:** Gain consensus for corridor aesthetic treatments in the Georgetown area:
  - Generally
  - Project-specific for Williams Drive (first Mobility35 project in area)
- **Williams Drive Schedule:**
  - Schematic-level design – complete
  - Design development
    - Begins fall/winter 2016
    - Ends spring 2019
  - Construction – TBD, 2021 estimated; currently unfunded

# Corridor Aesthetics for Georgetown

- What do we need to decide early? What can we continue to discuss further?
  - Now: Design elements integral to the Williams Drive infrastructure (bridge columns, retaining walls, bridge rails, etc.)
  - Later: Non-integral design features to roadway infrastructure within the corridor (free standing signs, tree plantings, etc.)

Now example:

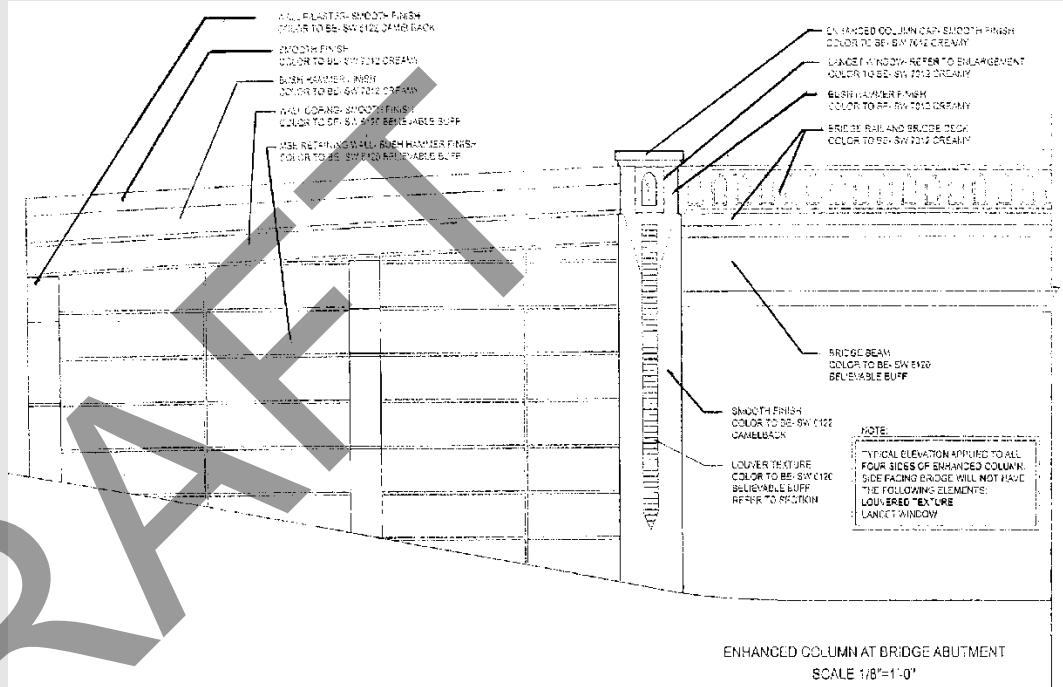


Later example:



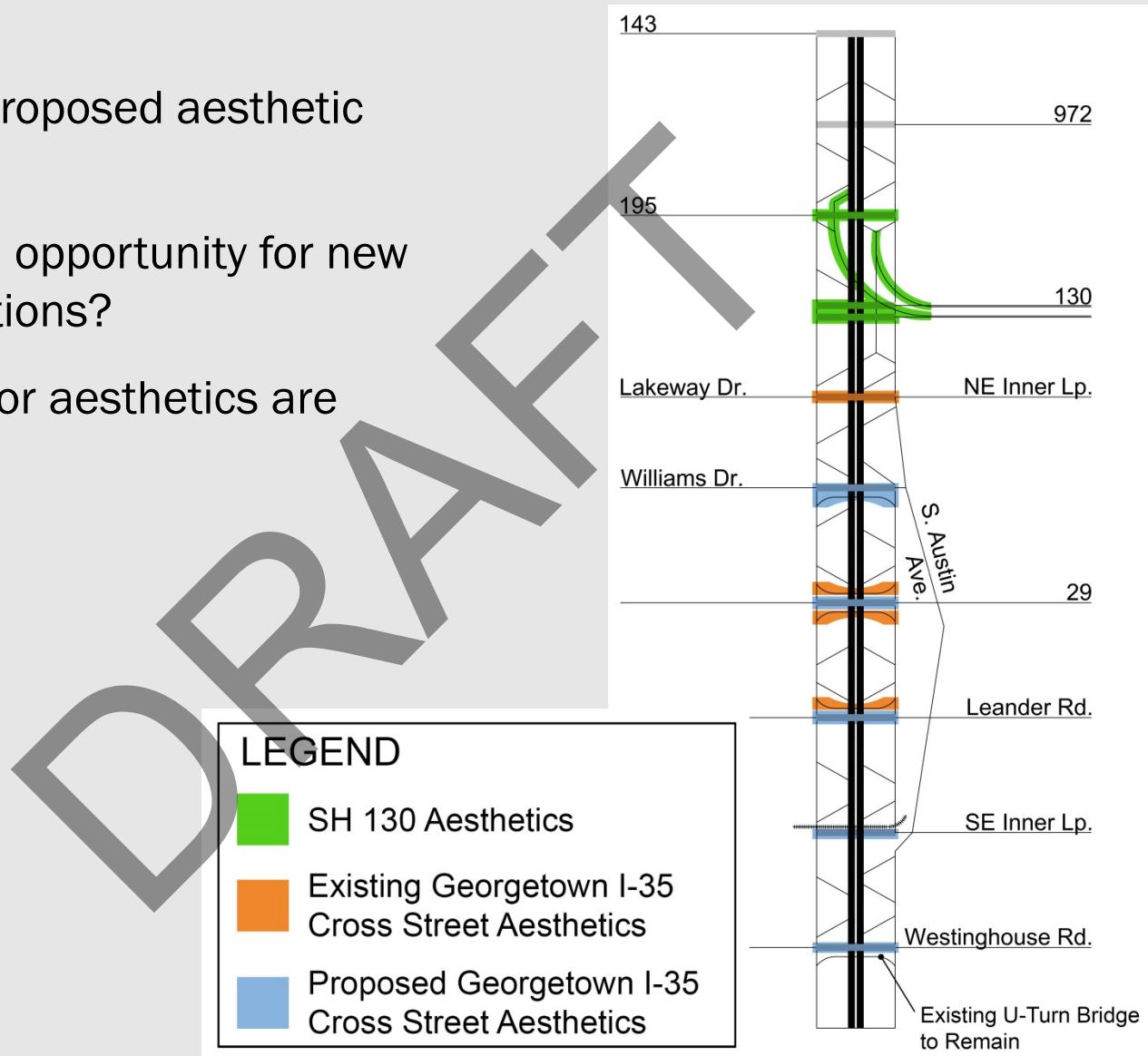
# Corridor Aesthetics for Georgetown

- Proposed corridor aesthetics



# Corridor Aesthetics for Georgetown

- Where does the proposed aesthetic currently exist?
- Where is there an opportunity for new aesthetic applications?
- What other corridor aesthetics are nearby?



# Corridor Aesthetics for Georgetown

- What could be changed or added?

Decorative  
Retaining  
Wall Panel



Ear  
Walls



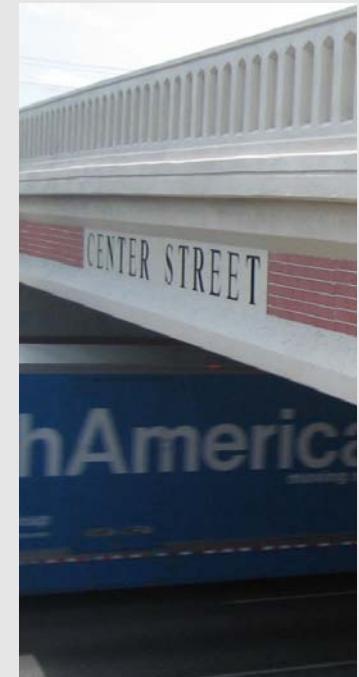
Pilaster



Bent Cap  
Treatments



Cross Street  
Naming

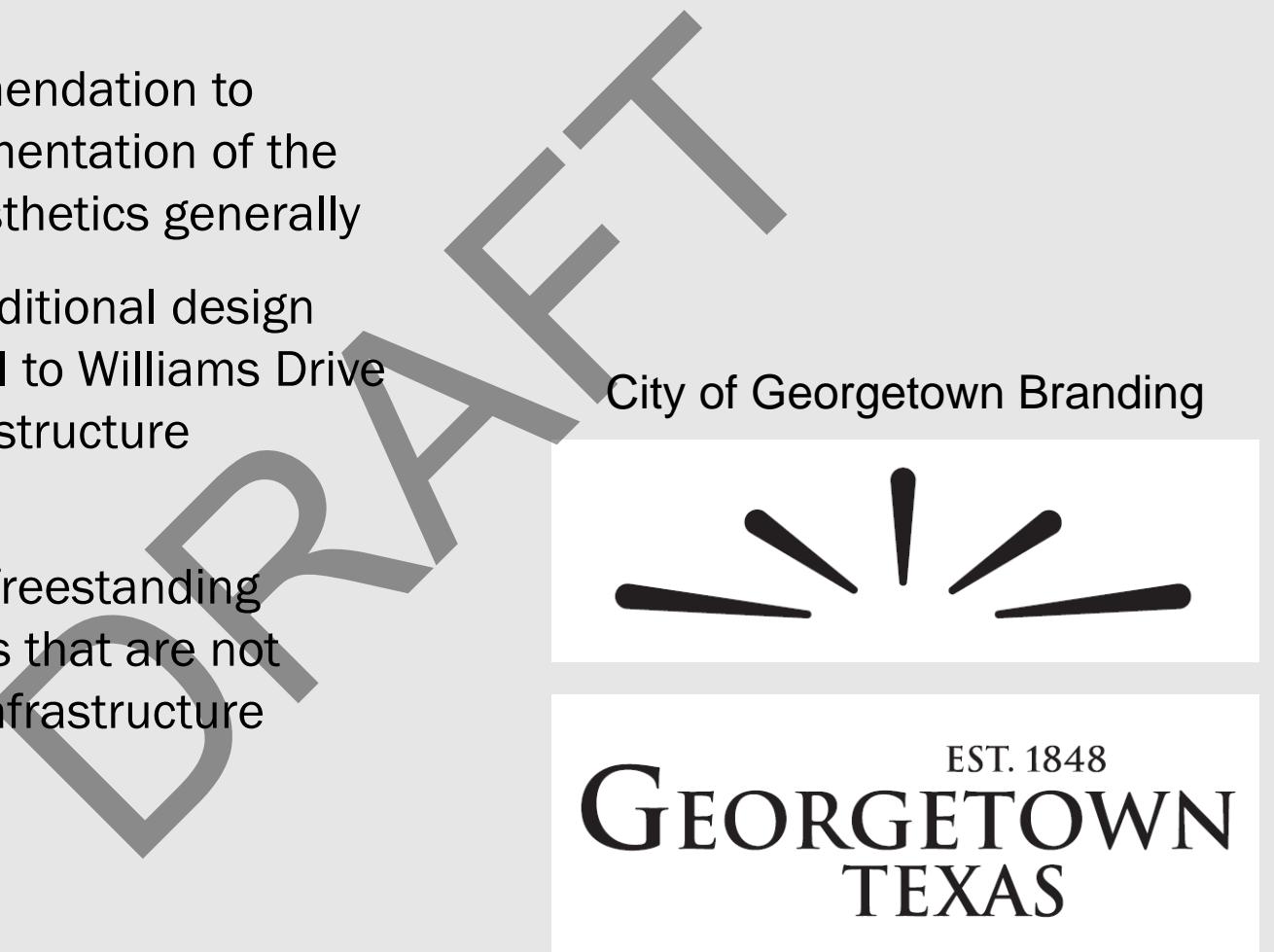


# Corridor Aesthetics for Georgetown

## ▪ Next Steps

- Council recommendation to continue implementation of the Georgetown aesthetics generally
- Recommend additional design features integral to Williams Drive and future infrastructure improvements
- Consider other freestanding design elements that are not integral to the infrastructure improvements

DRAFT  
City of Georgetown Branding



EST. 1848  
**GEORGETOWN**  
**TEXAS**

## Stay involved:

Web: [www.My35.org/Capital](http://www.My35.org/Capital)

Facebook: [www.facebook.com/TxDOT](http://www.facebook.com/TxDOT)

Twitter: @TxDOTAustin

Email: [info@mobility35.org](mailto:info@mobility35.org)



**City of Georgetown, Texas**  
**City Council Workshop**  
**September 13, 2016**

**SUBJECT:**

Presentation and discussion on a Texas Department of Transportation recommended Mobility 35 Project for the Williams Drive intersection -- Edward G. Polasek, AICP, Transportation Services Director

**ITEM SUMMARY:**

Mobility 35 is an ongoing program of study and projects to accomplish improvements to the Interstate System that was originally constructed over 50 years ago. One of the short-term projects is to improve the Williams Drive interchange with IH35. This project was selected to increase capacity, improve east/west connectivity and to maximize existing right-of-way along the corridor.

TxDOT has funding to complete the design of the locally preferred alternative and is seeking funding by 2019 to begin construction of the project. Part of the design work will include public meetings to discuss the design alternatives under consideration for the project. Before the start of the public meeting process, TxDOT would like to present their findings to the City of Georgetown through GTAB and City Council for initial feedback and recommendations.

Dustin Elliott, Mobility 35 Project Manager for HNTB Corporation, Karen Lorenzini, P.E., TxDOT Mobility 35 Program Manager Austin District, and Bobby Ramthun, TxDOT Georgetown Area Office Engineer, will be on hand to present the proposal and intersection analysis study for the Williams Drive Project.

**GTAB Recommendation:**

At their August 12, 2016 Meeting, the GTAB Board recommended the proposal presented today move forward to City Council with a schedule for coordination of the Northwest Boulevard Bridge and Rivery extension projects, and be available at the Public Open House on the project.

**FINANCIAL IMPACT:**

NA

**SUBMITTED BY:**

Edward Polasek

**ATTACHMENTS:**

Mobility 35 Williams Drive



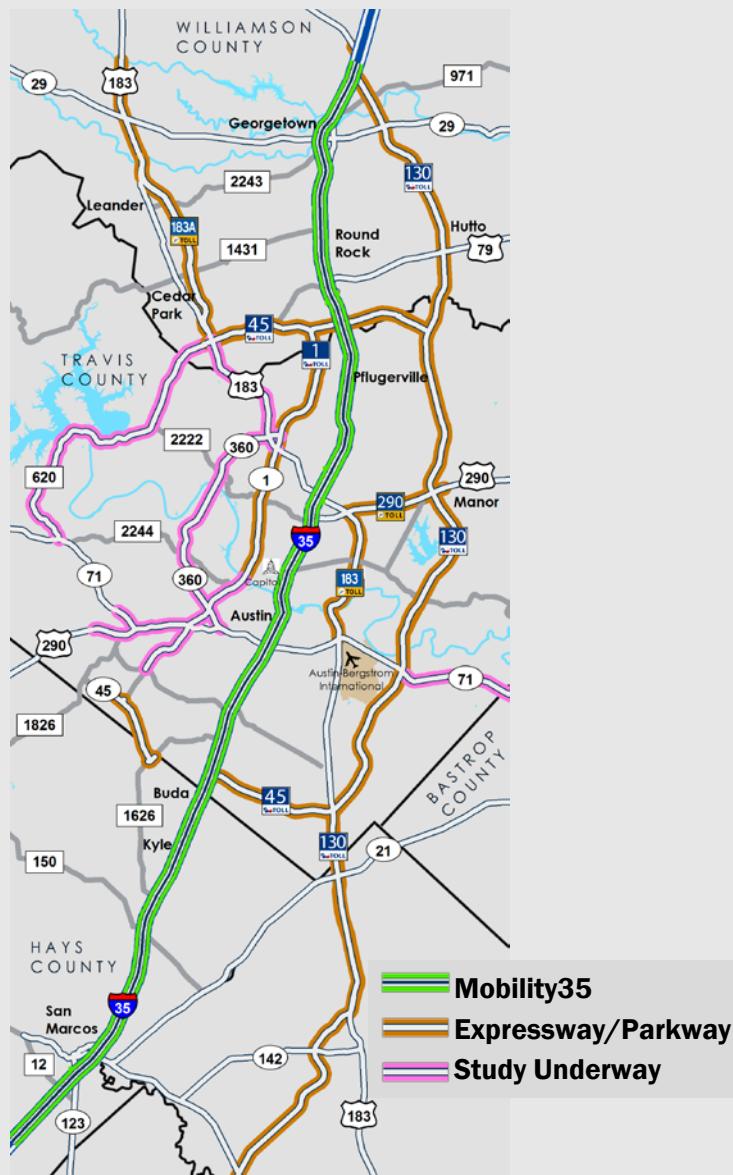
# MOBILITY35 WILLIAMS DRIVE

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City of Georgetown



# Mobility35 Program Overview



- A regionwide effort to improve safety and mobility on 79 miles of I-35 in Williamson, Travis, and Hays counties
- I-35 through the heart of Austin is the #1 most congested roadway in Texas
- Constraints to improving I-35 include:
  - Highly constrained urban environment
  - Need to maintain mobility during construction
  - Need for east/west connectivity
  - Diverse interests
  - Funding
- Mobility35 improves safety and mobility within existing constraints and serves as part of the region's on-going transportation system upgrade

# Mobility35 - Williamson County Implementation Plan

- Extensive public outreach resulting in these Mobility35 projects between SH 130 and RM 1431:
  - Williams Drive improvements
  - RM 2243 to Inner Loop bridge & intersection
  - SH 29 intersection
  - RM 2243 to RM 1431 ramp reversals
  - Westinghouse Road intersection
  - SH 195 at Berry Creek Drive improvements
  - Future Transportation Corridor & remaining improvements

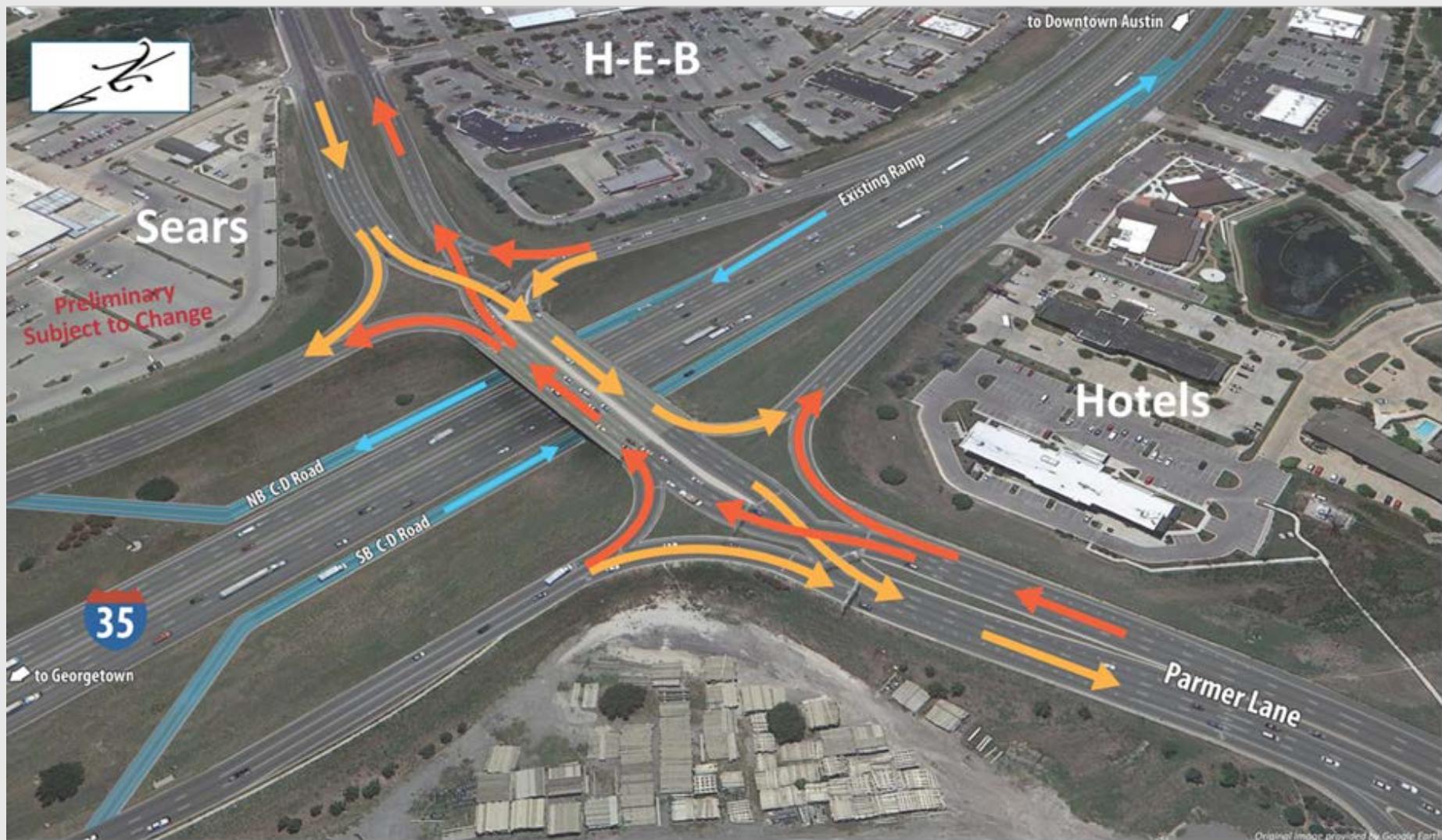


## I-35 Capital Area Improvement Program (Mobility35)

Corridor Implementation Plan  
SH 130 to RM 1431

Williamson County, Texas  
April 2015

# Diverging Diamond Intersection (DDI) Basics



# Differences from RM 1431 DDI

## RM 1431 DDI:

- Maximized use of existing infrastructure
- Utilized existing bridge structure
- Utilized existing U-turn structure

## Williams DDI:

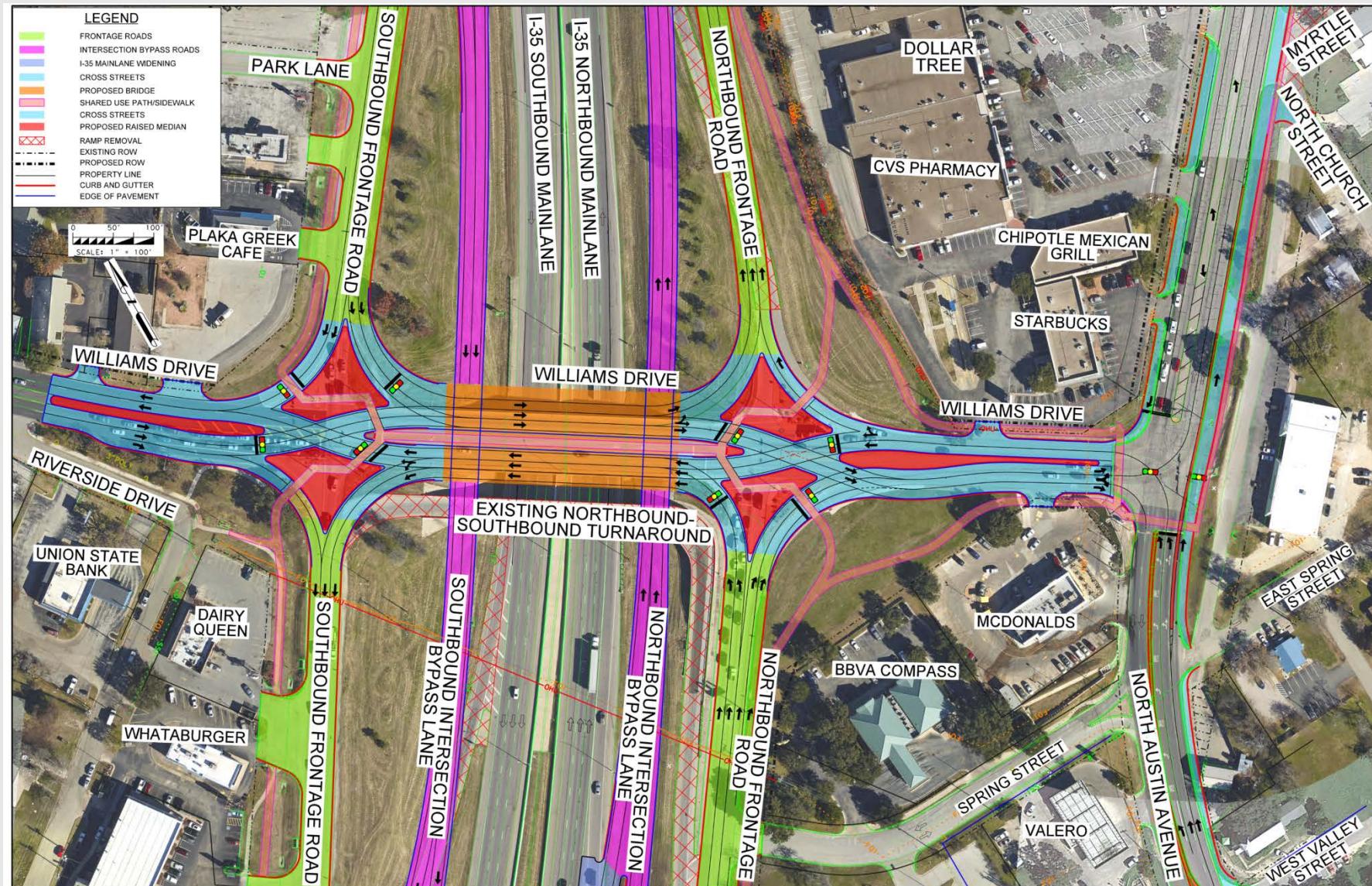
- Reconstruction of existing facility
- New bridge over I-35
- Elimination of existing U-turn structure
- Improved entry angles to DDI



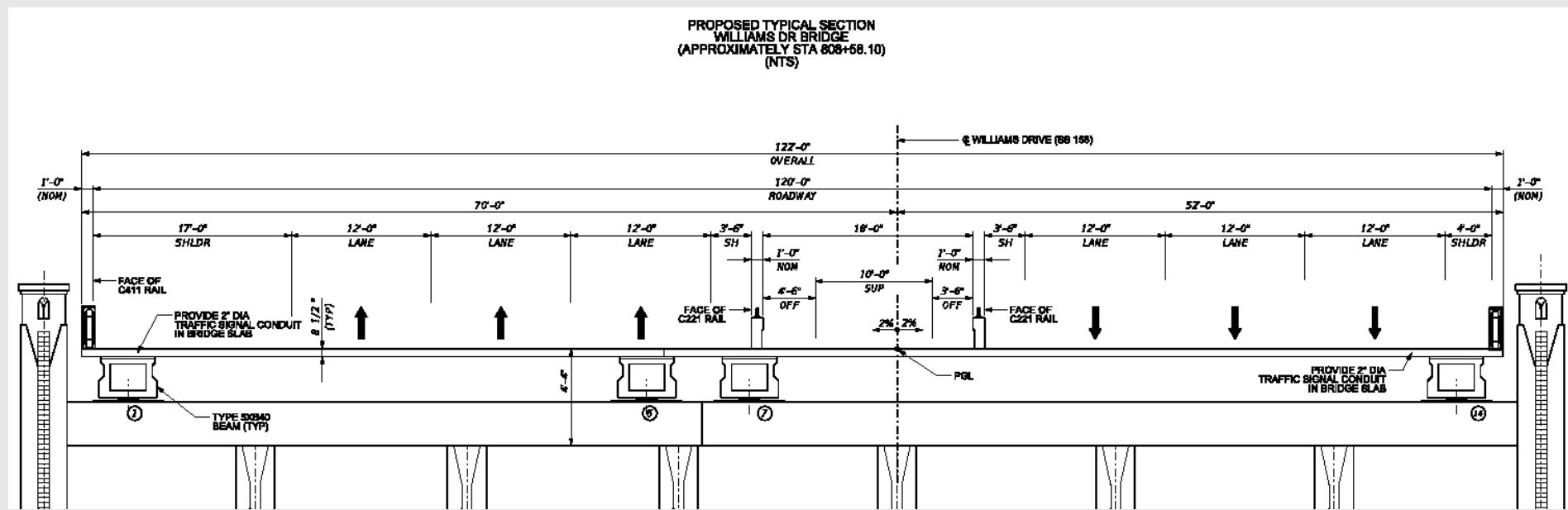
This video shows an example of a Diverging Diamond Interchange.

The application of a Diverging Diamond Interchange at a specific location may vary in configuration and operations.

# Proposed Improvements at Williams Drive



# DDI Pedestrian Accommodations

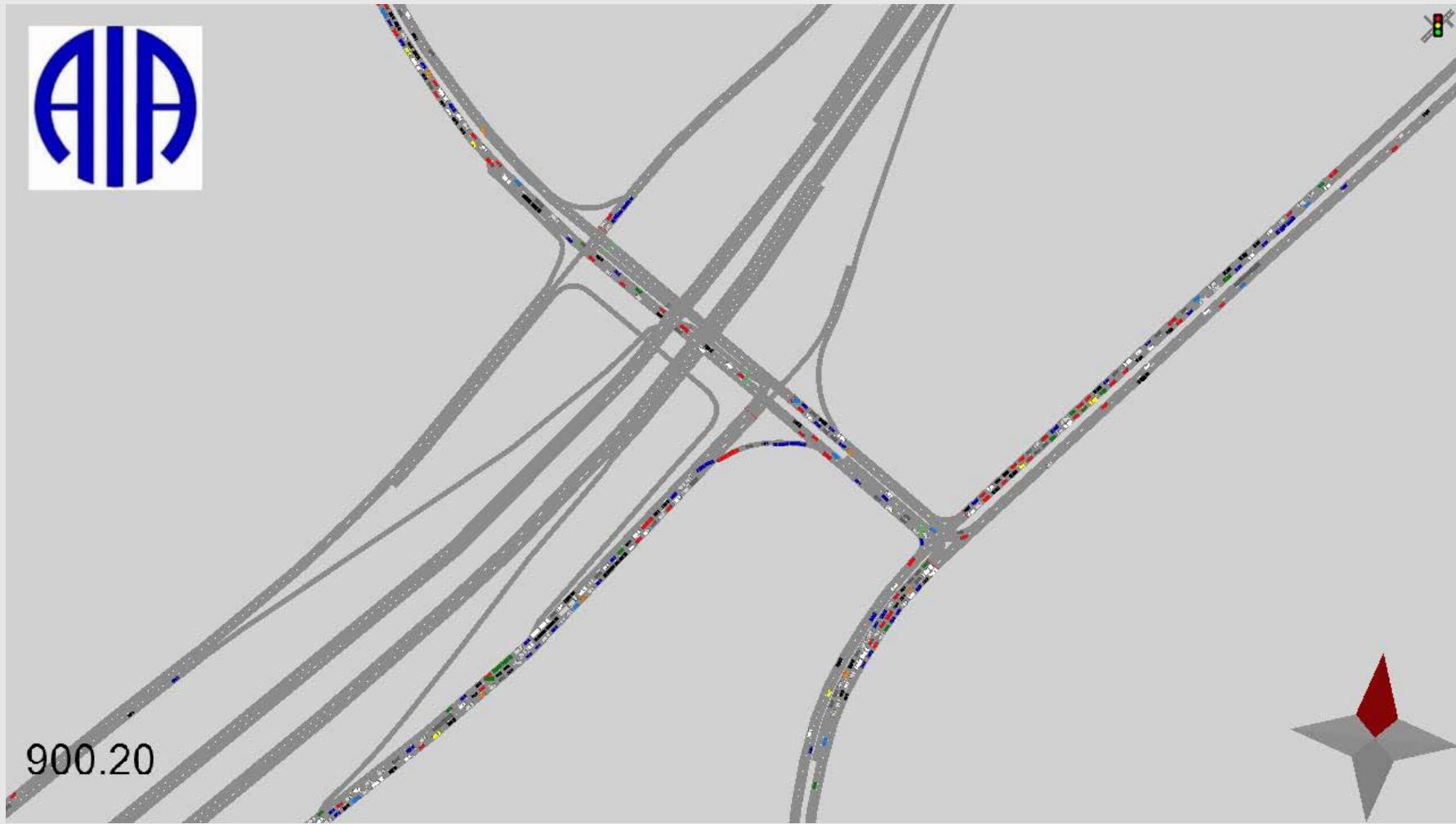


# Williams Drive Intersection Analysis

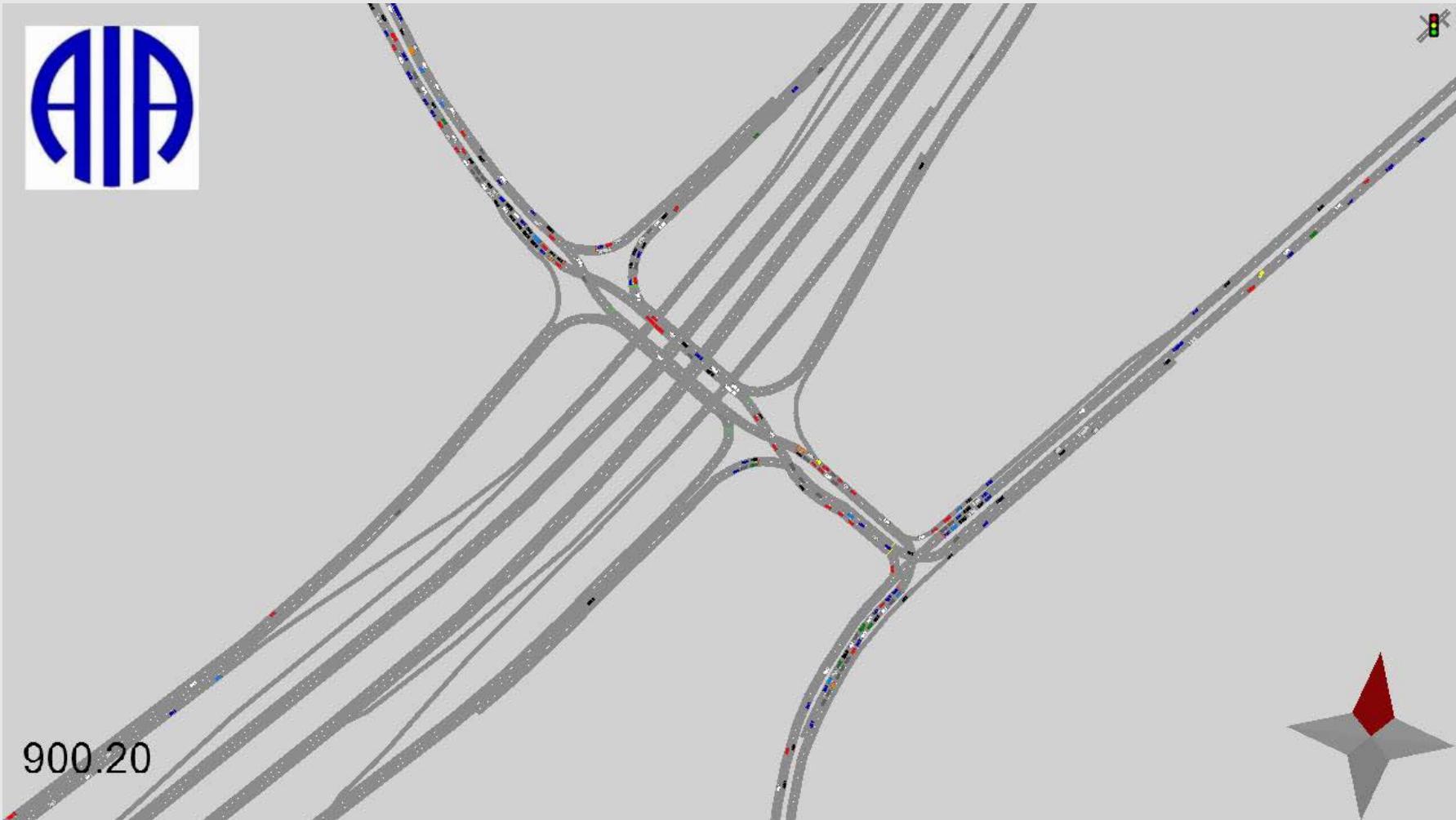
- Comparison of the DDI with a traditional intersection (year 2040) at the NB frontage road and Williams Drive:
  - The overall intersection **delay is reduced by 53%** for AM peak hour
  - The overall intersection **delay is reduced by 59%** for PM peak hour
  - The **throughput increases by 18%** in the AM peak hour
  - The **throughput increases by 43%** in the PM peak hour
- Comparison of the DDI with a traditional intersection (year 2040) at the SB frontage road and Williams Drive:
  - The overall intersection **delay increases by 3%** for AM peak hour\*
  - The **throughput increases by 36%** for AM peak hour
  - The overall intersection **delay is reduced by 26%** for PM peak hour
  - The **throughput increases by 30%** for PM peak hour
- The nearby intersection of Williams Drive at N. Austin Avenue also benefits from the DDI implementation. The intersection **delay is reduced by 37%** in the AM peak hour and **43%** in the PM peak hour, even though the **throughput increases by 16%** for AM peak hour and **7%** for PM peak hour.

\*The Austin Avenue intersection experiences congestion that backs up into the DDI increasing delay.

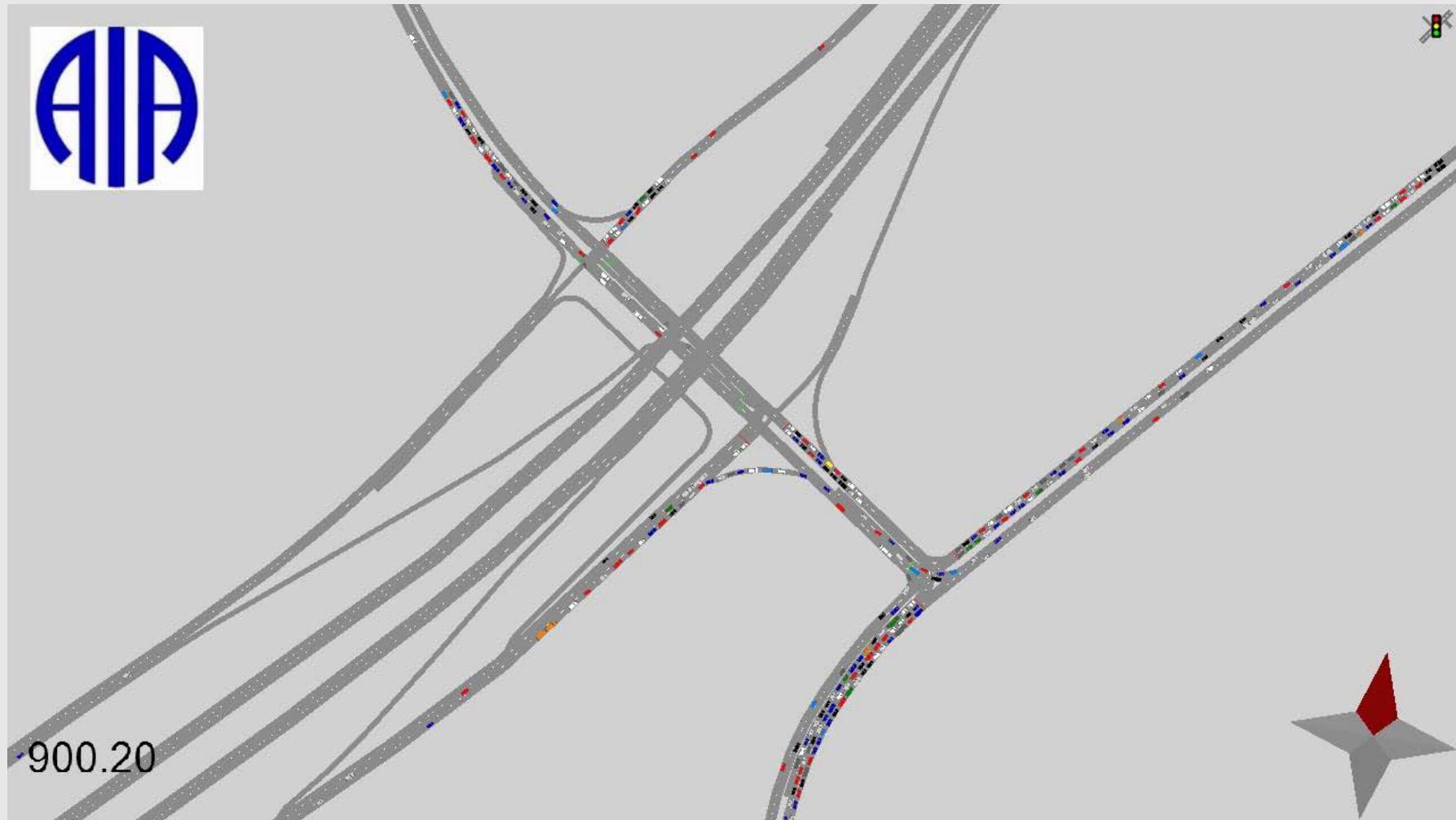
# Traffic Visualization: Traditional AM Peak Hour



# Traffic Visualization: DDI AM Peak Hour



# Traffic Visualization: Traditional PM Peak Hour



# Traffic Visualization: DDI PM Peak Hour



## Stay involved:

Web: [www.My35.org/Capital](http://www.My35.org/Capital)

Facebook: [www.facebook.com/TxDOT](http://www.facebook.com/TxDOT)

Twitter: [@TxDOTAustin](https://twitter.com/TxDOTAustin)

Email: [info@mobility35.org](mailto:info@mobility35.org)



**City of Georgetown, Texas**  
**City Council Workshop**  
**September 13, 2016**

**SUBJECT:**

Presentation and discussion regarding possible revisions to the Georgetown Housing Tax Credit Resolution Support process -- Jennifer C. Bills, AICP, LEED AP, Housing Coordinator

**ITEM SUMMARY:**

The Texas Department of Housing and Community Affairs allocates Housing Tax Credits through a 9% Competitive Process and a 4% Non-Competitive Process. Due to the requirements for the application process, the City is allowed the ability to review both types of applications and provide support, or deny the application to TDHCA. These rules are outlined in the Qualified Allocation Plan (2016 QAP attached) that is published in mid-December each year, which then starts the new Competitive application process.

The City of Georgetown has had a process in place since 2014 to review these project requests (current application and checklist attached). Once the request is made, it is placed on the next available Housing Advisory Board agenda. After the HAB has reviewed the request and makes a recommendation, the item is placed on the next City Council agenda. Due to the influx of requests and complexity of the review, staff and City Council have requested the process be reviewed and revised, so the public and developers will know what to expect during this process.

The rules and scoring criteria for funding HTC development is determined by TDHCA, but the City has the ability to make project recommendations and requests of the project scope and location that may effect the developers final score. Support for the project is one requirement that has three point levels, zero points for no support, 14 points for no objection and 17 points for full support. Site requirements and point scoring criteria can change over time, as the state legislature and TDHCA staff revise the HTC program.

Staff and the Housing Advisory Board have reviewed the current process and made recommended changes in three areas: Application Deadlines, Public Outreach and Future Land Use/Zoning Entitlements.

**Staff Recommendations**

**Applications Deadlines**

- 9% Competitive: First Tuesday in January for all requests.
- 4% Non-competitive: 6 weeks before Housing Advisory Board meeting.

**Public Meetings and Community Outreach (New Construction)**

- Developer will notify residential developments within ½ mile of the proposed site.
- At least one public meeting will be held a minimum of three weeks before the City Council meeting.
- The City must be notified of all meetings.
- Does not apply to existing developments seeking rehabilitation funds.

**Future Land Use and Zoning Entitlements**

Staff presented four options:

- Option 1: Site must be zoned before HTC request. - **Recommended for 4%**.
- Option 2: Site must have already submitted rezoning request (or have appropriate zoning) and received staff support.
- Option 3: Site must have appropriate FLU (determined by staff). Site still needing rezoning can only get “No Objection” support from City Council. -**Recommended for 9%**
- Option 4: Zoning request process follows HTC request. (current process)

**Housing Advisory Board Recommendations:**

**Applications Deadlines**

- No change from staff recommendation.

**Public Meetings and Community Outreach (New Construction)**

- Increased the number of required meetings to two (2), with one held at least three weeks before the City Council meeting.

**Future Land Use and Zoning Entitlements**

- 4% Non-competitive: No changes from staff recommendation.
- 9% Competitive: Site must have appropriate FLU and have submitted the rezoning request and received staff analysis.

**FINANCIAL IMPACT:**

None.

**SUBMITTED BY:**

Jennifer C. Bills, Housing Coordinator

**ATTACHMENTS:**

Current Georgetown Housing Tax Credit Application

Current Georgetown Housing Tax Credit Checklist

2016 Qualified Allocation Plan

TDHCA Housing Options Information

Draft 2017 Georgetown 9% Competitive Housing Tax Credit Schedule

# **Low-Income Housing Tax Credit/HOME Resolution of Support Request Application Form**

All applications must be submitted with a complete Application Form, a completed application checklist, and all materials listed in the appropriate checklist. The Housing Coordinator is available to advise you on any requirements. Please call 512-930-8477 for an appointment to submit your application. Applications may be submitted at any time. Complete applications must be received no less than 10 working days before the Housing Advisory Board meeting to be placed on the schedule. The regular meeting is the third Monday of the month.

**Project Name:** \_\_\_\_\_

## ***Property Information***

Property Address:
Legal Description:
Zoning District:
Requesting support for: LIHTC _____ HOME Partnership Program _____

## ***Applicant Information (property owner or authorized agent) Applicant will be used as the City's Official Contact***

Name:	
Address:	
City/State/Zip:	
Work Phone:	Cell Phone:
Email:	
Do you have site control or owner's consent to apply for LIHTC/HOME funding on this site?	
Yes <input type="checkbox"/> No <input type="checkbox"/>	

## ***Property Owner Information***

Owner Name(s):	
Address:	
City/State/Zip:	
Work Phone:	Cell Phone:
Email:	

Applicants Signature:	
Printed Name:	Date:
By signing this form, the owner of the property authorizes the City of Georgetown to begin proceeding in accordance with the process for this request. The owner further acknowledges that submission of an application does not in any way obligate the City to approve the application and that although City staff may make certain recommendations regarding this application, the decision making authority may not follow that recommendation and may make a final decision that does not conform to the staff's recommendation.	

# **Low-Income Housing Tax Credit/HOME Resolution of Support Request Checklist**

This Checklist is intended to provide the information and data that is necessary to assess the merits of the project proposal.

*Incomplete applications cannot be accepted for review. If all the information noted in the "Items Required for Submittal" section of this checklist is not provided; the application may not be accepted for processing.*

<b>Items Required for Submittal</b>	
<b>Application Form</b>	<input type="checkbox"/>
<b>Checklist</b>	<input type="checkbox"/>
<b>Proposed Resolution with language for applicable owners and programs</b>	<input type="checkbox"/>
<b>Letter of Intent, with Detailed Information listed below:</b>	<input type="checkbox"/>
	<input type="checkbox"/>
<b>Detailed Information</b>	
<b>Location Map of the property.</b>	<input type="checkbox"/>
<b>Site Development:</b>	
List the number of units and different floor plans.	<input type="checkbox"/>
List the breakdown of rental rates by unit and income restrictions.	<input type="checkbox"/>
Will rental rates change over time and how are they determined?	<input type="checkbox"/>
Architectural rendering of buildings.	<input type="checkbox"/>
Proposed site layout.	<input type="checkbox"/>
How many accessible units are included.	<input type="checkbox"/>
What ADA features are included.	<input type="checkbox"/>
If the development includes market rate units, do these units differ from the income restricted units in anyway?	<input type="checkbox"/>
List the amenities included in individual units as well as those for the entire site.	<input type="checkbox"/>
Describe energy efficiency components that will be installed.	<input type="checkbox"/>
<b>Background of the development company and management company:</b>	
Have there been any changes in company names or re-organizations?	<input type="checkbox"/>
History of similar projects and complexes managed.	<input type="checkbox"/>
How many tax credit and/or HOME projects have you developed and managed?	<input type="checkbox"/>

<b>Financial:</b>	
List the funding sources to be used.	<input type="checkbox"/>
List any past or current funding programs (state or federal) for which the property is under contract (USDA, Section 8, etc.)	<input type="checkbox"/>
Provide the anticipated breakdown of the development costs.	<input type="checkbox"/>
Will the site be tax exempt after development?	<input type="checkbox"/>
What is the affordability period requirement for this project?	<input type="checkbox"/>
Provide an analysis of the economic impact to the City (tax increase, utility consumption, sales tax base).	<input type="checkbox"/>
Will this development require extensive capital improvements?	<input type="checkbox"/>
<b>Please provide an analysis on how your project will impact the school district and provide any feedback received from school district.</b>	<input type="checkbox"/>
<b>Provide the TDHCA scoring criteria that you anticipate meeting.</b>	<input type="checkbox"/>
<b>Please list any additional information or letters that you will be requesting from the City or Georgetown Utility Systems for the TDHCA application requirements.</b>	<input type="checkbox"/>

# 2016 Qualified Allocation Plan





Prepared by the Multifamily Finance Division  
P.O. Box 13941, Austin, TX 78711  
Phone: 512-475-3976 • Fax: 512-475-0070  
[www.tdhca.state.tx.us](http://www.tdhca.state.tx.us)

Equal Opportunity Employer/Program.  
Auxiliary aids and services are available upon request to individuals with disabilities.  
Relay Texas: 800-735-2989 (TTY) and 711 (Voice).  
Page 70 of 120



## Texas Department of Housing and Community Affairs

Street Address: 221 East 11th Street, Austin, TX 78701 • Mailing Address: P.O. Box 13941, Austin, TX 78711

512-475-3800 • 800-525-0657 • [info@tdhca.state.tx.us](mailto:info@tdhca.state.tx.us) • [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us)

## **Housing Tax Credit Program Qualified Allocation Plan**

### **§11.1.General.**

**(a) Authority.** This chapter applies to the awarding and allocation by the Texas Department of Housing and Community Affairs (the "Department") of Housing Tax Credits. The federal laws providing for the awarding and allocation of Housing Tax Credits require states to adopt a qualified allocation plan. Pursuant to Texas Government Code, Chapter 2306, Subchapter DD, the Department is assigned responsibility for this activity. As required by Internal Revenue Code (the "Code"), §42(m)(1), the Department has developed this Qualified Allocation Plan (QAP) and it has been duly approved to establish the procedures and requirements relating to an award and allocation of Housing Tax Credits. All requirements herein and all those applicable to a Housing Tax Credit Development or an Application under Chapter 10 of this title (relating to Uniform Multifamily Rules), or otherwise incorporated by reference herein collectively constitute the QAP required by Texas Government Code, §2306.67022.

**(b) Due Diligence and Applicant Responsibility.** Department staff may, from time to time, make available for use by Applicants information and informal guidance in the form of reports, frequently asked questions, and responses to specific questions. The Department encourages communication with staff in order to clarify any issues that may not be fully addressed in the QAP or may be unclear when applied to specific facts. However, while these resources are offered to help Applicants prepare and submit accurate information, Applicants should also appreciate that this type of guidance is limited by its nature and that staff will apply the rules of the QAP to each specific situation as it is presented in the submitted Application. Moreover, after the time that an issue is initially presented and guidance is provided, additional information may be identified and/or the issue itself may continue to develop based upon additional research and guidance. Thus, until confirmed through final action of the Board, staff guidance must be considered merely as an aid and an Applicant continues to assume full responsibility for any actions Applicant takes regarding an Application. In addition, although the Department may compile data from outside sources in order to assist Applicants in the Application process, it remains the sole responsibility of the Applicant to perform independently the necessary due diligence to research, confirm, and verify any data, opinions, interpretations, or other information upon which an Applicant bases an Application or includes in any submittal in connection with an Application.

**(c) Competitive Nature of Program.** Applying for competitive housing tax credits is a technical process that must be followed completely. As a result of the highly competitive nature of applying for tax credits, an Applicant should proceed on the assumption that deadlines are fixed and firm with respect to both date and time and cannot be waived except where authorized and for truly extraordinary circumstances, such as the occurrence of a significant natural disaster that could not have been anticipated and makes timely adherence impossible. If an Applicant chooses to submit by delivering an item physically to the Department, it is the Applicant's responsibility to be within the Department's doors by the appointed deadline. Applicants should further ensure that all required documents are included, legible, properly organized, and tabbed, and that materials in required formats involving digital media are complete and fully readable. Applicants are strongly encouraged to submit the required items well in advance of established deadlines. Staff, when accepting Applications, may conduct limited reviews at the time of intake as a courtesy only. If staff misses an issue in such a limited review, the fact that the Application was accepted by staff or that the issue was not identified does not operate to waive the requirement or validate the completeness, readability, or any other aspect of the Application.

**(d) Definitions.** The capitalized terms or phrases used herein are defined in §10.3 of this title (relating to Definitions), unless the context clearly indicates otherwise. Any capitalized terms that are defined in Texas Government Code, Chapter 2306, §42 of the Code, or other Department rules have, when capitalized, the meanings ascribed to them therein. Defined terms when not capitalized, are to be read in context and construed according to common usage.

**(e) Census Data.** Where this chapter requires the use of census or American Community Survey data, the Department shall use the most current data available as of October 1, 2015, unless specifically otherwise provided in federal or state law or in the rules. The availability of more current data shall generally be disregarded.

**(f) Deadlines.** Where a specific date or deadline is identified in this chapter, the information or documentation subject to the deadline must be submitted on or before 5:00 p.m. Austin local time on the day of the deadline. If the deadline falls on a weekend or holiday, the deadline is 5:00 p.m. Austin local time on the next day which is not a weekend or holiday and on which the Department is open for general operation.

## **§11.2. Program Calendar for Competitive Housing Tax Credits.**

Non-statutory deadlines specifically listed in the Program Calendar may be extended by the Executive Director for a period of not more than five (5) business days provided that the Applicant has, in writing, requested an extension prior to the date of the original deadline and has established to the reasonable satisfaction of the Executive Director that there is good cause for the extension. Except as provided for under 10 TAC §1.1 relating to Reasonable Accommodation Requests, extensions relating to Administrative Deficiency deadlines may only be extended if documentation needed to resolve the item is needed from a Third Party.

<b>Deadline</b>	<b>Documentation Required</b>
01/04/2016	Application Acceptance Period Begins.
01/08/2016	Pre-Application Final Delivery Date (including waiver requests).
03/01/2016	Full Application Delivery Date (including Quantifiable Community Participation documentation; Environmental Site Assessments (ESAs), Property Condition Assessments (PCAs); Appraisals; Primary Market Area Map; Site Design and Development Feasibility Report; all Resolutions necessary under §11.3 of this chapter related to Housing De-Concentration Factors). Final Input from Elected Officials Delivery Date (including Resolution for Local Government Support pursuant to §11.9(d)(1) of this chapter and State Representative Input pursuant to §11.9(d)(5) of this chapter).

<b>Deadline</b>	<b>Documentation Required</b>
04/01/2016	Market Analysis Delivery Date pursuant to §10.205 of this title.
Mid-May	Final Scoring Notices Issued for Majority of Applications Considered "Competitive."
June	Release of Eligible Applications for Consideration for Award in July.
July	Final Awards.
Mid-August	Commitments are Issued.
11/01/2016	Carryover Documentation Delivery Date.
06/30/2017	10 Percent Test Documentation Delivery Date.
12/31/2018	Placement in Service.
Five (5) business days after the date on the Deficiency Notice (without incurring point loss)	Administrative Deficiency Response Deadline (unless an extension has been granted).

### **§11.3. Housing De-Concentration Factors.**

**(a) Two Mile Same Year Rule (Competitive HTC Only).** As required by Texas Government Code, §2306.6711(f), staff will not recommend for award, and the Board will not make an award to an Application that proposes a Development Site located in a county with a population that exceeds one million if the proposed Development Site is also located less than two linear miles from the proposed Development Site of another Application within said county that is awarded in the same calendar year.

**(b) Twice the State Average Per Capita.** As provided for in Texas Government Code, §2306.6703(a)(4), if a proposed Development is located in a municipality, or if located completely outside a municipality, a county, that has more than twice the state average of units per capita supported by Housing Tax Credits or private activity bonds at the time the Application Round begins (or for Tax-Exempt Bond Developments at the time the Certificate of Reservation is issued by the Texas Bond Review Board), the Applicant must obtain prior approval of the Development from the Governing Body of the appropriate municipality or county containing the Development. Such approval must include a resolution adopted by the Governing Body of the municipality or county, as applicable, setting forth a written statement of support, specifically citing Texas

Government Code, §2306.6703(a)(4) in the text of the actual adopted resolution, and authorizing an allocation of Housing Tax Credits for the Development. An acceptable, but not required, form of resolution may be obtained in the Uniform Multifamily Application Templates. Required documentation must be submitted by the Full Application Delivery Date as identified in §11.2 of this chapter (relating to Program Calendar for Competitive Housing Tax Credits) or Resolutions Delivery Date in §10.4 of this title (relating to Program Dates), as applicable.

**(c) One Mile Three Year Rule. (§2306.6703(a)(3))**

(1) An Application that proposes the New Construction or Adaptive Reuse of a Development that is located one linear mile or less (measured between closest boundaries by a straight line on a map) from another development that meets all of the criteria in subparagraphs (A) - (C) of this paragraph shall be considered ineligible.

(A) The development serves the same type of household as the proposed Development, regardless of whether the Development serves families, elderly individuals, or another type of household; and

(B) The development has received an allocation of Housing Tax Credits or private activity bonds for any New Construction at any time during the three-year period preceding the date the Application Round begins (or for Tax-Exempt Bond Developments the three-year period preceding the date the Certificate of Reservation is issued); and

(C) The development has not been withdrawn or terminated from the Housing Tax Credit Program.

(2) Paragraph (1) of this subsection does not apply to a Development:

(A) that is using federal HOPE VI (or successor program) funds received through HUD;

(B) that is using locally approved funds received from a public improvement district or a tax increment financing district;

(C) that is using funds provided to the state under the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. §§12701 et seq.);

(D) that is using funds provided to the state and participating jurisdictions under the Housing and Community Development Act of 1974 (42 U.S.C. §§5301 et seq.);

(E) that is located in a county with a population of less than one million;

(F) that is located outside of a metropolitan statistical area; or

(G) that the Governing Body of the appropriate municipality or county where the Development is to be located has by vote specifically allowed the construction of a new Development located within one linear mile or less from a Development described under paragraph (1)(A) of this subsection. An acceptable, but not required, form of resolution may be obtained in the Uniform Multifamily Application Templates. Required documentation

must be submitted by the Full Application Delivery Date as identified in §11.2 of this chapter or Resolutions Delivery Date in §10.4 of this title, as applicable.

(3) Where a specific source of funding is referenced in paragraph (2)(A) - (D) of this subsection, a commitment or resolution documenting a commitment of the funds must be provided in the Application.

**(d) Limitations on Developments in Certain Census Tracts.** An Application that proposes the New Construction or Adaptive Reuse of a Development proposed to be located in a census tract that has more than 20 percent Housing Tax Credit Units per total households as established by the 5-year American Community Survey and the Development is in a Place that has a population greater than 100,000 shall be considered ineligible unless the Governing Body of the appropriate municipality or county containing the Development has, by vote, specifically allowed the Development and submits to the Department a resolution stating the proposed Development is consistent with the jurisdiction's obligation to affirmatively further fair housing. The resolution must be submitted by the Full Application Delivery Date as identified in §11.2 of this chapter or Resolutions Delivery Date in §10.4 of this title, as applicable.

**(e) Additional Phase.** Applications proposing an additional phase of an existing tax credit Development serving the same Target Population, or Applications proposing Developments that are adjacent to an existing tax credit Development serving the same Target Population, or Applications that are proposing a Development serving the same Target Population on a contiguous site to another Application awarded in the same program year, shall be considered ineligible unless the other Developments or phase(s) of the Development have been completed and have maintained occupancy of at least 90 percent for a minimum six (6) month period as reflected in the submitted rent roll. If the Application proposes the Rehabilitation or replacement of existing federally-assisted affordable housing units or federally-assisted affordable housing units demolished on the same site within two years of the beginning of the Application Acceptance Period, this provision does not apply.

#### **§11.4.Tax Credit Request and Award Limits.**

**(a) Credit Amount (Competitive HTC Only).** (§2306.6711(b)) The Board may not award or allocate to an Applicant, Developer, Affiliate or Guarantor (unless the Guarantor is also the General Contractor, and is not a Principal of the Applicant, Developer or Affiliate of the Development Owner) Housing Tax Credits in an aggregate amount greater than \$3 million in a single Application Round. All entities that are under common Control are Affiliates. For purposes of determining the \$3 million limitation, a Person is not deemed to be an Applicant, Developer, Affiliate or Guarantor solely because it:

- (1) raises or provides equity;
- (2) provides "qualified commercial financing;"
- (3) is a Qualified Nonprofit Organization or other not-for-profit entity that is providing solely loan funds, grant funds or social services; or
- (4) receives fees as a Development Consultant or Developer that do not exceed 10 percent of the Developer Fee (or 20 percent for Qualified Nonprofit Developments and other Developments in which an entity that is exempt from federal income taxes owns at least 50% of the General Partner) to be paid or \$150,000, whichever is greater.

**(b) Maximum Request Limit (Competitive HTC Only).** For any given Development, an Applicant may not request more than 150 percent of the credit amount available in the sub-region based on estimates released by the Department on December 1, or \$1,500,000, whichever is less, or \$2,000,000 for Applications under the At-Risk Set-Aside. In addition, for Elderly Developments in a Uniform State Service Region containing a county with a population that exceeds one million, the request may not exceed the final amount published on the Department's website after the release of the Internal Revenue Service notice regarding the 2016 credit ceiling. For all Applications, the Department will consider the amount in the Funding Request of the pre-application and Application to be the amount of Housing Tax Credits requested and will automatically reduce the Applicant's request to the maximum allowable under this subsection if exceeded. Regardless of the credit amount requested or any subsequent changes to the request made by staff, the Board may not award to any individual Development more than \$2 million in a single Application Round. (§2306.6711(b))

**(c) Increase in Eligible Basis (30 percent Boost).** Applications will be evaluated for an increase of up to but not to exceed 30 percent in Eligible Basis provided they meet the criteria identified in paragraphs (1) - (3) of this subsection, or if required under §42 of the Code. Staff will recommend no increase or a partial increase in Eligible Basis if it is determined it would cause the Development to be over sourced, as evaluated by the Real Estate Analysis division, in which case a credit amount necessary to fill the gap in financing will be recommended. The criteria in paragraph (3) of this subsection are not applicable to Tax-Exempt Bond Developments.

(1) The Development is located in a Qualified Census Tract (QCT) (as determined by the Secretary of HUD) that has less than 20 percent Housing Tax Credit Units per total households in the tract as established by the U.S. Census Bureau for the 5-year American Community Survey. New Construction or Adaptive Reuse Developments located in a QCT that has in excess of 20 percent Housing Tax Credit Units per total households in the tract are not eligible to qualify for a 30 percent increase in Eligible Basis, which would otherwise be available for the Development Site pursuant to §42(d)(5) of the Code. For Tax-Exempt Bond Developments, as a general rule, a QCT designation would have to coincide with the program year the Certificate of Reservation is issued in order for the Department to apply the 30 percent boost in its underwriting evaluation. For New Construction or Adaptive Reuse Developments located in a QCT with 20 percent or greater Housing Tax Credit Units per total households, the Development is eligible for the boost if the Application includes a resolution stating that the Governing Body of the appropriate municipality or county containing the Development has by vote specifically allowed the construction of the new Development and referencing this rule. An acceptable, but not required, form of resolution may be obtained in the Multifamily Programs Procedures Manual. Required documentation must be submitted by the Full Application Delivery Date as identified in §11.2 of this chapter or Resolutions Delivery Date in §10.4 of this title, as applicable. Applicants must submit a copy of the census map that includes the 11-digit census tract number and clearly shows that the proposed Development is located within a QCT.

(2) The Development is located in a Small Area Difficult Development Area (SADDA) (based on Small Area Fair Market Rents (FMRs) as determined by the Secretary of HUD) that has high construction, land and utility costs relative to the AMGI. For Tax-Exempt Bond Developments, as a general rule, an SADDA designation would have to coincide with the program year the Certificate of Reservation is issued in order for the Department to apply the 30 percent boost in its underwriting evaluation. Applicants must submit a copy of the SADDA map that clearly shows the proposed Development is located within the boundaries of a SADDA.

(3) The Development meets one of the criteria described in subparagraphs (A) - (E) of this paragraph pursuant to §42(d)(5) of the Code:

- (A) the Development is located in a Rural Area;
- (B) the Development is proposing entirely Supportive Housing and is expected to be debt free or have no foreclosable or non-cash flow debt;
- (C) the Development meets the criteria for the Opportunity Index as defined in §11.9(c)(4) of this chapter (relating to Competitive HTC Selection Criteria);
- (D) the Applicant elects to restrict an additional 10 percent of the proposed low income Units for households at or below 30 percent of AMGI. These Units must be in addition to Units required under any other provision of this chapter; or
- (E) the Development is not an Elderly Development and is not located in a QCT that is in an area covered by a concerted revitalization plan. A Development will be considered to be in an area covered by a concerted revitalization plan if it is eligible for and elects points under §11.9(d)(7) of this chapter.

**§11.5.Competitive HTC Set-Asides.** (§2306.111(d)) This section identifies the statutorily-mandated set-asides which the Department is required to administer. An Applicant may elect to compete in each of the set-asides for which the proposed Development qualifies. In order to be eligible to compete in the Set-Aside, the Application must meet the requirements of the Set-Aside as of the Full Application Delivery Date. Election to compete in a Set-Aside does not constitute eligibility to compete in the Set-Aside, and Applicants who are ultimately deemed not to qualify to compete in the Set-Aside will be considered not to be participating in the Set-Aside for purposes of qualifying for points under §11.9(3) of this chapter (related to Pre-Application Participation).

**(1) Nonprofit Set-Aside.** (§2306.6729 and §2306.6706(b)) At least 10 percent of the State Housing Credit Ceiling for each calendar year shall be allocated to Qualified Nonprofit Developments which meet the requirements of §42(h)(5) of the Code and Texas Government Code, §2306.6729 and §2306.6706(b). Qualified Nonprofit Organizations must have the controlling interest in the Development Owner applying for this set-aside (*e.g.*, greater than 50 percent ownership in the General Partner). If the Application is filed on behalf of a limited partnership, the Qualified Nonprofit Organization must be the Managing General Partner. If the Application is filed on behalf of a limited liability company, the Qualified Nonprofit Organization must be the controlling Managing Member. Additionally, for Qualified Nonprofit Development in the Nonprofit Set-Aside the nonprofit entity or its nonprofit Affiliate or subsidiary must be the Developer or a co-Developer as evidenced in the development agreement. An Applicant that meets the requirements to be in the Qualified Nonprofit Set-Aside is deemed to be applying under that set-aside unless their Application specifically includes an affirmative election to not be treated under that set-aside and a certification that they do not expect to receive a benefit in the allocation of tax credits as a result of being affiliated with a nonprofit. The Department reserves the right to request a change in this election and/or not recommend credits for those unwilling to change elections if insufficient Applications in the Nonprofit Set-Aside are received. Applicants may not use different organizations to satisfy the state and federal requirements of the set-aside.

**(2) USDA Set-Aside.** (§2306.111(d-2)) At least 5 percent of the State Housing Credit Ceiling for each calendar year shall be allocated to Rural Developments which are financed through USDA. If an Application in this set-aside involves Rehabilitation it will be attributed to and come from the At-Risk Development Set-Aside; if an Application in this set-aside involves New Construction it will be

attributed to and come from the applicable Uniform State Service Region and will compete within the applicable sub-region unless the Application is receiving USDA Section 514 funding. Commitments of Competitive Housing Tax Credits issued by the Board in the current program year will be applied to each set-aside, Rural Regional Allocation, Urban Regional Allocation and/or USDA Set-Aside for the current Application Round as appropriate. Applications must also meet all requirements of Texas Government Code, §2306.111(d-2).

**(3) At-Risk Set-Aside. (§2306.6714; §2306.6702)**

(A) At least 15 percent of the State Housing Credit Ceiling for each calendar year will be allocated under the At-Risk Development Set-Aside and will be deducted from the State Housing Credit Ceiling prior to the application of the regional allocation formula required under §11.6 of this chapter (relating to Competitive HTC Allocation Process). Through this set-aside, the Department, to the extent possible, shall allocate credits to Applications involving the preservation of Developments identified as At-Risk Developments. (§2306.6714) Up to 5 percent of the State Housing Credit Ceiling associated with this set-aside may be given priority to Rehabilitation Developments under the USDA Set-Aside.

(B) An At-Risk Development must meet all the requirements of Texas Government Code, §2306.6702(a)(5). For purposes of this subparagraph, any stipulation to maintain affordability in the contract granting the subsidy, or any HUD-insured or HUD-held mortgage will be considered to be nearing expiration or nearing the end of its term if expiration will occur or the term will end within two (2) years of July 31 of the year the Application is submitted. Developments with HUD-insured or HUD-held mortgages qualifying as At-Risk under §2306.6702(a)(5) may be eligible if the HUD-insured or HUD-held mortgage is eligible for prepayment without penalty. To the extent that an Application is eligible under §2306.6705(a)(5)(B)(ii)(b) and the units being reconstructed were demolished prior to the beginning of the Application Acceptance Period, the Application will be categorized as New Construction.

(C) An Application for a Development that includes the demolition of the existing Units which have received the financial benefit described in Texas Government Code, §2306.6702(a)(5) will not qualify as an At-Risk Development unless the redevelopment will include at least a portion of the same site. Alternatively, an Applicant may propose relocation of the existing units in an otherwise qualifying At-Risk Development if:

- (i) the affordability restrictions and any At-Risk eligible subsidies are approved to be transferred to the Development Site (i.e. the site proposed in the tax credit Application) prior to the tax credit Commitment deadline;
- (ii) the Applicant seeking tax credits must propose the same number of restricted units (e.g. the Applicant may add market rate units); and
- (iii) the new Development Site must qualify for points on the Opportunity Index under §11.9(c)(4) of this chapter (relating to Competitive HTC Selection Criteria).

(D) Developments must be at risk of losing affordability from the financial benefits available to the Development and must retain or renew the existing financial benefits and affordability unless regulatory barriers necessitate elimination of a portion of that benefit for the Development. For Developments qualifying under §2306.6702(a)(5)(B), only a portion of the subsidy must be retained for the proposed Development, but no less than 25 percent of the

proposed Units must be public housing units supported by public housing operating subsidy. (§2306.6714(a-1))

(E) Nearing expiration on a requirement to maintain affordability includes Developments eligible to request a Qualified Contract under §42 of the Code. Evidence must be provided in the form of a copy of the recorded LURA, the first years' IRS Forms 8609 for all buildings showing Part II of the form completed and, if applicable, documentation from the original application regarding the right of first refusal.

(F) An amendment to any aspect of the existing tax credit property sought to enable the Development to qualify as an At-Risk Development, that is submitted to the Department after the Application has been filed and is under review will not be accepted.

**§11.6. Competitive HTC Allocation Process.** This section identifies the general allocation process and the methodology by which awards are made.

**(1) Regional Allocation Formula.** The Department shall initially make available in each Rural Area and Urban Area of each Uniform State Service Region ("sub-region") Housing Tax Credits in an amount consistent with the Regional Allocation Formula developed in compliance with Texas Government Code, §2306.1115. The process of awarding the funds made available within each sub-region shall follow the process described in this section. Where a particular situation that is not contemplated and addressed explicitly by the process described herein, Department staff shall formulate a recommendation for the Board's consideration based on the objectives of regional allocation together with other policies and purposes set out in Texas Government Code, Chapter 2306 and the Department shall provide Applicants the opportunity to comment on and propose alternatives to such a recommendation. In general, such a recommendation shall not involve broad reductions in the funding request amounts solely to accommodate regional allocation and shall not involve rearranging the priority of Applications within a particular sub-region or set-aside except as described herein. If the Department determines that an allocation recommendation would cause a violation of the \$3 million credit limit per Applicant, the Department will make its recommendation by selecting the Development(s) that most effectively satisfy the Department's goals in meeting set-aside and regional allocation goals. Where sufficient credit becomes available to award an application on the waiting list late in the calendar year, staff may allow flexibility in meeting the Carryover Allocation submission deadline to ensure to the fullest extent feasible that available resources are allocated by December 31.

**(2) Credits Returned and National Pool Allocated After January 1.** For any credits returned after January 1 and eligible for reallocation, the Department shall first return the credits to the sub-region or set-aside from which the original allocation was made. The credits will be treated in a manner consistent with the allocation process described in this section and may ultimately flow from the sub-region and be awarded in the collapse process to an Application in another region, sub-region or set-aside. For any credit received from the "national pool" after the initial approval of awards in late July, the credits will be added to and awarded to the next Application on the waiting list for the state collapse.

**(3) Award Recommendation Methodology.** (§2306.6710(a) - (f); §2306.111) The Department will assign, as described herein, Developments for review by the program and underwriting divisions. In general, Applications will be prioritized for assignment, with highest priority given to those identified as most competitive based upon the Applicant self-score and an initial program

review. The procedure identified in subparagraphs (A) - (F) of this paragraph will also be used in making recommendations to the Board.

(A) USDA Set-Aside Application Selection (Step 1). The first level of priority review will be those Applications with the highest scores in the USDA Set-Aside until the minimum requirements stated in §11.5(2) of this chapter (relating to Competitive HTC Set-Asides. (§2306.111(d))) are attained. The minimum requirement may be exceeded in order to award the full credit request or underwritten amount of the last Application selected to meet the At-Risk Set-Aside requirement;

(B) At-Risk Set-Aside Application Selection (Step 2). The second level of priority review will be those Applications with the highest scores in the At-Risk Set-Aside statewide until the minimum requirements stated in §11.5(3) of this chapter are attained. This may require the minimum requirement to be exceeded to award the full credit request or underwritten amount of the last Application selected to meet the At-Risk Set-Aside requirement. This step may leave less than originally anticipated in the 26 sub-regions to award under the remaining steps, but these funds would generally come from the statewide collapse;

(C) Initial Application Selection in Each Sub-Region (Step 3). The highest scoring Applications within each of the 26 sub-regions will then be selected provided there are sufficient funds within the sub-region to fully award the Application. Applications electing the At-Risk or USDA Set-Asides will not be eligible to receive an award from funds made generally available within each of the sub-regions. In Uniform State Service Regions containing a county with a population that exceeds one million, the Board may not allocate more than the maximum percentage of credits available for Elderly Developments, unless there are no other qualified Applications in the subregion. The Department will, for each such Urban subregion, calculate the maximum percentage in accordance with Texas Government Code, §2306.6711(h) and will publish such percentages on its website.

(D) Rural Collapse (Step 4). If there are any tax credits set-aside for Developments in a Rural Area in a specific Uniform State Service Region ("Rural sub-region") that remain after award under subparagraph (C) of this paragraph, those tax credits shall be combined into one "pool" and then be made available in any other Rural Area in the state to the Application in the most underserved Rural sub-region as compared to the sub-region's allocation. This rural redistribution will continue until all of the tax credits in the "pool" are allocated to Rural Applications and at least 20 percent of the funds available to the State are allocated to Applications in Rural Areas. (§2306.111(d)(3)) In the event that more than one sub-region is underserved by the same percentage, the priorities described in clauses (i) - (ii) of this subparagraph will be used to select the next most underserved sub-region:

- (i) the sub-region with no recommended At-Risk Applications from the same Application Round; and
- (ii) the sub-region that was the most underserved during the Application Round during the year immediately preceding the current Application Round.

(E) Statewide Collapse (Step 5). Any credits remaining after the Rural Collapse, including those in any sub-region in the State, will be combined into one "pool." The funds will be used to award the highest scoring Application (not selected in a prior step) in the most underserved sub-region in the State compared to the amount originally made available in each sub-region. In

Uniform State Service Regions containing a county with a population that exceeds one million, the Board may not allocate more than the maximum percentage of credits available for Elderly Developments, unless there are no other qualified Applications in the subregion. The Department will, for each such Urban subregion, calculate the maximum percentage in accordance with Texas Government Code, §2306.6711(h) and will publish such percentages on its website. This process will continue until the funds remaining are insufficient to award the next highest scoring Application in the next most underserved sub-region. In the event that more than one sub-region is underserved by the same percentage, the priorities described in clauses (i) and (ii) of this subparagraph will be used to select the next most underserved sub-region:

- (i) the sub-region with no recommended At-Risk Applications from the same Application Round; and
- (ii) the sub-region that was the most underserved during the Application Round during the year immediately preceding the current Application Round.

(F) Contingent Qualified Nonprofit Set-Aside Step (Step 6). If an insufficient number of Applications participating in the Nonprofit Set-Aside are selected after implementing the criteria described in subparagraphs (A) - (E) of this paragraph to meet the requirements of the 10 percent Nonprofit Set-Aside, action must be taken to modify the criteria described in subparagraphs (A) - (E) of this paragraph to ensure the set-aside requirements are met. Therefore, the criteria described in subparagraphs (C) - (E) of this paragraph will be repeated after selection of the highest scoring Application(s) under the Nonprofit Set-Aside statewide are selected to meet the minimum requirements of the Nonprofit Set-Aside. This step may cause some lower scoring Applications in a sub-region to be selected instead of a higher scoring Application not participating in the Nonprofit Set-Aside.

**(4) Waiting List.** The Applications that do not receive an award by July 31 and remain active and eligible will be recommended for placement on the waiting list. The waiting list is not static. The allocation process will be used in determining the Application to award. For example, if credits are returned, those credits will first be made available in the set-aside or sub-region from which they were originally awarded. This means that the first Application on the waiting list is in part contingent on the nature of the credits that became available for award. The Department shall hold all credit available after the late-July awards until September 30 in order to collect credit that may become available when tax credit Commitments are submitted. Credit confirmed to be available, as of September 30, may be awarded to Applications on the waiting list unless insufficient credits are available to fund the next Application on the waiting list. For credit returned after September 30, awards from the waiting list will be made when the remaining balance is sufficient to award the next Application on the waiting list based on the date(s) of returned credit. Notwithstanding the foregoing, if decisions related to any returns or rescissions of tax credits are under appeal or are otherwise contested, the Department may delay awards until resolution of such issues. (§2306.6710(a) - (f); §2306.111)

**(5) Credit Returns Resulting from Force Majeure Events.** In the event that the Department receives a return of Competitive HTCs during the current program year from an Application that received a Competitive Housing Tax Credit award during any of the preceding three years, such returned credit will, if the Board determines that all of the requirements of this paragraph are met to its satisfaction, be allocated separately from the current year's tax credit allocation, and shall not be subject to the requirements of paragraph (2) of this section. Requests to separately allocate

returned credit where all of the requirements of this paragraph have not been met or requests for waivers of any part of this paragraph will not be considered. For purposes of this paragraph, credits returned after September 30 of the preceding program year may be considered to have been returned on January 1 of the current year in accordance with the treatment described in §(b)(2)(C)(iii) of Treasury Regulation 1.42-14. The Department's Governing Board may approve the execution of a current program year Carryover Agreement regarding the returned credits with the Development Owner that returned such credits only if:

- (A) The credits were returned as a result of "Force Majeure" events that occurred after the start of construction and before issuance of Forms 8609. Force Majeure events are the following sudden and unforeseen circumstances outside the control of the Development Owner: acts of God such as fire, tornado, flooding, significant and unusual rainfall or subfreezing temperatures, or loss of access to necessary water or utilities as a direct result of significant weather events; explosion; vandalism; orders or acts of military authority; litigation; changes in law, rules, or regulations; national emergency or insurrection; riot; acts of terrorism; supplier failures; or materials or labor shortages. If a Force Majeure event is also a presidentially declared disaster, the Department may treat the matter under the applicable federal provisions. Force Majeure events must make construction activity impossible or materially impede its progress;
- (B) Acts or events caused by the negligent or willful act or omission of the Development Owner, Affiliate or a Related Party shall under no circumstance be considered to be caused by Force Majeure;
- (C) A Development Owner claiming Force Majeure must provide evidence of the type of event, as described in subparagraph (A) of this paragraph, when the event occurred, and that the loss was a direct result of the event;
- (D) The Development Owner must prove that reasonable steps were taken to minimize or mitigate any delay or damages, that the Development Owner substantially fulfilled all obligations not impeded by the event, that the Development and Development Owner was properly insured and that the Department was timely notified of the likelihood or actual occurrence of an event described in subparagraph (A) of this paragraph;
- (E) The event prevents the Development Owner from meeting the placement in service requirements of the original allocation;
- (F) The requested current year Carryover Agreement allocates the same amount of credit as that which was returned;
- (G) The Department's Real Estate Analysis Division determines that the Development continues to be financially viable in accordance with the Department's underwriting rules after taking into account any insurance proceeds related to the event; and
- (H) The Development Owner submits a signed written request for a new Carryover Agreement concurrently with the voluntary return of the HTCs.

#### **§11.7. Tie Breaker Factors.**

In the event there are Competitive HTC Applications that receive the same number of points in any given set-aside category, rural regional allocation or urban regional allocation, or rural or statewide

collapse, the Department will utilize the factors in this section, in the order they are presented, to determine which Development will receive preference in consideration for an award. The tie breaker factors are not intended to specifically address a tie between equally underserved sub-regions in the rural or statewide collapse.

- (1) Applications scoring higher on the Opportunity Index under §11.9(c)(4) of this chapter (relating to Competitive HTC Selection Criteria) as compared to another Application with the same score.
- (2) Applications proposed to be located in a census tract with the lowest poverty rate as compared to another Application with the same score.
- (3) The Application with the highest average rating for the elementary, middle, and high school designated for attendance by the Development Site, or (for “choice” districts) the closest.
- (4) Applications proposed to be located the greatest linear distance from the nearest Housing Tax Credit assisted Development. Developments awarded Housing Tax Credits but do not yet have a Land Use Restriction Agreement in place will be considered Housing Tax Credit assisted Developments for purposes of this paragraph. The linear measurement will be performed from closest boundary to closest boundary.

#### **§11.8. Pre-Application Requirements (Competitive HTC Only).**

**(a) General Submission Requirements.** The pre-application process allows Applicants interested in pursuing an Application to assess potential competition across the thirteen (13) state service regions, sub-regions and set-asides. Based on an understanding of the potential competition they can make a more informed decision whether they wish to proceed to prepare and submit an Application. A complete pre-application is a pre-application that meets all of the Department's criteria, as outlined in subsections (a) and (b) of this section, with all required information and exhibits provided pursuant to the Multifamily Programs Procedures Manual.

(1) The pre-application must be submitted using the URL provided by the Department, as outlined in the Multifamily Programs Procedures Manual, along with the required pre-application fee as described in §10.901 of this title (relating to Fee Schedule), not later than the Pre-application Final Delivery Date as identified in §11.2 of this chapter (relating to Program Calendar for Competitive Housing Tax Credits). If the pre-application and corresponding fee is not submitted on or before this deadline the Applicant will be deemed to have not made a pre-application.

(2) Only one pre-application may be submitted by an Applicant for each Development Site.

(3) Department review at this stage is limited, and not all issues of eligibility and threshold are reviewed or addressed at pre-application. Acceptance by staff of a pre-application does not ensure that an Applicant satisfies all Application eligibility, threshold or documentation requirements. While the pre-application is more limited in scope than an Application, pre-applications are subject to the same limitations, restrictions, or causes for disqualification or termination as a full Application, and pre-applications will thus be subject to the same consequences for violation, including but not limited to loss of points and termination of the pre-application.

**(b) Pre-Application Threshold Criteria.** Pursuant to Texas Government Code, §2306.6704(c) pre-applications will be terminated unless they meet the threshold criteria described in subsection (a) of this section and paragraphs (1) and (2) of this subsection:

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

- (A) Site Control meeting the requirements of §10.204(10) of this title (relating to Required Documentation for Application Submission). For purposes of meeting this specific requirement related to pre-application threshold criteria, proof of consideration and any documentation required for identity of interest transactions is not required at the time of pre-application submission but will be required at the time of full application submission;
- (B) Funding request;
- (C) Target Population;
- (D) Requested set-asides (At-Risk, USDA, Nonprofit, and/or Rural);
- (E) Total Number of Units proposed;
- (F) Census tract number in which the Development Site is located;
- (G) Expected score for each of the scoring items identified in the pre-application materials; and
- (H) Proposed name of ownership entity.

(2) Evidence in the form of a certification provided in the pre-application, that all of the notifications required under this paragraph have been made. (§2306.6704)

- (A) The Applicant must list in the pre-application all Neighborhood Organizations on record with the county or state whose boundaries include the proposed Development Site as of the beginning of the Application Acceptance Period.
- (B) Notification Recipients. No later than the date the pre-application is submitted, notification must be sent to all of the persons or entities prescribed in clauses (i) – (viii) of this subparagraph. Developments located in an ETJ of a city are required to notify both city and county officials. The notifications may be sent by e-mail, fax or mail with registered return receipt or similar tracking mechanism in the format required in the Pre-application Notification Template provided in the pre-application. The Applicant is encouraged to retain proof of delivery in the event the Department requires proof of notification. Acceptable evidence of such delivery is demonstrated by signed receipt for mail or courier delivery and confirmation of delivery for fax and e-mail. Officials to be notified are those officials in office at the time the pre-application is submitted. Note that between the time of pre-application (if made) and full Application, such officials may change and the boundaries of their jurisdictions may change. By way of example and not by way of limitation, events such as redistricting may cause changes which will necessitate additional notifications at full Application. Meetings and discussions do not constitute notification. Only a timely and compliant written notification to the correct person constitutes notification.

- (i) Neighborhood Organizations on record with the state or county as of the beginning of the Application Acceptance Period whose boundaries include the proposed Development Site;
- (ii) Superintendent of the school district in which the Development Site is located;
- (iii) Presiding officer of the board of trustees of the school district in which the Development Site is located;
- (iv) Mayor of the municipality (if the Development Site is within a municipality or its extraterritorial jurisdiction);

- (v) All elected members of the Governing Body of the municipality (if the Development Site is within a municipality or its extraterritorial jurisdiction);
- (vi) Presiding officer of the Governing Body of the county in which the Development Site is located;
- (vii) All elected members of the Governing Body of the county in which the Development Site is located; and
- (viii) State Senator and State Representative of the districts whose boundaries include the proposed Development Site;

**(C) Contents of Notification.**

- (i) The notification must include, at a minimum, all of the information described in subclauses (I) – (VI) of this clause.
  - (I) the Applicant's name, address, an individual contact name and phone number;
  - (II) the Development name, address, city and county;
  - (III) a statement informing the entity or individual being notified that the Applicant is submitting a request for Housing Tax Credits with the Texas Department of Housing and Community Affairs;
  - (IV) whether the Development proposes New Construction, Reconstruction, Adaptive Reuse, or Rehabilitation;
  - (V) the physical type of Development being proposed (*e.g.* single family homes, duplex, apartments, townhomes, high-rise etc.); and
  - (VI) the approximate total number of Units and approximate total number of low-income Units.
- (ii) The notification may not contain any false or misleading statements. Without limiting the generality of the foregoing, the notification may not create the impression that the proposed Development will serve exclusively a Target Population unless such targeting or preference is in full compliance with all applicable state and federal laws, including state and federal fair housing laws.

**(c) Pre-application Results.** Only pre-applications which have satisfied all of the pre-application requirements, including those in §11.9(e)(3) of this chapter, will be eligible for pre-application points. The order and scores of those Developments released on the Pre-application Submission Log do not represent a Commitment on the part of the Department or the Board to allocate tax credits to any Development and the Department bears no liability for decisions made by Applicants based on the results of the Pre-application Submission Log. Inclusion of a pre-application on the Pre-application Submission Log does not ensure that an Applicant will receive points for a pre-application.

**§11.9.Competitive HTC Selection Criteria.**

**(a) General Information.** This section identifies the scoring criteria used in evaluating and ranking Applications. The criteria identified in subsections (b) - (e) of this section include those items required under Texas Government Code, Chapter 2306, §42 of the Code, and other criteria established in a manner consistent with Chapter 2306 and §42 of the Code. There is no rounding of numbers in this section for any of the calculations in order to achieve the desired requirement or limitation, unless rounding is explicitly stated as allowed for that particular calculation or criteria.

Due to the highly competitive nature of the program, Applicants that elect points where supporting documentation is required but fail to provide any supporting documentation will not be allowed to cure the issue through an Administrative Deficiency. However, Department staff may provide the Applicant an opportunity to explain how they believe the Application, as submitted, meets the requirements for points or otherwise satisfies the requirements. When providing a pre-application, Application or other materials to a state representative, local governmental body, Neighborhood Organization, or anyone else to secure support or approval that may affect the Applicant's competitive posture, an Applicant must disclose that in accordance with the Department's rules aspects of the Development may be subject to change, including, but not limited to, changes in the amenities ultimately selected and provided.

**(b) Criteria promoting development of high quality housing.**

(1) Size and Quality of the Units. (§2306.6710(b)(1)(D); §42(m)(1)(C)(iii)) An Application may qualify for up to fifteen (15) points under subparagraphs (A) and (B) of this paragraph.

(A) Unit Sizes (8 points). The Development must meet the minimum requirements identified in this subparagraph to qualify for points. Points for this item will be automatically granted for Applications involving Rehabilitation (excluding Reconstruction), for Developments receiving funding from USDA, or for Supportive Housing Developments without meeting these square footage minimums only if requested in the Self Scoring Form.

- (i) five-hundred fifty (550) square feet for an Efficiency Unit;
- (ii) six-hundred fifty (650) square feet for a one Bedroom Unit;
- (iii) eight-hundred fifty (850) square feet for a two Bedroom Unit;
- (iv) one-thousand fifty (1,050) square feet for a three Bedroom Unit; and
- (v) one-thousand two-hundred fifty (1,250) square feet for a four Bedroom Unit.

(B) Unit and Development Features (7 points). Applicants that elect in an Application to provide specific amenity and quality features in every Unit at no extra charge to the tenant will be awarded points based on the point structure provided in §10.101(b)(6)(B) of this title (relating to Site and Development Requirements and Restrictions) and as certified to in the Application. The amenities will be required to be identified in the LURA. Rehabilitation Developments will start with a base score of three (3) points and Supportive Housing Developments will start with a base score of five (5) points.

(2) Sponsor Characteristics. (§42(m)(1)(C)(iv)) An Application may qualify to receive one (1) point if the ownership structure contains a HUB certified by the Texas Comptroller of Public Accounts by the Full Application Delivery Date, or Qualified Nonprofit Organization provided the Application is under the Nonprofit Set-Aside. The HUB or Qualified Nonprofit Organization must have some combination of ownership interest in the General Partner of the Applicant, cash flow from operations, and developer fee which taken together equal at least 80 percent and no less than 5 percent for any category. For example, a HUB or Qualified Nonprofit Organization may have 20 percent ownership interest, 30 percent of the developer fee, and 30 percent of cash flow from operations. The HUB or Qualified Nonprofit Organization must also materially participate in the Development and operation of the Development throughout the Compliance Period and must have experience directly related to the housing industry, which may include experience with property management, construction, development, financing, or compliance. A Principal of the HUB or Qualified Nonprofit Organization cannot be a Related

Party to any other Principal of the Applicant or Developer (excluding another Principal of said HUB or Qualified Nonprofit Organization). (1 point)

**(c) Criteria to serve and support Texans most in need.**

(1) Income Levels of Tenants. (§§2306.111(g)(3)(B) and (E); 2306.6710(b)(1)(C) and (e); and §42(m)(1)(B)(ii)(I)) An Application may qualify for up to sixteen (16) points for rent and income restricting a Development for the entire Affordability Period at the levels identified in subparagraph (A) or (B) of this paragraph.

(A) For any Development located within a non-Rural Area of the Dallas, Fort Worth, Houston, San Antonio, or Austin MSAs:

- (i) At least 40 percent of all low-income Units at 50 percent or less of AMGI (16 points);
- (ii) At least 30 percent of all low income Units at 50 percent or less of AMGI (14 points); or
- (iii) At least 20 percent of all low-income Units at 50 percent or less of AMGI (12 points).

(B) For Developments proposed to be located in areas other than those listed in subparagraph (A) of this paragraph:

- (i) At least 20 percent of all low-income Units at 50 percent or less of AMGI (16 points);
- (ii) At least 15 percent of all low-income Units at 50 percent or less of AMGI (14 points); or
- (iii) At least 10 percent of all low-income Units at 50 percent or less of AMGI (12 points).

(2) Rent Levels of Tenants. (§2306.6710(b)(1)(E)) An Application may qualify to receive up to thirteen (13) points for rent and income restricting a Development for the entire Affordability Period. These levels are in addition to those committed under paragraph (1) of this subsection.

(A) At least 20 percent of all low-income Units at 30 percent or less of AMGI for Supportive Housing Developments proposed by a Qualified Nonprofit or for Developments participating in the City of Houston's Permanent Supportive Housing ("HPSH") program. A Development participating in the HPSH program and electing points under this subparagraph must have applied for HPSH funds by the Full Application Delivery Date, must have a commitment of HPSH funds by Commitment, must qualify for a minimum of five (5) points under paragraph (4) of this subsection (relating to the Opportunity Index), and must not have more than 18 percent of the total Units restricted for Persons with Special Needs as defined under paragraph (7) of this subsection (relating to Tenant Populations with Special Housing Needs) (13 points);

(B) At least 10 percent of all low-income Units at 30 percent or less of AMGI or, for a Development located in a Rural Area, 7.5 percent of all low-income Units at 30 percent or less of AMGI (11 points); or

(C) At least 5 percent of all low-income Units at 30 percent or less of AMGI (7 points).

(3) Tenant Services. (§2306.6710(b)(1)(G) and §2306.6725(a)(1)) A Supportive Housing Development proposed by a Qualified Nonprofit or Developments participating in the HPSH program may qualify to receive up to eleven (11) points and all other Developments may receive up to ten (10) points. A Development participating in the HPSH program and electing eleven (11) points under this paragraph must have applied for HPSH funds by the Full Application Delivery Date, must have a commitment of HPSH funds by Commitment, must qualify for a minimum of five (5) points under paragraph (4) of this subsection, and must not have more than 18 percent of the total Units restricted for Persons with Special Needs as defined under paragraph (7) of this subsection. By electing points, the Applicant certifies that the Development will provide a combination of supportive services, which are listed in §10.101(b)(7) of this title, appropriate for the proposed tenants and that there is adequate space for the intended services. The provision and complete list of supportive services will be included in the LURA. The Owner may change, from time to time, the services offered; however, the overall points as selected at Application will remain the same. No fees may be charged to the tenants for any of the services. Services must be provided on-site or transportation to those off-site services identified on the list must be provided. The same service may not be used for more than one scoring item.

(4) Opportunity Index. The Department may refer to locations qualifying for points under this scoring item as high opportunity areas in some materials.

(A) For Developments located in an Urban Area, if the proposed Development Site is located within a census tract that has a poverty rate below 15 percent for Individuals (or 35 percent for Developments in Regions 11 and 13), an Application may qualify to receive up to seven (7) points upon meeting the additional requirements in clauses (i) - (v) of this subparagraph. The Department will base poverty rate on data from the five (5) year American Community Survey.

(i) The Development Site is located in a census tract with income in the top quartile of median household income for the county or MSA as applicable, and the Development Site is in the attendance zone of an elementary school that has a Met Standard rating and has achieved a 77 or greater on index 1 of the performance index, related to student achievement (7 points);

(ii) The Development Site is located in a census tract with income in the second quartile of median household income for the county or MSA as applicable, and the Development Site is in the attendance zone of an elementary school that has a Met Standard rating, has achieved a 77 or greater on index 1 of the performance index, related to student achievement, and has earned at least one distinction designation by TEA (6 points);

(iii) The Development Site is located in a census tract with income in the second quartile of median household income for the county or MSA as applicable, and the Development Site is in the attendance zone of an elementary school that has a Met Standard rating and has achieved a 77 or greater on index 1 of the performance index, related to student achievement (5 points);

(iv) The Development Site is located in a census tract with income in the top quartile of median household income for the county or MSA as applicable (3 points); or

- (v) The Development Site is located in a census tract with income in the top two quartiles of median household income for the county or MSA as applicable (1 point).
- (B) For Developments located in a Rural Area, an Application may qualify to receive up to seven (7) cumulative points based on median income of the area and/or proximity to the essential community assets as reflected in clauses (i) - (vi) of this subparagraph if the Development Site is located within a census tract that has a poverty rate below 15 percent for Individuals (35 percent for regions 11 and 13) or within a census tract with income in the top or second quartile of median household income for the county or MSA as applicable or within the attendance zone of an elementary school that has a Met Standard rating and has achieved a 77 or greater on index 1 of the performance index, related to student achievement.

- (i) The Development Site is located within the attendance zone of an elementary, middle, or high school that has achieved the performance standards stated in subparagraph (B). (Note that if the school is more than 2 miles from the Development Site, free transportation must be provided by the school district in order to qualify for points. For purposes of this subparagraph only, any school, regardless of the number of grades served, can count towards points; however, schools without ratings, unless paired with another appropriately rated school will not be considered.) (3 points);
- (ii) The Development Site is within 1.5 linear miles of a center that is licensed by the Department of Family and Protective Services specifically to provide a school-age program (2 points);
- (iii) The Development Site is located within 1.5 linear miles of a full service grocery store (2 points);
- (iv) The Development Site is located within 1.5 linear miles of a center that is licensed by the Department of Family and Protective Services to provide a child care program for infants, toddlers, and/or pre-kindergarten, at a minimum (2 points);
- (v) The Development Site is located within 1.5 linear miles of a senior center (2 points); and/or
- (vi) The Development Site is located within 1.5 linear miles of a health related facility (1 point).

- (C) An elementary school attendance zone for the Development Site does not include schools with district-wide possibility of enrollment or no defined attendance zones, sometimes known as magnet schools. However, in districts with district-wide enrollment an Applicant may use the rating of the closest elementary schools that may possibly be attended by the tenants. The applicable school rating will be the 2015 accountability rating assigned by the Texas Education Agency. School ratings will be determined by the school number, so that in the case where a new school is formed or named or consolidated with another school but is considered to have the same number that rating will be used. A school that has never been rated by the Texas Education Agency will use the district rating. If a school is configured to serve grades that do not align with the Texas Education Agency's conventions for defining elementary schools (typically grades K-5 or K-6), the school will be

considered to have the lower of the ratings of the schools that would be combined to meet those conventions.

(5) Educational Excellence. Except for Supportive Housing Developments, an Application may qualify to receive up to five (5) points for a Development Site located within the attendance zones of public schools meeting the criteria as described in subparagraphs (A) - (C) of this paragraph, as determined by the Texas Education Agency. A Supportive Housing Development may qualify to receive no more than two (2) points for a Development Site located within the attendance zones of public schools meeting the criteria as described in subparagraphs (A) and (B) of this paragraph, as determined by the Texas Education Agency. An attendance zone does not include schools with district-wide possibility of enrollment or no defined attendance zones, sometimes known as magnet schools. However, in districts with district-wide enrollment an Applicant may use the rating of the closest elementary, middle, or high schools, respectively, which may possibly be attended by the tenants. The applicable school rating will be the 2015 accountability rating assigned by the Texas Education Agency. School ratings will be determined by the school number, so that in the case where a new school is formed or named or consolidated with another school but is considered to have the same number that rating will be used. A school that has never been rated by the Texas Education Agency will use the district rating. If a school is configured to serve grades that do not align with the Texas Education Agency's conventions for defining elementary schools (typically grades K-5 or K-6), middle schools (typically grades 6-8 or 7-8) and high schools (typically grades 9-12), the school will be considered to have the lower of the ratings of the schools that would be combined to meet those conventions. In determining the ratings for all three levels of schools, ratings for all grades K-12 must be included, meaning that two or more schools' ratings may be combined. For example, in the case of an elementary school which serves grades K-4 and an intermediate school that serves grades 5-6, the elementary school rating will be the lower of those two schools' ratings. Also, in the case of a 9th grade center and a high school that serves grades 10-12, the high school rating will be considered the lower of those two schools' ratings. Sixth grade centers will be considered as part of the middle school rating.

(A) The Development Site is within the attendance zone of an elementary school, a middle school and a high school with a Met Standard rating and an Index 1 score of at least 77. For Developments in Region 11, the middle school and high school must achieve an Index 1 score of at least 70 to be eligible for these points (5 points, or 2 points for a Supportive Housing Development);

(B) The Development Site is within the attendance zone of any two of the following three schools (an elementary school, a middle school, and a high school) with a Met Standard rating and an Index 1 score of at least 77. For Developments in Region 11, the middle school and high school must achieve an Index 1 score of at least 70 to be eligible for these points; (3 points, or 2 points for a Supportive Housing Development); or

(C) The Development Site is within the attendance zone of an elementary school, a middle school and a high school either all with a Met Standard rating or any one of the three schools with Met Standard rating and an Index 1 score of at least 77. For Developments in Region 11, the middle school and high school must achieve an Index 1 score of at least 70 to be eligible for these points. (1 point)

(6) Underserved Area. (§§2306.6725(b)(2); 2306.127, 42(m)(1)(C)(ii)) An Application may qualify to receive up to two (2) points if the Development Site is located in one of the areas

described in subparagraphs (A) - (E) of this paragraph, and the Application contains evidence substantiating qualification for the points. If an Application qualifies for points under paragraph (4) of this subsection then the Application is not eligible for points under subparagraphs (A) and (B) of this paragraph.

- (A) The Development Site is located wholly or partially within the boundaries of a colonia as such boundaries are determined by the Office of the Attorney General and within 150 miles of the Rio Grande River border. For purposes of this scoring item, the colonia must lack water, wastewater, or electricity provided to all residents of the colonia at a level commensurate with the quality and quantity expected of a municipality and the proposed Development must make available any such missing water, wastewater, and electricity supply infrastructure physically within the borders of the colonia in a manner that would enable the current dwellings within the colonia to connect to such infrastructure (2 points);
- (B) An Economically Distressed Area (1 point);
- (C) A Place, or if outside of the boundaries of any Place, a county that has never received a competitive tax credit allocation or a 4 percent non-competitive tax credit allocation serving the same Target Population which remains an active tax credit development (2 points);
- (D) For Rural Areas only, a census tract that has never received a competitive tax credit allocation or a 4 percent non-competitive tax credit allocation for a Development that remains an active tax credit development serving the same Target Population (2 points);
- (E) A census tract that has not received a competitive tax credit allocation or a 4 percent non-competitive tax credit allocation for a Development serving the same Target Population that remains an active tax credit development or if it is serving the same Target Population then it has not received the allocation within the past 10 years (1 point);

(7) Tenant Populations with Special Housing Needs. (§42(m)(1)(C)(v)) An Application may qualify to receive up to two (2) points by serving Tenants with Special Housing Needs. Points will be awarded as described in subparagraphs (A) - (C) of this paragraph.

(A) Applications may qualify for two (2) points if a determination by the Department of approval is submitted in the Application indicating participation of an existing Development in the Department's Section 811 Project Rental Assistance Demonstration Program ("Section 811 PRA Program"). In order to qualify for points, the existing Development must commit to the Section 811 PRA Program at least 10 units or, if the proposed Development would be eligible to claim points under subparagraph (B) of this paragraph, at least the same number of units (as would be required under subparagraph (B) of this paragraph for the proposed Development) have been designated for the Section 811 PRA Program in the existing Development. The same units cannot be used to qualify for points in more than one HTC Application.

(B) Applications meeting all of the requirements in clauses (i) - (v) of this subparagraph are eligible to receive two (2) points by committing to participate in the Department's Section 811 PRA Program. In order to be eligible for points, Applicants must commit at least 10 Units in the proposed Development for participation in the Section 811 PRA Program unless the Integrated Housing Rule (10 TAC §1.15) or Section 811 PRA Program guidelines and requirements limits the proposed Development to fewer than 10 Units. The same units cannot be used to qualify for points in more than one HTC Application. Once elected in the Application, Applicants may not withdraw their commitment to have the proposed Development participate in the Section 811 PRA Program unless the Department

determines that the Development cannot meet all of the Section 811 PRA Program criteria. In this case, staff may allow the Application to qualify for points by meeting the requirements of subparagraph (C) of this paragraph.

- (i) The Development must not be an Elderly Limitation Development or Supportive Housing;
- (ii) The Development must not be originally constructed before 1978;
- (iii) The Development has units available to be committed to the Section 811 PRA Program in the Development, meaning that those units do not have any other sources of project-based rental or long-term operating assistance within 6 months of receiving 811 assistance and cannot have an existing restriction for persons with disabilities;
- (iv) The Development Site must be located in one of the following areas: Austin-Round Rock MSA, Brownsville-Harlingen MSA, Corpus Christi MSA; Dallas-Fort Worth-Arlington MSA; El Paso MSA; Houston-The Woodlands-Sugar Land MSA; McAllen-Edinburg-Mission MSA; or San Antonio-New Braunfels MSA; and
- (v) The Development Site must not be located in the mapped 500-year floodplain or in the 100-year floodplain.

(C) Applications proposing Developments that do not meet all of the requirements of clauses (i) – (v) of subparagraph (B) of this paragraph may qualify for two (2) points for meeting the requirements of this subparagraph. In order to qualify for points, Applicants must agree to set-aside at least 5 percent of the total Units for Persons with Special Needs. For purposes of this subparagraph, Persons with Special Needs is defined as households where one individual has alcohol and/or drug addictions, Colonia resident, Persons with Disabilities, Violence Against Women Act Protections (domestic violence, dating violence, sexual assault, and stalking), persons with HIV/AIDS, homeless populations, veterans, wounded warriors (as defined by the Caring for Wounded Warriors Act of 2008), and farmworkers. Throughout the Compliance Period, unless otherwise permitted by the Department, the Development Owner agrees to affirmatively market Units to Persons with Special Needs. In addition, the Department will require an initial minimum twelve-month period during which Units must either be occupied by Persons with Special Needs or held vacant. After the initial twelve-month period, the Development Owner will no longer be required to hold Units vacant for Persons with Special Needs, but will be required to continue to affirmatively market Units to Persons with Special Needs.

(8) Proximity to Important Services. An Application may qualify to receive up to two (2) points for being located within a one and a half (1.5) mile radius (three- (3) mile radius for Developments in a Rural Area) of the services listed below. These do not need to be in separate facilities to qualify for the points. A map must be included identifying the Development Site and the location of each of the services.

- (A) Full Service Grocery Store (1 point);
- (B) Pharmacy (1 point).

**(d) Criteria promoting community support and engagement.**

(1) Local Government Support. (§2306.6710(b)(1)(B)) An Application may qualify for up to seventeen (17) points for a resolution or resolutions voted on and adopted by the bodies reflected in subparagraphs (A) - (C) of this paragraph, as applicable. The resolution(s) must be dated prior to Final Input from Elected Officials Delivery Date and must be submitted to the Department no later than the Final Input from Elected Officials Delivery Date as identified in §11.2 of this chapter. Such resolution(s) must specifically identify the Development whether by legal description, address, Development name, Application number or other verifiable method. In providing a resolution a municipality or county should consult its own staff and legal counsel as to whether such resolution will be consistent with Fair Housing laws as they may apply, including, as applicable, consistency with any Fair Housing Activity Statement-Texas ("FHAST") form on file, any current Analysis of Impediments to Fair Housing Choice, or any current plans such as one year action plans or five year consolidated plans for HUD block grant funds, such as HOME or CDBG funds. Once a resolution is submitted to the Department it may not be changed or withdrawn. For an Application with a proposed Development Site that, at the time of the initial filing of the Application, is:

(A) Within a municipality, the Application will receive:

- (i) seventeen (17) points for a resolution from the Governing Body of that municipality expressly setting forth that the municipality supports the Application or Development; or
- (ii) fourteen (14) points for a resolution from the Governing Body of that municipality expressly setting forth that the municipality has no objection to the Application or Development.

(B) Within the extraterritorial jurisdiction of a municipality, the Application may receive points under clause (i) or (ii) of this subparagraph and under clause (iii) or (iv) of this subparagraph:

- (i) eight and one-half (8.5) points for a resolution from the Governing Body of that municipality expressly setting forth that the municipality supports the Application or Development; or
- (ii) seven (7) points for a resolution from the Governing Body of that municipality expressly setting forth that the municipality has no objection to the Application or Development; and
- (iii) eight and one-half (8.5) points for a resolution from the Governing Body of that county expressly setting forth that the county supports the Application or Development; or
- (iv) seven (7) points for a resolution from the Governing Body of that county expressly setting forth that the county has no objection to the Application or Development.

(C) Within a county and not within a municipality or the extraterritorial jurisdiction of a municipality:

- (i) seventeen (17) points for a resolution from the Governing Body of that county expressly setting forth that the county supports the Application or Development; or
  - (ii) fourteen (14) points for a resolution from the Governing Body of that county expressly setting forth that the county has no objection to the Application or Development.
- (2) Commitment of Development Funding by Local Political Subdivision. (§2306.6725(a)(5)) An Application may receive one (1) point for a commitment of Development funding from the city (if located in a city) or county in which the Development Site is located. Documentation must include a letter from an official of the municipality, county, or other instrumentality with jurisdiction over the proposed Development stating they will provide a loan, grant, reduced fees or contribution of other value for the benefit of the Development. Once a letter is submitted to the Department it may not be changed or withdrawn.

(3) Declared Disaster Area. (§2306.6710(b)(1)(H)) An Application may receive ten (10) points if at the time of Application submission or at any time within the two-year period preceding the date of submission, the Development Site is located in an area declared to be a disaster area under the Texas Government Code, §418.014.

(4) Quantifiable Community Participation. (§2306.6710(b)(1)(J); §2306.6725(a)(2)) An Application may qualify for up to nine (9) points for written statements from a Neighborhood Organization. In order for the statement to qualify for review, the Neighborhood Organization must have been in existence prior to the Pre-Application Final Delivery Date, and its boundaries must contain the Development Site. In addition, the Neighborhood Organization must be on record with the state or county in which the Development Site is located. Neighborhood Organizations may request to be on record with the Department for the current Application Round with the Department by submitting documentation (such as evidence of board meetings, bylaws, etc.) not later than 30 days prior to the Full Application Delivery Date. Once a letter is submitted to the Department it may not be changed or withdrawn. The written statement must meet all of the requirements in subparagraph (A) of this paragraph.

(A) Statement Requirements. If an organization cannot make the following affirmative certifications or statements then the organization will not be considered a Neighborhood Organization for purposes of this paragraph.

- (i) the Neighborhood Organization's name, a written description and map of the organization's boundaries, signatures and contact information (phone, email and mailing address) of at least two individual members with authority to sign on behalf of the organization;
- (ii) certification that the boundaries of the Neighborhood Organization contain the Development Site and that the Neighborhood Organization meets the definition pursuant to Texas Government Code, §2306.004(23-a) and includes at least two separate residential households;
- (iii) certification that no person required to be listed in accordance with Texas Government Code §2306.6707 with respect to the Development to which the Application requiring their listing relates participated in any way in the deliberations of the Neighborhood Organization, including any votes taken;

- (iv) certification that at least 80 percent of the current membership of the Neighborhood Organization consists of persons residing or owning real property within the boundaries of the Neighborhood Organization; and
- (v) an explicit expression of support, opposition, or neutrality. Any expression of opposition must be accompanied with at least one reason forming the basis of that opposition. A Neighborhood Organization is encouraged to be prepared to provide additional information with regard to opposition.

(B) Technical Assistance. For purposes of this section, if and only if there is no Neighborhood Organization already in existence or on record, the Applicant, Development Owner, or Developer is allowed to provide technical assistance in the creation of and/or placing on record of a Neighborhood Organization. Technical assistance is limited to:

- (i) the use of a facsimile, copy machine/copying, email and accommodations at public meetings;
- (ii) assistance in completing the QCP Neighborhood Information Packet, providing boundary maps and assisting in the Administrative Deficiency process; and
- (iii) presentation of information and response to questions at duly held meetings where such matter is considered.

(C) Point Values for Quantifiable Community Participation. An Application may receive points based on the values in clauses (i) - (vi) of this subparagraph. Points will not be cumulative. Where more than one written statement is received for an Application, the average of all statements received in accordance with this subparagraph will be assessed and awarded.

- (i) nine (9) points for explicit support from a Neighborhood Organization that, during at least one of the three prior Application Rounds, provided a written statement that qualified as Quantifiable Community Participation opposing any Competitive Housing Tax Credit Application and whose boundaries remain unchanged;
- (ii) eight (8) points for explicitly stated support from a Neighborhood Organization;
- (iii) six (6) points for explicit neutrality from a Neighborhood Organization that, during at least one of the three prior Application Rounds provided a written statement, that qualified as Quantifiable Community Participation opposing any Competitive Housing Tax Credit Application and whose boundaries remain unchanged;
- (iv) four (4) points for statements of neutrality from a Neighborhood Organization or statements not explicitly stating support or opposition, or an existing Neighborhood Organization provides no statement of either support, opposition or neutrality, which will be viewed as the equivalent of neutrality or lack of objection;
- (v) four (4) points for areas where no Neighborhood Organization is in existence, equating to neutrality or lack of objection, or where the Neighborhood Organization did not meet the explicit requirements of this section; or

(vi) zero (0) points for statements of opposition meeting the requirements of this subsection.

(D) Challenges to opposition. Any written statement from a Neighborhood Organization expressing opposition to an Application may be challenged if it is contrary to findings or determinations, including zoning determinations, of a municipality, county, school district, or other local Governmental Entity having jurisdiction or oversight over the finding or determination. If any such statement is challenged, the challenger must declare the basis for the challenge and submit such challenge by the Challenges to Neighborhood Organization Opposition Delivery Date May 1, 2016. The Neighborhood Organization expressing opposition will be given seven (7) calendar days to provide any information related to the issue of whether their assertions are contrary to the findings or determinations of a local Governmental Entity. All such materials and the analysis of the Department's staff will be provided to a fact finder, chosen by the Department, for review and a determination of the issue presented by this subsection. The fact finder will not make determinations as to the accuracy of the statements presented, but only with regard to whether the statements are contrary to findings or determinations of a local Governmental Entity. The fact finder's determination will be final and may not be waived or appealed.

(5) Community Support from State Representative. (§2306.6710(b)(1)(J); §2306.6725(a)(2)) Applications may receive up to eight (8) points or have deducted up to eight (8) points for this scoring item. To qualify under this paragraph letters must be on the State Representative's letterhead, be signed by the State Representative, identify the specific Development and clearly state support for or opposition to the specific Development. This documentation will be accepted with the Application or through delivery to the Department from the Applicant or the State Representative and must be submitted no later than the Final Input from Elected Officials Delivery Date as identified in §11.2 of this chapter. Once a letter is submitted to the Department it may not be changed or withdrawn. Therefore, it is encouraged that letters not be submitted well in advance of the specified deadline in order to facilitate consideration of all constituent comment and other relevant input on the proposed Development. State Representatives to be considered are those in office at the time the letter is submitted and whose district boundaries include the Development Site. Neutral letters or letters that do not specifically refer to the Development or specifically express support or opposition will receive zero (0) points. A letter that does not directly express support but expresses it indirectly by inference (e.g. "the local jurisdiction supports the Development and I support the local jurisdiction") will be treated as a neutral letter.

(6) Input from Community Organizations. (§2306.6725(a)(2)) Where, at the time of Application, the Development Site does not fall within the boundaries of any qualifying Neighborhood Organization, then, in order to ascertain if there is community support, an Application may receive up to four (4) points for letters that qualify for points under subparagraphs (A), (B), and/or (C) of this paragraph. No more than four (4) points will be awarded under this point item under any circumstances. All letters must be submitted within the Application. Once a letter is submitted to the Department it may not be changed or withdrawn. Should an Applicant elect this option and the Application receives letters in opposition, then one (1) point will be subtracted from the score under this paragraph for each letter in opposition, provided that the letter is from an organization that would otherwise qualify under this paragraph. However, at no time will the Application receive a score lower than zero (0) for this item.

(A) An Application may receive two (2) points for each letter of support submitted from a community or civic organization that serves the community in which the Development Site is located. Letters of support must identify the specific Development and must state support of the specific Development at the proposed location. To qualify, the organization must be qualified as tax exempt and have as a primary (not ancillary or secondary) purpose the overall betterment, development, or improvement of the community as a whole or of a major aspect of the community such as improvement of schools, fire protection, law enforcement, city-wide transit, flood mitigation, or the like. The community or civic organization must provide evidence of its tax exempt status and its existence and participation in the community in which the Development Site is located including, but not limited to, a listing of services and/or members, brochures, annual reports, etc. Letters of support from organizations that cannot provide reasonable evidence that they are active in the area that includes the location of the Development Site will not be awarded points. For purposes of this subparagraph, community and civic organizations do not include neighborhood organizations, governmental entities (excluding Special Management Districts), or taxing entities.

(B) An Application may receive two (2) points for a letter of support from a property owners association created for a master planned community whose boundaries include the Development Site and that does not meet the requirements of a Neighborhood Organization for the purpose of awarding points under paragraph (4) of this subsection.

(C) An Application may receive two (2) points for a letter of support from a Special Management District whose boundaries, as of the Full Application Delivery Date as identified in §11.2 of this chapter (relating to Program Calendar for Competitive Housing Tax Credits), include the Development Site.

(D) Input that evidences unlawful discrimination against classes of persons protected by Fair Housing law or the scoring of which the Department determines to be contrary to the Department's efforts to affirmatively further fair housing will not be considered. If the Department receives input that could reasonably be suspected to implicate issues of non-compliance under the Fair Housing Act, staff will refer the matter to the Texas Workforce Commission for investigation, but such referral will not, standing alone, cause staff or the Department to terminate the Application. Staff will report all such referrals to the Board and summarize the status of any such referrals in any recommendations.

(7) Concerted Revitalization Plan. An Application may qualify for points under this paragraph only if no points are elected under subsection (c)(4) of this section, related to Opportunity Index.

(A) For Developments located in an Urban Area.

(i) An Application may qualify to receive up to six (6) points if the Development Site is located in a distinct area that was once vital and has lapsed into a situation requiring concerted revitalization, and where a concerted revitalization plan has been developed and executed. The area targeted for revitalization must be larger than the assisted housing footprint and should be a neighborhood or small group of contiguous neighborhoods with common attributes and problems. The concerted revitalization plan that meets the criteria described in subclauses (I) - (IV) of this clause:

(I) The concerted revitalization plan must have been adopted by the municipality or county in which the Development Site is located.

(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. These problems may include the following:

(-a-) long-term disinvestment, such as significant presence of residential and/or commercial blight, streets infrastructure neglect such as inadequate drainage, and/or sidewalks in significant disrepair;

(-b-) declining quality of life for area residents, such as high levels of violent crime, property crime, gang activity, or other significant criminal matters such as the manufacture or distribution of illegal substances or overt illegal activities;

(III) Staff will review the target area for presence of the problems identified in the plan and for targeted efforts within the plan to address those problems. In addition, but not in lieu of, such a plan may be augmented with targeted efforts to promote a more vital local economy and a more desirable neighborhood, including but not limited to:

(-a-) attracting private sector development of housing and/or business;

(-b-) developing health care facilities;

(-c-) providing public transportation;

(-d-) developing significant recreational facilities; and/or

(-e-) improving under-performing schools.

(IV) The adopted plan must have sufficient, documented and committed funding to accomplish its purposes on its established timetable. This funding must have been flowing in accordance with the plan, such that the problems identified within the plan will have been sufficiently mitigated and addressed prior to the Development being placed into service.

(ii) Points will be awarded based on:

(I) 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 target efforts outlined in the plan; and

(II) Applications may receive (2) points in addition to those under subclause (I) of this clause if the Development is explicitly identified by the city or county as contributing most significantly to the concerted revitalization efforts of the city or county (as applicable). A city or county may only identify one single Development during each Application Round for the additional points under this subclause. A

resolution from the Governing Body of the city or county that approved the plan is required to be submitted in the Application (this resolution is not required at pre-application). If multiple Applications submit resolutions under this subclause from the same Governing Body, none of the Applications shall be eligible for the additional points. A city or county may, but is not required, to identify a particular Application as contributing most significantly to concerted revitalization efforts.

(B) For Developments located in a Rural Area.

(i) The requirements For concerted revitalization in a Rural Area are distinct and separate from the requirements related to concerted revitalization in an Urban Area in that the requirements in a Rural Area relate primarily to growth and expansion indicators. An Application may qualify for up to four (4) points if the city, county, state, or federal government has approved expansion of basic infrastructure or projects, as described in this paragraph. Approval cannot be conditioned upon the award of tax credits or on any other event (zoning, permitting, construction start of another development, etc.) not directly associated with the particular infrastructure expansion. The Applicant, Related Party, or seller of the Development Site cannot contribute funds for or finance the project or infrastructure, except through the normal and customary payment of property taxes, franchise taxes, sales taxes, impact fees and/or any other taxes or fees traditionally used to pay for or finance such infrastructure by cities, counties, state or federal governments or their related subsidiaries. The project or expansion must have been completed no more than twelve (12) months prior to the beginning of the Application Acceptance Period or have been approved and is projected to be completed within twelve (12) months from the beginning of the Application Acceptance Period. An Application is eligible for two (2) points for one of the items described in subclauses (I) - (V) of this clause or four (4) points for at least two (2) of the items described in subclauses (I) - (V) of this clause:

(I) New paved roadway (may include paving an existing non-paved road but excludes overlays or other limited improvements) or expansion of existing paved roadways by at least one lane (excluding very limited improvements such as new turn lanes or restriping), in which a portion of the new road or expansion is within one half (1/2) mile of the Development Site;

(II) New water service line (or new extension) of at least 500 feet, in which a portion of the new line is within one half (1/2) mile of the Development Site;

(III) New wastewater service line (or new extension) of at least 500 feet, in which a portion of the new line is within one half (1/2) mile of the Development Site;

(IV) Construction of a new law enforcement or emergency services station within one (1) mile of the Development Site that has a service area that includes the Development Site; and

(V) Construction of a new hospital or expansion of an existing hospital's capacity by at least 25 percent within a five (5) mile radius of the Development Site and ambulance service to and from the hospital is available at the Development Site. Capacity is defined as total number of beds, total number of rooms or total square footage of the hospital.

(ii) To qualify under clause (i) of this subparagraph, the Applicant must provide a letter from a government official with specific knowledge of the project (or from an official with a private utility company, if applicable) which must include:

- (I) the nature and scope of the project;
- (II) the date completed or projected completion;
- (III) source of funding for the project;
- (IV) proximity to the Development Site; and
- (V) the date of any applicable city, county, state, or federal approvals, if not already completed.

**(e) Criteria promoting the efficient use of limited resources and applicant accountability.**

(1) Financial Feasibility. (§2306.6710(b)(1)(A)) An Application may qualify to receive a maximum of eighteen (18) points for this item. To qualify for points, a 15-year pro forma itemizing all projected income including Unit rental rate assumptions, operating expenses and debt service, and specifying the underlying growth assumptions and reflecting a minimum must-pay debt coverage ratio of 1.15 for each year must be submitted. The pro forma must include the signature and contact information evidencing that it has been reviewed and found to be acceptable by an authorized representative of a proposed Third Party construction or permanent lender. In addition to the signed pro forma, a lender approval letter must be submitted. An acceptable form of lender approval letter may be obtained in the Uniform Multifamily Application Templates. If the letter evidences review of the Development alone it will receive sixteen (16) points. If the letter evidences review of the Development and the Principals, it will receive eighteen (18) points.

(2) Cost of Development per Square Foot. (§2306.6710(b)(1)(F); §42(m)(1)(C)(iii)) An Application may qualify to receive up to twelve (12) points based on either the Building Cost or the Hard Costs per square foot of the proposed Development, as originally submitted in the Application. For purposes of this paragraph, Building Costs will exclude structured parking or commercial space that is not included in Eligible Basis, and Hard Costs will include general contractor overhead, profit, and general requirements. Structured parking or commercial space costs must be supported by a cost estimate from a Third Party General Contractor or subcontractor with experience in structured parking or commercial construction, as applicable. The square footage used will be the Net Rentable Area (NRA). The calculations will be based on the cost listed in the Development Cost Schedule and NRA shown in the Rent Schedule. If the proposed Development is a Supportive Housing Development, the NRA will include common area up to 50 square feet per Unit.

(A) A high cost development is a Development that meets one of the following conditions:

- (i) the Development is elevator served, meaning it is either a Elderly Development with an elevator or a Development with one or more buildings any of which have elevators serving four or more floors;

- (ii) the Development is more than 75 percent single family design;
  - (iii) the Development is Supportive Housing; or
  - (iv) the Development Site qualifies for a minimum of five (5) points under subsection (c)(4) of this section, related to Opportunity Index, and is located in an Urban Area.
- (B) Applications proposing New Construction or Reconstruction will be eligible for twelve (12) points if one of the following conditions is met:
- (i) The Building Cost per square foot is less than \$70 per square foot;
  - (ii) The Building Cost per square foot is less than \$75 per square foot, and the Development meets the definition of a high cost development;
  - (iii) The Hard Cost per square foot is less than \$90 per square foot; or
  - (iv) The Hard Cost per square foot is less than \$100 per square foot, and the Development meets the definition of high cost development.
- (C) Applications proposing New Construction or Reconstruction will be eligible for eleven (11) points if one of the following conditions is met:
- (i) The Building Cost per square foot is less than \$75 per square foot;
  - (ii) The Building Cost per square foot is less than \$80 per square foot, and the Development meets the definition of a high cost development;
  - (iii) The Hard Cost per square foot is less than \$95 per square foot; or
  - (iv) The Hard Cost per square foot is less than \$105 per square foot, and the Development meets the definition of high cost development.
- (D) Applications proposing New Construction or Reconstruction will be eligible for ten (10) points if one of the following conditions is met:
- (i) The Building Cost is less than \$90 per square foot; or
  - (ii) The Hard Cost is less than \$110 per square foot.
- (E) Applications proposing Adaptive Reuse or Rehabilitation (excluding Reconstruction) will be eligible for points if one of the following conditions is met:
- (i) Twelve (12) points for Applications which include Hard Costs plus acquisition costs included in Eligible Basis that are less than \$100 per square foot;
  - (ii) Twelve (12) points for Applications which include Hard Costs plus acquisition costs included in Eligible Basis that are less than \$130 per square foot, located in an Urban

Area, and that qualify for 5 or 7 points under subsection (c)(4) of this section, related to Opportunity Index; or

(iii) Eleven (11) points for Applications which include Hard Costs plus acquisition costs included in Eligible Basis that are less than \$130 per square foot.

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

(A) The total number of Units does not increase by more than ten (10) percent from pre-application to Application;

(B) The designation of the proposed Development as Rural or Urban remains the same;

(C) The proposed Development serves the same Target Population;

(D) The pre-application and Application are participating in the same set-asides (At-Risk, USDA, Non-Profit, and/or Rural);

(E) The Application final score (inclusive of only scoring items reflected on the self score form) does not vary by more than six (6) points from what was reflected in the pre-application self score;

(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; and

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

(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 five (5) percent of the total Units are restricted to serve households at or below 30 percent 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 percent 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 8 percent of the Total Housing Development Cost (3 points); or

(iii) If the Housing Tax Credit funding request is less than 9 percent of the Total Housing Development Cost (2 points); or

(iv) If the Housing Tax Credit funding request is less than 10 percent 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 percent 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.

(5) Extended Affordability. (§§2306.6725(a)(5); 2306.111(g)(3)(C); 2306.185(a)(1) and (c); 2306.6710(e)(2); and 42(m)(1)(B)(ii)(II)) In accordance with the Code, each Development is required to maintain its affordability for a 15-year Compliance Period and, subject to certain exceptions, an additional 15-year Extended Use Period. Development Owners that agree to extend the Affordability Period for a Development to thirty-five (35) years total may receive two (2) points.

(6) Historic Preservation. (§2306.6725(a)(5)) Except for Developments that qualify for one (1) or three (3) points under Educational Excellence §11.9 (c)(5), an Application that has received a letter from the Texas Historical Commission determining preliminary eligibility for historic (rehabilitation) tax credits and is proposing the use of historic (rehabilitation) tax credits (whether federal or state credits) may qualify to receive five (5) points. Developments that qualify for one (1) or three (3) points under Educational Excellence §11.9 (c)(5) that has received a letter from the Texas Historical Commission determining preliminary eligibility for historic (rehabilitation) tax credits and is proposing the use of historic (rehabilitation) tax credits (whether federal or state credits) may qualify to receive three (3) points. At least seventy-five percent of the residential units shall reside within the Certified Historic Structure and the Development must reasonably be expected to qualify to receive and document receipt of historic tax credits by issuance of Forms 8609. The Application must include either documentation from the Texas Historical Commission that the property is currently a Certified Historic Structure, or documentation determining preliminary eligibility for Certified Historic Structure status.

(7) Right of First Refusal. (§2306.6725(b)(1); §42(m)(1)(C)(viii)) An Application may qualify to receive (1 point) for Development Owners that will agree to provide a right of first refusal to purchase the Development upon or following the end of the Compliance Period in accordance with Texas Government Code, §2306.6726 and the Department's rules including §10.407 of this title (relating to Right of First Refusal) and §10.408 of this title (relating to Qualified Contract Requirements).

(8) Funding Request Amount. An Application may qualify to receive one (1) point if the Application reflects a Funding Request of Housing Tax Credits, as identified in the original Application submission, of no more than 100% of the amount available within the sub-region or set-aside as determined by the application of the regional allocation formula on or before December 1, 2015.

**(f) Point Adjustments.**

Staff will recommend to the Board and the Board may make a deduction of up to five (5) points for any of the items listed in paragraph (1) of this subsection, unless the person approving the extension (the Board or Executive Director, as applicable) makes an affirmative finding setting forth that the facts which gave rise to the need for the extension were beyond the reasonable control of the Applicant and could not have been reasonably anticipated. Any such matter to be presented for final determination of deduction by the Board must include notice from the Department to the affected party not less than fourteen (14) days prior to the scheduled Board meeting. The Executive Director may, but is not required, to issue a formal notice after disclosure if it is determined that the matter does not warrant point deductions. (§2306.6710(b)(2))

- (1) If the Applicant or Affiliate failed to meet the original Carryover submission or 10 percent Test deadline(s) or has requested an extension of the Carryover submission deadline, the 10 percent Test deadline (relating to either submission or expenditure).
- (2) If the Developer or Principal of the Applicant violates the Adherence to Obligations.
- (3) Any deductions assessed by the Board for paragraph (1) or (2) of this subsection based on a Housing Tax Credit Commitment from the preceding Application Round will be attributable to the Applicant or Affiliate of an Application submitted in the current Application Round.

**§11.10. Third Party Request for Administrative Deficiency for Competitive HTC Applications.**

The purpose of the Third Party Request for Administrative Deficiency process is to allow an unrelated person or entity to bring new, material information about an Application to staff's attention. Such Person may request the staff to consider whether a matter in an Application in which the Person has no involvement should be the subject of an Administrative Deficiency. Staff will consider the request and proceed as it deems appropriate under the applicable rules including, if the Application in question is determined by staff to not be a priority Application, not reviewing the matter further. As a practical consideration, the Department expects that such requests be received by June 1. Requests made after this date may not be reviewed by staff. Requestors must provide, at the time of filing the challenge, all briefings, documentation, and other information that the requestor offers in support of the deficiency. Requestors must provide sufficient credible evidence that, if confirmed, would substantiate the deficiency request. Assertions not accompanied by supporting documentation susceptible to confirmation will not be considered.

# Housing Options for Texas Communities

A Guide for Local Engagement on Affordable Housing Development



Wildflower Terrace in Austin, Texas

# About Us

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The Texas Department of Housing and Community Affairs ("TDHCA" or "the Department") is the state agency responsible for promoting and preserving homeownership, financing the development of and ensuring the long-term stability of affordable rental housing, supporting community and energy assistance programs, and administering and overseeing colonia programs.

The Texas Department of Housing and Community Affairs is committed to expanding fair housing choice and opportunities for Texans through the administration and funding of affordable housing and homeownership opportunities, weatherization, and community-based services with the help of for-profits, nonprofits, and local governments. For more information about fair housing, funding opportunities, or services in your area, please visit [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us) or the Learn about Fair Housing in Texas page.

## WHY TDHCA HAS DEVELOPED THIS GUIDE

Texans are an engaged lot. They want to know what is going on in their communities and to have a voice, helping to ensure that their communities are strong and vibrant and that they are great places to live and work. The Texas Legislature has enacted laws to encourage

local government to engage with affordable housing developers and local constituents to ensure meaningful opportunities for input and dialogue, and it has created statutory elements which increase the value and importance of local input. Local government resolutions regarding proposed affordable housing developments are now a significant scoring item.

Whether you are new to affordable multifamily housing or you have participated in evaluating affordable multifamily housing development proposals in the past, the purpose of this guide is to help you understand your role, navigate the process of evaluating proposals, and learn how to provide useful information about the Housing Tax Credits ("HTCs") Program to your constituents and obtain their input.

TDHCA has developed easy-to-understand and simple-to-use materials to help you through the process. We are also here to help you over the phone, via email, or online.

We cannot provide legal advice, so you must rely on your own attorneys for legal advice. You should also look to your staff to provide the information you need to make well-informed decisions.

## YOUR ROLE

Because of amendments to the laws regarding the low income housing tax credits, local governments now have an important role in evaluating proposed developments, assessing community input, and making well-grounded decisions on resolutions regarding proposed affordable housing. It is tremendously valuable for you and your constituents to understand affordable housing, what it is and what it is not.

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#### WHAT AFFORDABLE HOUSING IS AND ISN'T

The term "affordable housing" conjures up a lot of images, many stereotypical and not entirely positive. A major challenge is to understand what affordable housing has become – particularly affordable housing developed with HTCs. HTC-assisted housing developments often include the following characteristics:

- They ARE designed to be real assets to their communities, incorporating high quality interior and exterior design, attractive landscaping, and amenities. Visually they compare very favorably with high quality market rate developments. HTC properties increasingly incorporate the mixed income approach, offer a mixture of rent restricted and market rate units, and compete successfully for market rate tenants.
- They ARE NOT dreary, high-density, or ill-maintained developments that convey an image of neglect and poverty.
- They ARE subject to rigorous extended oversight by TDHCA, including regular onsite monitoring to ensure that they are being well-maintained.
- They ARE NOT allowed to let buildings fall into disrepair and let their grounds deteriorate.
- Their tenants ARE individuals and households who can pay their rent and meet tenant screening criteria (including background checks).
- They ARE required to provide services that benefit their tenants.
- Many of their tenants ARE people who live on fixed incomes, such as retirees, injured veterans, and persons receiving assistance for disabilities.
- Many other tenants ARE people who work hard to fill important jobs in our communities like teaching assistants, EMS and health care workers, and the many other types of workers that keep our vibrant economy strong and growing.



*Tuscany Park at Buda in Buda, Texas.*



*Oak Creek Townhomes in Marble Falls, Texas.*



*Spring Terrace Apartments in Austin, Texas.*

## About Housing Tax Credits

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Affordable housing development that will utilize housing tax credits typically begins with a private sector owner of real property that will have the required zoning and other features necessary to construct and operate a multifamily rental property. For most multifamily developers of market rate properties, any opportunity for public input is largely confined to zoning and permitting processes.

The Housing Tax Credit ("HTC") program was created by Congress in 1986 and is the largest funding source for affordable housing in the United States today. Unlike traditional Section 8 and Public Housing programs, the HTC Program provides private market developers and equity providers with an incentive to invest in affordable rental housing. When tax credits are awarded by TDHCA to a developer, the developer sells the credits to an equity provider in exchange for capital to build a high quality rental housing development. This capital and the reduction in borrowed debt allow developers to offer high quality rental housing at affordable, restricted rents. Investors in the tax credit program benefit by receiving dollar-for-dollar credit against their Federal tax liability each year over a period of 10 years in exchange for their investment and communities benefit by receiving additional rental housing that will operate as rent-restricted housing for up to 30 years or more.

TDHCA receives applications for credit awards for two types of tax credit developments:

- 4% HTCs, which pay for about 30% of a development and require additional financing partners; and
- 9% HTCs, which pay for about 70% of a development and are highly competitive based on their value to developers and equity providers.

## PURPOSE

The HTC Program is designed to:

- Provide a source of equity financing for the development of affordable housing;
- Maximize the number of affordable units added to the state's housing supply;
- Ensure that the state's affordable housing supply is well maintained and operated;
- Serve as a credit to the communities in which affordable housing is constructed and operated; and
- Prevent losses in the state's supply of affordable housing.

## BACKGROUND

The HTC Program was created during the Reagan Administration through the Tax Reform Act of 1986.

- Section 42 of the Internal Revenue Code, as amended ("the Code"), is the federal law that governs the HTC Program.
- Section 42 authorizes HTCs in the amount of \$2.30 per capita for each state as adjusted for inflation.
- TDHCA is the only entity in the state of Texas with the authority to allocate HTCs under the HTC Program.

## PROGRAM ADMINISTRATION

Pursuant to Section 42 of the Code, the Department must develop a plan for the selection of eligible developments; this plan is known as the Qualified Allocation Plan and Rules ("QAP").

- The QAP defines a series of point-based selection criteria for the 9% HTC Program to ensure that the housing proposed in the applications is consistent with the program's and state's goals.
- The QAP is revised annually and is formalized and added to the *Texas Register* once signed by the Governor.

- The QAP's revision process includes the hosting of roundtables to solicit feedback, a public comment period, and Board review and approval.

## FUNDING SOURCE

The HTC Program is funded by the U.S. Treasury Department and is overseen by the Internal Revenue Service.

## SET ASIDES AND REGIONAL ALLOCATION

HTCs are allocated in accordance with Section 2306.111 of the Texas Government Code, which requires that credits be allocated with certain percentages set aside, then distributed across the 13 regional state service regions, which are further divided into Rural and Urban areas that will receive a pre-determined amount of tax credits each year.

### Set Asides

The Department sets aside the following credit allocations each year:

- 15% for affordable housing developments with expiring rental subsidies or contracts.
  - The Department calls these developments "At Risk" and prioritizes their preservation.
  - One third of this set aside may be prioritized for U.S. Department of Agriculture ("USDA") developments proposing rehabilitation.
- 5% for new construction developments funded by USDA.
- 10% for qualified nonprofits in which the nonprofit has more than fifty percent controlling interest in the development owner or is the managing member or general partner or for nonprofit development, in which the nonprofit entity or subsidiary must be the developer or co-developer.



Relama Village in McAllen, Texas.



Sunflower Estates in La Feria, Texas.



Arbor Cove in Donna, Texas.

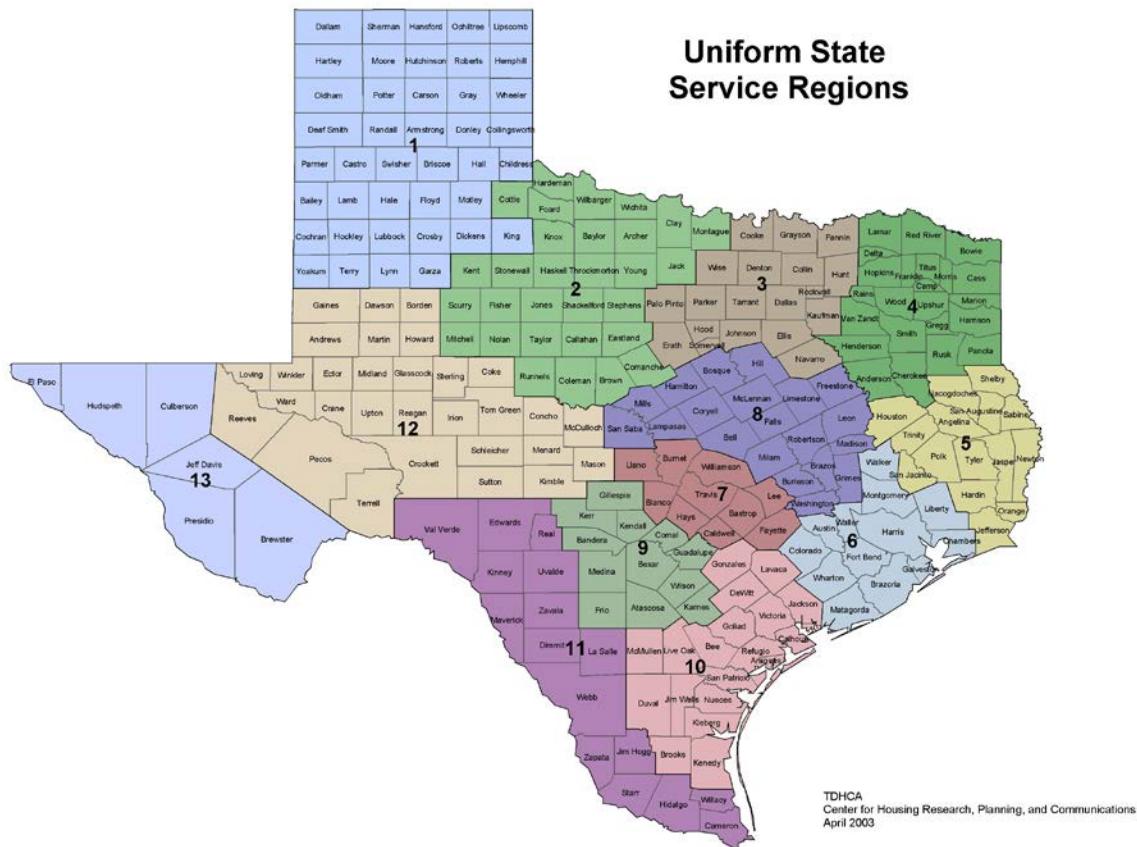
## Regional Allocation

The amount distributed to each of the 13 regional state service regions is determined by a regional allocation formula ("RAF") which is generated, with public input, by TDHCA's Housing Resource Center.

- The RAF was created by the Texas Legislature in 2000.
- The RAF uses appropriate statistical data to measure the affordable housing need and available resources in Texas' 13 state service regions.
- The RAF is revised annually to reflect current data, respond to public comment, and better assess regional housing needs and available resources.

## Seven Award Steps

- Step 1 USDA Set-Aside Application Selection
- Step 2 At-Risk Set-Aside Application Selection
- Step 3 Initial Application Selection in each Sub-Region (Highest scoring within the RAF sub-regions)
- Step 4 Rural Collapse (Sub-region credits remaining are pooled and offered to the most underserved Rural sub-region that can use the full credit amount)
- Step 5 Statewide Collapse (Credits remaining after the Rural Collapse are pooled and offered to the highest scoring application from the most underserved sub-region in the state)
- Step 6 Qualified Nonprofit Set-Aside (10% set-aside must be met)
- Step 7 Consideration of Waiting List Applications



## HOW THE HTC APPLICATION PROCESS WORKS

The HTC application process is governed by statute, the QAP, and the TDHCA rules.

Developers begin the application process between January and March of each year, as set out in the QAP, for the 9% (Competitive) HTC Program and may apply at any time to take part in the 4% (Non-Competitive) HTC Program.

Whether submitting a 4% or 9% application, developers are required to notify the following persons or entities of their application for credits:

- Neighborhood Organizations on record with the state or county whose boundaries include the proposed development site;
- The Superintendent and presiding officer of the board of trustees of the school district in which the development site is located;
- The Mayor of the municipality (if the development site is within a municipality or its extraterritorial jurisdiction);
- All elected members of the governing body of the municipality (if the development site is within a municipality or its extraterritorial jurisdiction);
- The presiding officer and all elected members of the governing body of the county in which the development site is located; and
- The State Senator and State Representative of the districts whose boundaries include the proposed development site.

The receipt of notifications by local officials often increases interest about the development process and represents an opportunity to engage the community on the topic of affordable housing.

## Summarized 9% HTC Calendar

Below is a sample summarized calendar of the HTC application deadlines for the 9% HTC application cycle. Specific required submission dates for each year will be listed in the QAP, along with all scoring incentives and point values.

<u>Month</u>	<u>Activity</u>
January	Application Acceptance Period begins
Late February or Early March	Application Period ends
Early April	Deadline for Input from Elected Officials, including local governments and State Representatives
Mid-May	Final Application Scores Issued for Competitive Applications
Mid-June	Deadline for public comment to be included in a summary to the Board at a posted meeting.
Mid to Late June	Release of Eligible Applications for Consideration for Award in July.
July	Final 9% Competitive HTC Awards are Made.
Mid-August	HTC Commitments are Issued.



Amber Stone in Beeville, Texas.



Corban Townhomes in Corpus Christi, Texas.



The Heights at Corral in Kingsville, Texas.

#### LOCAL GOVERNMENT RESOLUTIONS

The top scoring criteria for 9% low income housing tax credits are laid out in statute, and local government resolutions are significant scoring items.

To help support goals of the local community and encourage engagement in the development process, and in accordance with state law, TDHCA awards a large number of points to 9% applications which are able to acquire a resolution voted on and adopted by governing bodies of a municipality or county. Highest points are awarded for resolutions in support of a development and second highest points are awarded for resolutions stating no objection to the development.

Applications received under the non-competitive 4% program must also receive resolutions showing "no objection" to the proposed development to demonstrate alignment with local community goals and support.

During the time applications are being prepared for submission, local governments will be approached by developers seeking these resolutions and, in many cases, local funding or fee waivers to ensure a competitive application score.

Municipalities and counties should consult their own staff and legal counsel regarding whether reasons for any unsupportive action regarding such resolutions are consistent with Fair Housing laws, goals identified in the community's current Analysis of Impediments to Fair Housing Choice or any current plans such as one year action plans or five year consolidated plans for U.S. Department of Housing and Urban Development ("HUD") block grant funds, such as HOME or Community Development Block Grant ("CDBG") funds.

TDHCA produces a variety of tools for use in discussing affordable housing development with your constituents. These tools include videos, brochures, and links to relevant external sites and information. To access these tools or find more information about how to engage the public on this important topic, please visit the TDHCA website at <http://www.tdhca.state.tx.us/multifamily/communities.htm> or call us toll free at 800-525-0657 or 512-475-3800 and ask to speak with the Director of Multifamily Finance, the Housing Tax Credit Manager, or the Deputy Executive Director Multifamily Finance and Fair Housing.

#### UNIQUE FEATURES OF THE HTC PROGRAM

In addition to the fact that the HTC Program represents a unique public, private partnership that builds affordable housing without a direct government subsidy, the program also cultivates good design and quality construction through its competitive scoring process.

#### Application Incentives

In addition to community and local government support, the HTC application process incentivizes the following:

- Local funding partnerships;
- Green and LEED certified building;
- Construction by responsible and experienced Developers;
- Energy efficient buildings and appliances;
- High opportunity development site selection;
- Tenant services such as after school and daycare programs, community health programs, and financial planning courses;
- Community revitalization planning;
- Financial feasibility;
- Leveraged funds;
- Proximity to community assets;
- High quality amenities such as swimming pools, sports courts, playgrounds, and computer centers; and
- Quality interior and exterior unit features such as covered entries and balconies, high speed Internet service, nine foot ceilings, walk in closets, 30 year shingle or metal roofing, garages, and masonry exteriors.

Not all properties will have all of these features, but awarding applications on the basis of a point scoring program means that developers have to consider how to make their applications as competitive as possible and work within the state's goals to maximize credit allocations, build quality construction developments that will serve the community for a long time, and make housing available for all Texans.

#### Long Term Use Restrictions

After it is constructed, the HTC property will retain a Land Use Restriction Agreement ("LURA") that will restrict its use as an affordable housing property.

- HTC rents are not based on a percentage of income like public housing authority or Section 8 properties; instead, properties receive an annual maximum rent they are allowed to charge based on HUD's annual median income limits.

## About Housing Tax Credits (continued)

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- Property units will be offered based on a set rent amount and tenants are accepted to the property based on meeting the property's independent screening criteria and income limits.
- All properties are allowed to screen for credit and criminal history.
- Most properties will house a high percentage of working families and individuals who can benefit from restricted rents in a growing Texas economy that is witnessing trends of increased costs of living and limited available housing in many areas.

### BENEFICIARIES

- After the property is developed by the applicant, the applicant will affirmatively market the property in the surrounding community.
- Tenants earning up to 60% of the area median family income ("AMFI") for the area for their household size and who meet the screening and eligibility restrictions of the property may qualify for a reduced rent unit.

### HOW RENTS ARE DETERMINED

- HTC property tenants must pay their rents in full. Thus, the tenants are most likely working Texans or retirees seeking an affordable place to live.
  - HTC properties are also required by law to accept tenants and households with federal rental vouchers.
- The rent limits for HTC units are based on household income level and the number of bedrooms in the unit.
  - These rent and income limits are generated by the U.S. Department of Housing and Urban Development ("HUD") each year.
  - The Maximum Income and Rent Limits are available under the Featured Items drop menu on TDHCA's home page at [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us).

- While rental rates are restricted, they are not subsidized by the HTC Program.
- Unlike most publicly subsidized housing, which is designed to assist those who may be unable to pay even restricted rents, the HTC Program does not provide tenants with governmental rent subsidies. However, as previously mentioned, HTC properties are required to accept tenants with rental subsidies or vouchers funded through other federal programs (e.g. the Housing Choice Voucher Program).

### COMPLIANCE

- TDHCA monitors and physically inspects all properties which have received HTCs and/or multifamily funds from any TDHCA program.
- The Department follows very specific requirements for monitoring, inspecting, and reporting.
- The Department monitors properties on a routine schedule depending on their funding source.
- All properties are inspected within their first year. Properties that receive HTCs are generally monitored on site once every three years thereafter; additional inspections may be done as a result of complaints or to rectify serious compliance violations.
- In Texas, property owners who don't follow their proposed plans for development during the building process, who let their properties fall into disrepair, or who do not follow the program rules will be subject to certain actions designed to encourage compliance. These actions, if not promptly addressed, may lead to other more serious actions such as the assessment of administrative penalties or, in some instances, debarment from TDHCA's programs.
- TDHCA provides oversight authority for health, safety, and program compliance of funded properties for the term of their affordability period (as required in their Land Use Restriction Agreement.)



Amberwood Place in Longview, Texas.



Pinnacle at North Chase in Tyler, Texas.



Silver Spring at Forney in Forney, Texas.

## Evaluating Needs and Supporting Developments

### HTC PROPERTIES VS MARKET RATE PROPERTIES

- Properties that receive HTCs must compete with nearby market rate developments for tenants.
- Like market rate properties, HTC properties are generally safe, secure, and well maintained.
- HTC properties often have amenities that are similar to or more attractive than market rate apartment complexes.

Learning how the state evaluates community needs and reviews development applications may help you decide how to discuss new developments with your community and assess whether to give your support to a development. TDHCA reviews many applications and its review will include evaluating the following factors:

- 1) Is the application proposing a development in an area that needs more affordable housing and is the development economically feasible?
- 2) Is the developer proposing the housing an experienced developer who can provide a quality product?
- 3) if there is opposition, does it reflect reasonable concerns?



Pine Club Apartments in Beaumont, Texas.



Heritage Crossing in Santa Fe, Texas.



Magnolia Trails Senior Living in Magnolia, Texas.

## 1: NEED ASSESSMENT AND FEASIBILITY

Needs and feasibility assessments will help to determine whether or not the proposed property has the potential to be a successful affordable multifamily housing application and if the site is feasible for such a development.

### Suggested Needs and Feasibility Checklist

- Is there a need for additional affordable housing in the area? How many rent burdened households at or below 60% of Area Median Family Income ("AMFI") are in need of affordable housing?
- Will the market support a demand for this development? What is your community already doing and what are your neighbors doing? What will your community look like in two years, five years, 10 years based on current growth projections?
- Is the site zoned for this type of housing and, if not, will it be able to obtain that zoning? Do your zoning laws still reflect your community's priorities? Are your laws consistent with other growth plans and needs assessments?
- Are there adequate local services and utilities available to support this development?
- Is this affordable multifamily housing proposal for a single development or will it be part of a larger economic development plan or project that assists the community in meeting planned goals?
- Will the affordable multifamily housing property serve special populations who, without this housing, will have less options for suitable housing in the community?

Tools that may help your community in assessing housing needs locally could include:

- Reviewing the market study completed for each HTC application;
- Conducting a local needs analysis for affordable housing in your community;
- Using a local needs analysis to identify housing needs and to set goals for the number and type of units the community should actively pursue;
- Drafting a robust housing component in your municipal or town plan;
- Creating a vision for development and ensuring other laws and plans reflect that vision;
- Participating in regional planning conversations to find out what neighboring areas are doing;
- Identifying important land parcels in your community and opportunities for housing development and redevelopment;
- Donating or selling municipal land for housing development;
- Creating a housing team or focus group that can provide continual feedback on housing development proposals and issues; and/or
- Helping to ensure the community is able to visualize future growth concerns and the effects of population density.



TownParc at Amarillo Apartments in Amarillo, Texas.



Mariposa Apartment Homes in Amarillo, Texas.



Tyler Grand in Abilene, Texas.

## 2: DEVELOPER AND TEAM ASSESSMENT

Does the developer and the associated development team have the experience, knowledge, and financial capacity to provide your community with a quality housing development that it can depend on for years to come?

The success of HTC-supported affordable housing developments is greatly impacted by a developer's past experience and future vision. Local governments should ask developers to provide their past experiences and their goals for the development. Officials can also inquire about a developer's compliance status with the TDHCA. It is equally important to ask the developers about their team members, including any consultants, architects, builders, and investors. Developers should be able to provide histories of these team members. The following is a brief checklist offered for this aspect of the evaluation.

### **Suggested Developer and Team Assessment Checklist**

- Is the developer asking for a competitive (9%) HTC award or a non-competitive (4%) HTC award?
- Has the developer done outreach with the community, assisted in educating people about the proposal, and solicited input?
- Does the developer have a track record in affordable housing? Are they in compliance with TDHCA's rules and expectations? Can they provide pictures of other developments they have constructed and explain how their development will meet the community's needs?
- Are there significant unanswered questions?
- Has the developer been listening to and responding to local input?

### **Tools that may help your community in assessing development teams could include:**

- Asking the developer to attend community meetings where development needs will be discussed;
- Asking to see pictures from a developer's portfolio;
- Asking the developer to provide a development resume sharing the kinds of developments they have constructed previously (including styles, types, and services those developments offer);
- Hosting community forums where the public will be able to ask and answer development questions about affordable housing;
- Asking to see development site plans;
- Asking TDHCA to share the developer's compliance history;
- Asking a developer about their elected unit and common area amenities; and/or
- Considering ways the municipality might more easily attract quality developers (e.g. reductions in permitting costs, "on the record" reviews that reduce appeals costs, setting proactive meetings with developers who have demonstrated a positive development track records, or inviting developers to engage in conversations about how to remove obstacles to creating affordable housing in the community).



*Britain Way in Irving, Texas.*



*Residences at Eastland in Fort Worth, Texas.*



*Country Lane Seniors in Waxahachie, Texas.*

### 3: SOLICITING AND EVALUATING COMMUNITY FEEDBACK

Local governments — city councils and county commissioners' courts — have an important role in the affordable housing process. They serve as a focal point for public input that will affect which affordable multifamily housing applications will receive HTC awards and move forward. Public attitudes toward the development of affordable housing are wide-ranging and fervently held. Some communities embrace it and advocate for it, and others have concerns and questions.

You, as an elected official, will gather and incorporate community input into your decision-making about whether to support proposed developments. This will involve soliciting community feedback to ensure that any concerns or questions raised are answered prior to taking action on any requested resolution.

#### Suggested Community Feedback Checklist

- Have I or has the developer engaged in educating the public about affordable housing?
- Does my community understand the differences in affordable housing models?
- Has a housing needs assessment or market analysis been shared and discussed with the community?
- Does my local government receive federal funds (e.g., Community Development Block Grant) and have we adopted a plan to affirmatively further fair housing?
- Is this proposed development consistent with that plan?
- Are reasons given to decline support founded in ideas that may be inconsistent with Fair Housing law?
- Will my response to opposition help to counter NIMBYism ("Not In My Back Yard") sentiments or support them and will increasing population density and community needs change how I will respond to this type of opposition?

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#### Take the Affordable Multifamily Housing Quiz!

Today, thanks to the high standards set by the Texas Legislature and TDHCA, you can't tell the difference between a new affordable multifamily rental housing property and a market rate development.

Of the two photos below, which is the affordable multifamily property?



ANSWER:

*Both properties are affordable multifamily rental properties funded in part through TDHCA!  
(L) Heritage Pointe in Austin. (R) South Acres Ranch in Houston.*

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# FAQ

**Q: Why did this developer choose this particular site to build affordable housing?**

A: First and foremost, affordable housing is real estate. Developers look to develop where they perceive there is a need. They look for property that has the characteristics that are appropriate to their particular development. They want to develop in a location where they will be a valued part of the community. Both the 9% and 4% HTC Programs are governed by rules (both the federal and state) that incentivize development of affordable housing in particular census tracts. Often communities want affordable housing in areas that may differ from the areas selected by applicants. This is generally a result of the scoring incentives TDHCA has created to ensure affordable housing is constructed in areas with concerted community revitalization or in areas that are rich in opportunities for prospective tenants and households. One point in scoring a 9% application can be the difference between a competitive and non-competitive application. Asking a developer to explain why they chose a particular site is a good way to begin understanding how your local community can best support housing development and identify appropriate sites.

Please visit this web site for more information about the HTC Program, including the Qualified Allocation Plan ("QAP") (Title 10 Texas Administrative Code, Chapter 11) and the Uniform Multifamily Rules (Title 10 Texas Administrative Code, Chapter 10): [http://info.sos.state.tx.us/pls/pub/readtac\\$ext.ViewTAC?ta\\_c\\_view=3&ti=10&pt=1](http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC?ta_c_view=3&ti=10&pt=1)

**Q: What happens if we do not give a developer a resolution of support?**

A: By law, 4% HTC transactions cannot move forward without a resolution or "no objection". Nine percent (9%) applications that do not obtain a resolution of local support will likely be at a competitive disadvantage. TDHCA provides template forms for resolutions and communities are encouraged to use them. By state law, resolutions are required to contain very specific statements and sometimes communities inadvertently omit required language or use language that doesn't comply with specific legal requirements.

**Q: If we choose to support this development, in what ways can we do so effectively?**

A: While there are many ways to be supportive of an affordable housing development, there are three specific ways you can support an application. First, you can provide a resolution of "no objection" to a 4% HTC development or a resolution of support to a 9% HTC development. Second, you can facilitate meetings between the development team and the local community so they can obtain the support, input, approvals, and other items they need to move ahead. Third, you can support the development through a commitment of financial support, which can take many forms such as fee waivers, project-based vouchers, tax abatements, grants, or loans. Local governments should seek legal advice regarding the eligibility and structure of any financial incentive. Rules that govern these matters and related scoring criteria may be found in the QAP at 10 TAC §11.9(d)(2): [http://info.sos.state.tx.us/pls/pub/readtac\\$ext.TacPage?sl=R&app=9&p\\_dir=&p\\_rloc=&p\\_tloc=&p\\_ploc=&pg=1&p\\_tac=&ti=10&pt=1&ch=11&rl](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=10&pt=1&ch=11&rl)

For more information, contact us:



## TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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TDHCA is an Equal Housing Opportunity entity. All TDHCA programs are administered on a fair and equal basis regardless of race, color, national origin, religion, sex, disability, or familial status.

*The TDHCA is not in the position to provide legal advice or counsel.*

*Local governmental bodies and officials should consult their own qualified legal counsel.*

10/13/14

**Draft 2017 Georgetown 9% Competitive Housing Tax Credit Schedule**

- December 1, 2016: Rezoning application due for staff analysis (if necessary)
- January 3: HTC Resolution applications due
- January 9: Development & Policy Review Committee
- January 16: Housing Advisory Board meeting
- January 24: Deadline for first public outreach meetings
- February 14: City Council meeting
- March 1: Texas Department of Housing and Community Affairs application due

City of Georgetown, Texas  
City Council Workshop  
September 13, 2016

SUBJECT:

**Sec. 551.071: Consultation with Attorney**

- Advice from attorney about pending or contemplated litigation and other matters on which the attorney has a duty to advise the City Council, including agenda items
- Frontier Communications of Texas Settlement
- Status Report Pedernales Electric Cooperative
- Settlement Agreement with KDR Equities, LLC

**Sec. 551.072: Deliberation about Real Property**

- City lease agreements

**Sec. 551.074: Personnel Matters**

- City Manager, City Attorney, City Secretary and Municipal Judge: Consideration of the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal

**Sec. 551.086: Competitive Matters**

- Power Supply - Letter of Intent to purchase from Sustainable Holdings, Inc.

**Sec. 551.087: Deliberation Regarding Economic Development**

- Project Hop

ITEM SUMMARY:

FINANCIAL IMPACT:

NA

SUBMITTED BY: