

**BOARD MEETING**  
**TEXAS STATE AFFORDABLE HOUSING CORPORATION**  
Held at the offices of  
**Texas State Affordable Housing Corporation**  
**2200 E. Martin Luther King Jr. Blvd.**  
**Austin, TX 78702**  
**December 11, 2009 at 1:30 pm**

**Summary of Minutes**

**Call to Order, Roll Call**  
**Certification of Quorum**

**The Board Meeting of the Texas State Affordable Housing Corporation (the “Corporation”) was called to order by Bob Jones, Chair, at 1:50 pm, on December 11, 2009 at the offices of Texas State Affordable Housing Corporation, 2200 E. Martin Luther King Jr. Blvd, Austin, TX 78702. Roll Call certified that a quorum was present.**

**Members Present**

Robert “Bob” Jones, Chair  
Jo Van Hovel, Vice Chair  
Jeran Akers, Member  
William H. Dietz, Jr., Member (left the meeting at 3:20pm)  
Cynthia Leon, Member

**Staff Present**

David Long, President  
Katherine Closmann, Executive Vice President  
Melinda Smith, Chief Financial Officer  
Nick Lawrence, Controller  
Betsy Lau, Accountant  
Paige McGilloway, Single Family Programs Manager  
David Danenfelzer, Development Finance Programs Manager  
Joshua Schirr, Asset Oversight and Compliance Manager  
Mindy Green, Asset Oversight and Compliance Specialist  
Janie Taylor, Manager of Marketing and Development  
Katie Howard, Development Coordinator  
Cynthia Gonzales, Office Manager and Assistant Corporate Secretary  
Laura Ross, Corporate Secretary

**Special Guests**

Rob Dubbelde, Greenberg Traurig  
Don Mikeska, Mikeska Monahan and Peckham  
Elena Peinado, Texas Department of Housing and Community Affairs

**President’s Report**

Mr. Long began by introducing the guests in attendance at the meeting: Mr. Dubbelde with Greenberg Traurig (the Corporation's general counsel) and Mr. Mikeska with Mikeska, Monahan and Peckham (the Corporation's auditor).

Mr. Long noted that the Audit Committee had met prior to the board meeting, and a report on what was discussed was being deferred to the tab items.

Mr. Long then informed the Board of the various meetings and conferences staff had attended over the previous month. Mr. Long noted his attendance at a HUD Strategic Planning Session in Fort Worth. Mr. Long reported that Ms. Closmann, Ms. Taylor and Mr. Danenfelzer had attended the Farmworker Housing Summit. Mr. Long and Ms. Howard had both participated in a Home Ownership Preservation Workshop sponsored by US Congressman Cuellar and State Senator Hinojosa. Mr. Long also noted that members of staff had attended a Peoplefund event the previous day.

Mr. Long turned to the building, noting that the only one major thing remaining to be done was the ceiling. Mr. Long informed the board of the staff's plan for finishing it off. Mr. Long pointed out that this change was part of the original contract.

Mr. Long briefly turned to the Planning Session and laid out a tentative schedule for the two days of meetings. Mr. Long also spoke to the possibility of having a facilitator from Greenlights conduct the meetings.

Mr. Long mentioned the staff Holiday Party, referring to the invitation that was extended to the board. Mr. Long briefly spoke about the details of the party.

Ms. Leon referred back to the Foreclosure Prevention Task Force and inquired as to how many people had been saved from losing their homes. Ms. Howard spoke to the topic, stating that there had been 2000 counseling sessions provided by the participating counseling agencies and of those, one third had reached some sort of workout with their lending institution. Ms. Leon stressed that measures of effectiveness were important in gauging the value of the programs being provided. Mr. Long spoke further to the counseling activities provided through the Task Force. Ms. Leon requested that current stats be included on future reports. Discussion followed.

Discussion turned to the single family programs, and the MCC programs were discussed. Discussion then turned to marketing of the programs in south Texas, and Ms. McGilloway spoke about the low participation by lenders in the area, which played a large role in the success of the program there. Ms. Leon and the members made suggestions as to marketing that could be done. Mr. Jones requested that lender training information be sent to the board when it was available.

Mr. Long then made the Board aware that an RFP for Depository Services had been issued with responses due back by December 18<sup>th</sup>. Ms. Smith and the accounting staff would review the proposals and then bring forth a staff recommendation at the January meeting.

Mr. Long briefly went over various acronyms that were included in the reports in the board packets.

Discussion followed about the Housing and Health Services Council and the meeting Ms. Leon and Mr. Jones had held with Representative Menendez.

**Tab 1            Presentation, Discussion and Possible Approval of Minutes of the Board Meeting held on November 13, 2009.**

Ms. Van Hovel made a motion to approve the minutes of the Board Meeting held on November 13, 2009. Ms. Leon seconded the motion. Motion passed unanimously.

**Tab 2            Presentation, Discussion and Possible Approval of the Annual Financial Report and Independent Auditor's Report for the Year Ending August 31, 2009.**

Ms. Smith informed the Board that the Corporation had recently completed the annual financial audit. Ms. Smith referred the board to the updated audit report that was handed out at the beginning of the meeting and noted that the numbers in the document were final and only typos would be corrected and/or changed after it was approved by the board. Ms. Smith spoke about the annual financial report (completed the previous month) and how it was essentially the same as what the board was looking at today, only without the auditor's opinion. Mr. Long and Ms. Van Hovel noted that the Audit Committee had recommended the audit up to the full board for approval. Mr. Long stated that the word draft appeared on the version before the board because of the possibility that small changes would need to be made before it was submitted on December 18<sup>th</sup> to the State Auditor, Comptroller and Governor.

Mr. Mikeska introduced himself to the board and noted his role as the auditor of the Corporation. He explained that the financial audit was an audit of the financial statements to determine if they were materially correct. Mr. Mikeska explained his role in making sure there were no material misstatements or omissions in the financial statements. Mr. Mikeska also noted that he checked for material fraud or misappropriation, as well as material abuse. Mr. Mikeska reported a clean opinion of the financial statements and relayed that he had found no instances of fraud or improper use of funds, nor instances of abuse. Mr. Mikeska also reported that under Governmental Auditing Standards, he reviewed and could report that there were no instances of material non-compliance with laws, regulations, contracts or other agreements the Corporation was a party to. Discussion followed about the measuring of efforts and accomplishments and how this would be included in future audits.

Mr. Mikeska turned the Board's attention to the audit document, noting that only two letters within it were from him. He noted that the auditor issued an opinion on the financial statements, but the statements were a reflection of management. He referred to the first letter where it stated: "In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Texas State Affordable Housing Corporation as of August 31, 2009, and the results of its operation in conformity with accounting principles generally accepted in the United States of America". Mr. Mikeska noted that it was a clean opinion that was unqualified. Mr. Mikeska moved on to the next paragraph that addressed the change in accounting for the single family down payment assistance program. Mr. Mikeska explained how this was previously accounted for (as an expense) and how, after speaking with the Government Auditing Standards Board (GASB), it was now being accounted for as a forgivable loan. Discussion followed regarding this point and Mr. Mikeska explained how this worked. Mr. Mikeska turned the board's attention to page 36 which illustrated the results of the change in accounting for this particular item. Ms. Smith noted that when staff had contacted GASB, they had acknowledged their awareness of the problems being faced by housing finance agencies in this regard but would not be making changes to account for it. However, at that time they suggested that it be treated as a forgivable loan. It was noted that this painted a more accurate picture of the Corporation and

was less detrimental to the Corporation's efforts to maintain certification as a Fannie Mae issuer among other things.

Mr. Mikeska referred back to page 7 and noted that in the following paragraph it stated that the audit was conducted in accordance with Generally Accepted Governmental Auditing Standards, meaning the auditor had checked for compliance with rules, regulations, contracts and grants and had looked for signs of abuse.

Mr. Mikeska turned to page 39 and noted that he had looked at internal controls to see if there were any changes or malfunctions and he had found there to be none. Mr. Mikeska did note that this was not an official audit on internal controls. Mr. Mikeska pointed out that the letter stated "We did not identify any deficiencies in internal control or financial reporting that we consider to be material weaknesses, as defined above."

Mr. Mikeska noted that on page 40 it said there were no findings or responses, meaning that the auditor's report was unqualified and there were no material weaknesses in internal controls, financial reporting or non-compliance. Mr. Mikeska noted that the bottom line was that the Corporation had a clean bill of health. Mr. Mikeska pointed out that he had also followed up on prior findings of which there were none, so there was no corrective action plan.

Mr. Mikeska referred to letters given to the board, which laid out the responsibilities and duties of the auditor and the planned scope of the audit. Mr. Mikeska also spoke to the engagement letter presented to and signed by the Audit Committee in August.

Mr. Mikeska reiterated that there were no findings and the only real change he needed to report was the change in accounting for the single family down payment assistance program. Mr. Mikeska also pointed out that the letter noted that numbers contained in the statements were based on estimates – estimates on collectability of notes receivable, fair market value of the securities etc. Mr. Mikeska informed the board that he encountered no difficulties during the audit, and had no uncorrected misstatements or audit adjustments to report. Mr. Mikeska thanked the staff for their cooperation and hard work. Mr. Mikeska informed the board of that he had asked staff if they were aware of any fraud or abuse going on, and nothing had been reported.

Mr. Akers made a motion to approve the Annual Financial Report and Independent Auditor's Report for the year ending August 31, 2009. Mr. Dietz seconded the motion. Motion passed unanimously.

**Tab 3            Presentation, Discussion and Possible Approval of the Audit Committee Guidelines.**

Ms. Smith explained that Mr. Akers had made the suggestion that Mr. Long and Ms. Smith serve only as non-voting members of the Audit Committee. Ms. Smith noted staff's agreement with this suggestion. Ms. Smith pointed out that this left only two voting members on the Committee and Mr. Akers suggested that an alternate member be added, so that two voting members could always be present. Ms. Smith explained that the votes taken in the Audit Committee equated to making recommendations to the full board for approval. And Mr. Akers added that perception wise, it was better not to have the staff members voting on the financial information that they prepared. He suggested that both staff members serve as ad hoc, non-voting, members. The board discussed the guidelines and how the staff members had become voting members of the

Committee in the first place. How the Guidelines would be changed to reflect these changes was also discussed. Mr. Dubbelde noted that the Audit Committee served in an advisory capacity and all votes and decisions had to be officially approved by the full board. Mr. Dietz spoke about the Committee's role in delving deeper into issues than the full board did, so as to make informed recommendations. It was concluded, after much discussion, that the Guidelines should be changed to designate the staff members as ad hoc, non-voting members, as well as adding a rotating position that could be filled by any board member in the event that only one voting committee member was present. Mr. Dubbelde noted that quorum needed to be avoided at the Committee meetings and spoke to how it should be handled should more than 2 members be present.

The official motion as laid out by Mr. Dubbelde was to make both staff members ad hoc non-voting members and to give staff permission to write the Guidelines in a way that there would be two members from the board on the Committee and that the chair of the Committee could designate an alternate if one of the members was not there.

Mr. Akers made a motion to approve the Audit Committee Guidelines with the notation that Ms. Smith and Mr. Long serve as ad hoc, non-voting members of the Committee, as well as adding an alternate board member position to allow for quorum. Mr. Dietz seconded the motion. Motion passed unanimously.

**Tab 4      Presentation, Discussion and Possible Approval of a Resolution Authorizing the Issuance, Sale and Delivery of Single Family Mortgage Revenue Bonds in One or More Series; Authorizing a Trust Indenture, a Preliminary Official Statement, an Origination, Sale and Servicing Agreement, a Bond Purchase Agreement and Continuing Disclosure Agreement, Making Certain Findings and Determinations; Authorizing the Execution of Documents and Instruments Necessary or Convenient to Carry Out the Corporation's Single Family Home Loan Programs; and Containing Other Matters Incident and Related Thereto.**

Ms. McGilloway recognized the professionals at Greenberg Traurig for pulling together the documents necessary for this tab item so that it could be presented at the meeting today. Mr. Long explained that the resolution before the board would allow staff to move forward with the escrow transaction previously approved by the board, and also the market transaction piece in front of the board today so that bonds could be issued and loan originations could start to be made. Ms. McGilloway briefly went over the structure of the deal to refresh the board's memory. Ms. McGilloway explained that 60% of the bonds would be purchased through the GSE program and the other 40% would be sold on the market by the Corporation. The resolution before the board dealt with the last portion of that amount, which equated to a total of up to \$50 million.

Ms. McGilloway recalled that at the previous meeting the Board had approved staff's going before the BRB to request the use of \$40 million for the first release under the program. Ms. McGilloway stated that the resolution before the board today asked for the approval of the documents that made the transaction possible. Ms. McGilloway noted that language had been included regarding the collateralization of 5% of the transaction. Discussion followed regarding the transaction and how it would work. Mr. Long noted that the funding for this transaction would come from the Corporation's annual allocation of funding for the Professional Educators Home Loan Program and Homes for Texas Heroes Home Loan Program. Discussion followed.

Mr. Akers made a motion to approve the resolution authorizing the Issuance, Sale and Delivery of Single Family Mortgage Revenue Bonds in one or more series; authorizing a Trust Indenture, a Preliminary Official Statement, an Origination, Sale and Servicing Agreement, a Bond Purchase Agreement and Continuing Disclosure Agreement, making certain findings and determinations; authorizing the execution of documents and instruments necessary or convenient to carry out the Corporation's Single Family Home Loan Programs; and containing other matters incident and related thereto. Mr. Dietz seconded the motion. Motion passed unanimously.

**Tab 5      Presentation, Discussion and Possible Approval of the Replacement Reserve Guidelines for Multifamily Rental Properties for which a Replacement Reserve is Held by the Corporation in Connection with a Loan from the Corporation.**

Mr. Schirr made the Board aware that no public comment had been received regarding the Replacement Reserve Guidelines, but that staff had made some changes following internal discussions. Mr. Schirr noted that during the open comment period, the Guidelines had been published on the website and in the Texas Register, along with being emailed to all the parties directly affected.

Mr. Schirr informed the Board that an appeals process had been added to the Guidelines. Mr. Schirr explained that if a request was denied, the property would be informed of the reasoning and would then be given the chance to appeal. Mr. Schirr briefly spoke to what requests were eligible under the Replacement Reserve Account. Discussion followed regarding the review process. It was explained that the properties paid a certain amount per unit per month into their Replacement Reserve accounts and the Corporation held that money until requests were made to use it. Mr. Jones noted that the purpose of the Program was to make sure the property kept its value, and Mr. Schirr added that the funds were put in reserve should large items need to be replaced. With regard to inspections, Mr. Akers suggested that the language 'and/or' be added to the language surrounding when inspections were conducted (they would be conducted before and/or after the project was completed). It was also pointed out a minimum amount was no longer required. Mr. Schirr noted though that any request that exceeded 50% of the reserves available would need approval by the Board of Directors.

Ms. Van Hovel made a motion to approve the Replacement Reserve Guidelines for Multifamily rental properties for which a Replacement Reserve is held by the Corporation in connection with a loan from the Corporation. Mr. Akers seconded the motion. Motion passed unanimously.

Following this item, Mr. Dietz left the meeting.

**Tab 6      Presentation, Discussion and Possible Approval of a Resolution Approving the Execution of Memorandums of Understanding and Allocation of Neighborhood Stabilization Program Funds to Various Local Partners under the Corporation's Affordable Communities of Texas Program and Concerning Other Matters Incident Thereto.**

Mr. Danenfelzer briefly refreshed the Board's memory about the Affordable Communities of Texas Program. Mr. Danenfelzer stated that approximately \$5 million in funding had been received for the Program (NSP-1 Funding) and of that \$4.6 million was for the acquisition, demolition and/or maintenance of properties purchased under the program. Mr. Danenfelzer explained that under the agreement with TDHCA regarding the NSP-1 funding, the Corporation

was required to publish an RFP directed at local non profits or local government entities interested in participating in the program as a local partner. Mr. Danenfelzer explained that the six organizations being presented to the board today had met the qualifications to be local partners and staff was now looking to allocate funds to those entities. Mr. Danenfelzer briefly spoke about the two organizations that had previously been approved by the board (Affordable Homes of South Texas and NHS of Waco). Mr. Danenfelzer explained that these two entities had participated in a pilot of the program which had helped staff develop the systems for identifying properties, initiating inspections and acquisitions. Mr. Danenfelzer then turned to the organizations being presented to the board for approval today and noted they could be found in Travis County, Brazos County, Angelina County, Nacogdoches County and Tarrant County. Mr. Danenfelzer noted that after the awards were made, \$1.4 would remain of the NSP-1 funding which staff hoped to allocate to more local partners at a later date. The application process was ongoing. Mr. Danenfelzer noted that the following were being presented for approval today: Accessible Housing of Austin, Brazos Valley Affordable Housing Corporation, CDC of Brownsville, DM Ministries, Frameworks and United Riverside Rebuilding Corporation.

Mr. Danenfelzer explained that approval by the board today would allow staff to move forward with executing purchase contracts and carrying out acquisitions. Mr. Danenfelzer noted that the resolution included language giving Mr. Long the authority to increase awards by up to 20% to allow for uncertainties in real estate value. Discussion followed about the properties that would be purchased by the local partners. Mr. Danenfelzer explained that because of the Corporation's non-profit status, the properties purchased under the program would be property tax exempt until they were sold, at which time they would become taxable again. It was also noted that most of the properties were in rural areas and discussion followed on this point. Discussion also occurred on the amount and type of properties that would be purchased by the local partners. It was noted that staff had applied to HUD for more funding and also had the ability to ask for more funding from TDHCA.

Ms. Van Hovel made a motion to approve the resolution approving the execution of Memorandums of Understanding and allocation of Neighborhood Stabilization Program funds to various local partners under the Corporation's Affordable Communities of Texas Program and concerning other matters incident thereto. Ms. Leon seconded the motion. Motion passed unanimously.

**Tab 7            Presentation, Discussion and Possible Approval for Publication and Comment the Draft of the Texas State Affordable Housing Corporation 2010 Annual Action Plan.**

Ms. Taylor explained that the Corporation was required by statute to formulate the Annual Action Plan every year. Once the final version of the Corporation's Annual Action Plan was approved, it would then be combined with TDHCA's Plan to form the State Low Income Housing Plan which would then be submitted to the Governor's office. Ms. Taylor explained that staff was asking for the Board's approval to publish the Corporation's draft Plan for public comment. Ms. Taylor noted that TDHCA would be doing the same thing with theirs the following week. Ms. Taylor stated that during the public comment period, TDHCA and the Corporation would hold a joint public hearing in Austin for anyone who wanted to provide spoken testimony. Ms. Taylor stated that all public testimony and public comment received would be taken into consideration when formulating the final version of the Plan, which would be presented to the Board for approval in January. Ms. Taylor restated what would happen after

that approval: it would be combined with TDHCA's Plan and submitted to the Governor's Office.

Mr. Akers inquired about the statistics included in the "Asset Oversight and Compliance" section and the contract with TDHCA was discussed. Mr. Akers also inquired about the Advisory Council and Ms. Taylor explained that the Council specifically worked with the Foundations Fund and helped the Corporation fundraise. Ms. Taylor spoke about the Council's two members and their credentials. Ms. Taylor added that the membership of the Advisory Council was approved by the board. Ms. Taylor explained that when new cycles for the Foundations Fund were released staff worked with the Council to develop the guidelines and make recommendations for awards. Ms. Taylor noted that Ms. Closmann served as the staff liaison to the Council and two spots remained unfilled. Ms. Taylor spoke to the qualifications for being a member of the Council and discussion followed. The board members agreed that the Plan was very useful.

Mr. Akers made a motion to approve for publication and comment the Draft of the Texas State Affordable Housing Corporation 2010 Annual Action Plan. Ms. Leon seconded the motion. Motion passed unanimously.

**Tab 8            Presentation, Discussion and Possible Approval of the Revised Texas State Affordable Housing Corporation Employee Manual.**

Mr. Long explained that the Employee Manual had recently been updated and he referred to Ms. Smith who proceeded to go over the changes that were made. Ms. Smith informed the Board of the legal change regarding Family and Medical Leave (FMLA), stating that companies with fewer than 50 employees didn't have to comply with FMLA guidelines. The Corporation fell into this category, however Ms. Smith explained that staff was asking the Board to adopt FMLA anyway as part of the Employee Manual.

Ms. Smith also informed the Board that changes had been made in order to comply with the new 990 tax return. This included adding a Whistle Blower Policy. Ms. Smith went on to discuss changes to the policies and procedures regarding communications, explaining that they were made in an effort to keep up with technology.

Ms. Smith finally turned to Vacation Leave, noting that it had been updated to reflect the State's policy on accruals.

Ms. Van Hovel made a motion to approve the revised Texas State Affordable Housing Corporation Employee Manual. Ms. Leon seconded the motion. Mr. Akers briefly spoke to the Board's role in policy making, as well as the utilization of sick leave. Mr. Akers then noted that the employees of the organization were always cheerful, which said something about the organization. A vote was then taken and the motion passed unanimously.

**Open Meeting**

Mr. Akers asked his fellow board members to forward to staff any topics that they wished to discuss at the Planning Session. Mr. Long briefly reviewed the schedule for the Board Meeting and Planning Session.

The members of the Board wished the staff a happy holiday.

## **Adjournment**

Mr. Jones declared the meeting adjourned at 4:00 pm.

Respectfully submitted by \_\_\_\_\_  
Laura Ross, Corporate Secretary

**MINUTES AND CERTIFICATION**

THE STATE OF TEXAS                   §  
  §  
TEXAS STATE AFFORDABLE           §  
HOUSING CORPORATION               §

I, the undersigned officer of the Texas State Affordable Housing Corporation, do hereby certify as follows:

The Board of Directors of said corporation convened on the 29<sup>th</sup> day of January, 2010, at the designated meeting place in Austin, Texas, and the roll was called of the duly constituted members of said Board and officers, to wit:

**BOARD OF DIRECTORS**

<u>Name</u>	<u>Office</u>
Robert Elliott Jones	Chairperson
Jo Van Hovel	Vice Chairperson
Cynthia Leon	Director
William H. Dietz	Director
Jeran Akers	Director

**OFFICERS**

<u>Name</u>	<u>Office</u>
David Long	President (non-Board member)
Katherine Closmann	Executive Vice President (non-Board member)
Melinda Smith	Chief Financial Officer (non-Board member)
Laura Ross	Secretary (non-Board member)
Cynthia Gonzales	Assistant Secretary (non-Board member)

and all of said persons were present except \_\_\_\_\_, thus constituting a quorum. Whereupon, among other business, the following was transacted, to-wit: a written resolution (the "Resolution") bearing the following caption was introduced:

**RESOLUTION NO. 10-\_\_**

**TEXAS STATE AFFORDABLE HOUSING CORPORATION**

**RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A WAREHOUSING AGREEMENT AND AN AGREEMENT BETWEEN THE CORPORATION AND FIRST SOUTHWEST COMPANY RELATING TO THE CORPORATION'S SINGLE FAMILY MORTGAGE REVENUE BONDS, SERIES 2009, AND ALL RELATED ACTIONS**

It was then duly moved and seconded that said Resolution be adopted; and, after due discussion, said motion carrying with it the adoption of said Resolution, prevailed and carried by the following vote:

\_\_\_ AYES

\_\_\_ NOES

\_\_\_ ABSTENTIONS

That a true, full and correct copy of the aforesaid Resolution adopted at the meeting described in the above and foregoing paragraph is attached to this certificate; that said Resolution has been duly recorded in said Board's minutes of said meeting; that the persons named in the above and foregoing paragraph are the duly chosen, qualified and acting officers and members of said Board as indicated therein; that each of the officers and members of said Board was duly and sufficiently notified officially and personally, in advance, of the time, place and purpose of the aforesaid meeting, and that said Resolution would be introduced and considered for adoption at said meeting, and each of said officers and members consented, in advance, to the holding of said meeting for such purpose.

SIGNED this 29th day of January, 2010.

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Secretary, Texas State Affordable Housing  
Corporation

**RESOLUTION NO. 10-**

**TEXAS STATE AFFORDABLE HOUSING CORPORATION**

**RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A WAREHOUSING AGREEMENT AND AN AGREEMENT BETWEEN THE CORPORATION AND FIRST SOUTHWEST COMPANY RELATING TO THE CORPORATION'S SINGLE FAMILY MORTGAGE REVENUE BONDS, SERIES 2009, AND ALL RELATED ACTIONS**

WHEREAS, the Texas State Affordable Housing Corporation (the "Corporation") has been duly created and organized pursuant to and in accordance with the provisions of the Texas Non-Profit Corporation Act, Article 1396-1.01 et seq. Vernon's Annotated Texas Civil Statutes, as amended, and under the authority of Subchapter Y of Chapter 2306, Texas Government Code, as amended (the "Act"); and

WHEREAS, the Corporation issued its Single Family Mortgage Revenue Bonds, Series 2009 (the "Bonds") on December 23, 2009, under the terms of a Trust Indenture dated as of December 1, 2009, by and between the Corporation and Wells Fargo, National Association, as trustee (the "Trustee") in order to make single family mortgage loans ("Mortgage Loans") available to qualified borrowers in the State of Texas; and

WHEREAS, in connection therewith the Board of Directors of the Corporation (the "Board") desires to approve a warehousing agreement (the "Warehousing Agreement") among the Corporation, First Southwest Company, as the warehousing provider (the "Warehouse Provider"), and the Trustee, pursuant to which the Warehouse Provider will purchase mortgage-backed certificates (the "Certificates") backed by the Mortgage Loans from the servicer/administrator, and then, after the applicable warehousing period, sell such Certificates to the Trustee in exchange for Bond proceeds, such arrangement being intended to minimize to costs relating to the reinvestment of Bond proceeds; and

WHEREAS, the Board also desires to enter into an agreement with the Warehousing Provider to share in a portion of the profits and/or losses, and applicable capital costs, of the financing activities undertaken by the Warehousing Provider in connection with the Warehousing Agreement, in substantially the form of the Agreement between the Corporation and First Southwest Company attached hereto (together with any permitted changes thereto as described below); and

WHEREAS, after due consideration, the Board has approved the forms of the Warehousing Agreement and the Agreement presented to the Board with this resolution, and the taking of such other actions as may be necessary and appropriate in connection therewith.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE TEXAS STATE AFFORDABLE HOUSING CORPORATION:

Section 1. Approval of Warehouse Agreement and Agreement. That forms of the Warehousing Agreement and the Agreement attached hereto are hereby approved and the Chairman, Vice Chairman, President and Executive Vice President are each authorized to

execute such agreements on behalf of the Corporation, together with such amendments or changes as shall be approved by the Chairman, Vice Chairman, President or Executive Vice President; provided that in no event shall the maximum permitted loss under the Agreement exceed \$1,250,000.

Section 2. Execution and Delivery of Related Documents. That the Chairman, Vice Chairman, President and Vice President are each hereby authorized to approve any certificate, document or item related to the execution of either or both of the Agreements.

Section 3. Ratification of Certain Prior Actions. That all prior actions, if any, taken by or on behalf of the Corporation in connection with the Agreements or any related matter, are hereby authorized, ratified, confirmed and approved.

Section 4. Conflicting Prior Actions. That all orders, resolutions, or any actions or parts thereof of the Board of Directors of the Corporation in conflict herewith are hereby expressly repealed to the extent of any such conflict.

Section 5. Effective Date. That this Resolution shall be in full force and effect from and upon its adoption.

PASSED, APPROVED AND EFFECTIVE this 29th day of January, 2010.

TEXAS STATE AFFORDABLE HOUSING  
CORPORATION

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## Development Finance Programs

January 29, 2009

Agenda Item:

Presentation, Discussion and Possible Approval of a Resolution Approving the Execution of Memorandums of Agreement and Allocation of Neighborhood Stabilization Program Funds to Local Partners under the Affordable Communities of Texas Program

Summary:

Staff is presenting to the Board recommendations for allocation of the Corporation’s \$4.6 million in Neighborhood Stabilization Program funds to qualified local partners. Under the Affordable Communities of Texas Program, the Corporation allocates its funds to targeted communities where we have identified qualified local nonprofit or government entities (“Local Partners”) to assist us in carrying out the program’s purpose. By allocating funding, the Board is permitting staff to execute memorandums of agreement (“MOU”) with Local Partners, work with Local Partners to identify eligible property acquisitions, and allowing the Corporation to purchase foreclosed properties that will be rehabilitated or redeveloped by our Local Partners.

The Corporation previously approved eight allocations of its NSP funding totaling \$3.2 million. Staff has reviewed funding requests from three new Local Partners and is requesting approval from the Board at this time.

Local Partner	County(s)	Funding Requested	Status of Commitment
Accessible Housing Austin	Travis	\$ 300,000	Approved
Affordable Homes of South Texas	Hidalgo	\$ 500,000	Approved
Brazos Valley Affordable Housing Corp.	Brazos	\$ 400,000	Approved
CDC of Brownsville	Cameron	\$ 500,000	Approved
DM Ministries	Angelina, Nacogdoches	\$ 400,000	Approved
Frameworks	Travis	\$ 350,000	Approved
NHS Waco	McLennan	\$ 500,000	Approved
United Riverside Rebuilding Corp.	Tarrant	\$ 250,000	Approved
<b>Hestia Affordable Development</b>	<b>Bastrop</b>	<b>\$ 200,000</b>	<b>Requested</b>
<b>Motivation Education and Training</b>	<b>Dimmitt, Hidalgo, Maverick</b>	<b>\$ 400,000</b>	<b>Requested</b>
<b>Texas Community Builders</b>	<b>Hill, Gonzalez, Hays, Comal</b>	<b>\$ 400,000</b>	<b>Requested</b>
<b>Totals</b>		<b>\$ 4,200,000</b>	

If approved, each Local Partner will enter into a MOU with the Corporation that details the responsibilities and duties of each party. The Corporation will begin providing Local Partners access to our property listing services through the National Community



## Development Finance Programs

January 29, 2009

Stabilization Trust, RealtyTrac and other programs. Local Partners will begin identifying targeted neighborhoods and eligible properties that the Corporation will purchase to help stabilize local property values or to arrest other negative impacts faced by surrounding homeowners in neighborhoods with high rates of foreclosure. A summary of each Local Partner's experience and plan for targeting acquisitions is included at the end of this item.

Each Local Partner will be required to identify and assist the Corporation with securing purchase agreements on a sufficient number of properties to utilize 100% of their awarded funds on or before March 1<sup>st</sup>, 2010, in accordance with the Corporation's NSP contract. All properties purchased will benefit households earning 80% or less than the area median income for the county where they are located. Local Partners will implement specific strategies that will have the greatest impact on their target communities and within the scope of their past experience. The Corporation will also execute ground lease agreements, and other similar contracts, with Local Partners to grant them full access and rights to obtain financing to complete the construction or rehabilitation of acquired properties, as needed.

If this agenda item is approved, the Corporation will have approximately \$400,000 in uncommitted NSP funding. Staff will work with local partners to identify additional properties and increase approved allocations, as permitted under the resolution, in order to fully utilize our NSP funding.

### Staff Recommendation:

Staff recommends approval of the resolution approving the execution of three memorandums of agreement and allocation of Neighborhood Stabilization Program funds to three additional Local Partners under the ACT program.

### Local Partner Summaries:

**Hestia Affordable Development.** Hestia Affordable Development is a new nonprofit working on the development of affordably priced housing in Bastrop, Travis and Hays Counties. The organization was created in early 2009 by a group of friends that have all worked in and around the housing development field for many years and believed that the rural communities near Austin were lacking in affordable housing options. Led by Keith Brankner, a part time developer and director at Apollo Endosurgery Corp., Hestia's staff and directors have been developing affordable housing in Bastrop, Texas over the past two years. Building new homes at prices ranging from \$120k to \$150k, Hestia will be able to use their existing product lines to build new homes on foreclosed vacant lots in the City of Bastrop. While the directors and staff of Hestia have ample experience, the organization does not meet the minimum experience requirement of two years as a nonprofit under the Corporation's ACT policies.

Staff is recommending that the Board waive the minimum experience requirement of two years, in order to allow the Corporation the opportunity to access the Bastrop market and provide capacity building assistance to a young nonprofit that is targeting an underserved



## Development Finance Programs

January 29, 2009

housing market. Staff is proposing an allocation of NSP1 funds in the amount of \$200,000 for Hestia, which will be used to purchase approximately 10 to 15 foreclosed housing lots in the Bastrop area.

**Motivation Education and Training, Inc. (“MET”).** MET is a national nonprofit organization with more than 40 years experience in serving low-income migrant farm worker communities and households. MET provides academic and vocational training to migrant and seasonal farm workers, with the objective of furthering economic self-sufficiency. MET’s offices in Raymondville and Eagle Pass, Texas also provide housing rehab assistance and financing to qualified low-income households. MET was approved by the Board as a Local Partner under the Corporation’s NSP-2 application process last June.

Staff is recommending that the Board allocate \$400,000 to MET for the purpose of purchasing as many as 10 foreclosed housing units in the cities of Raymondville and Eagle Pass, and in surrounding rural areas in the Eagle Pass area. MET will renovate purchased homes and market them as either rentals or home ownership opportunities to qualified low-income households.

**Texas Community Builders.** Texas Community Builders was established in 2000 as a subsidiary development corporation of Business and Community Lenders of Texas, a statewide community development financial institution with more than 20 years of service in low-income communities along the IH-35 corridor. Texas Community Builders currently owns 32 units of affordable rental housing, and has completed seven acquisition/rehabs of single family homes for sale to low and very-low income households in the past three years. Texas Community Builders was approved by the Board as a Local Partner under the Corporation’s NSP-2 application process, and is now requesting \$400,000 in NSP-1 funding to acquire foreclosed properties in targeted communities.

Staff is recommending that the Board allocate \$400,000 to Texas Community Builders for the purpose of purchasing at least 7 foreclosed homes, rental properties, or vacant lots within their target communities.



was duly introduced for the consideration of said Board and read in full. It was then duly moved and seconded that said Resolution be adopted; and, after due discussion, said motion carrying with it the adoption of said Resolution, prevailed and carried by the following vote:

\_ AYES

\_ NOES

\_ ABSTENTIONS

2. That a true, full and correct copy of the aforesaid Resolution adopted at the meeting described in the above and foregoing paragraph is attached to and follows this certificate; that said Resolution has been duly recorded in said Board's minutes of said meeting; that the above and foregoing paragraph is a true, full and correct excerpt from said Board's minutes of said meeting pertaining to the adoption of said Resolution; that the persons named in the above and foregoing paragraph are the duly chosen, qualified and acting officers and members of said Board as indicated therein; that each of the officers and members of said Board was duly and sufficiently notified officially and personally, in advance, of the time, place and purpose of the aforesaid meeting, and that said Resolution would be introduced and considered for adoption at said meeting, and each of said officers and members consented, in advance, to the holding of said meeting for such purpose.

SIGNED this January 29, 2010.

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Secretary, Texas State Affordable Housing  
Corporation

RESOLUTION NO. 10-\_\_\_\_\_

TEXAS STATE AFFORDABLE HOUSING CORPORATION

“Resolution Approving the Memorandum of Understanding (“CDFI MOU”) Among the Corporation, the Texas Association of Community Development Corporations and Texas Community Capital, Inc. (“TCC”) Regarding a Partnership with TCC as a Community Development Financial Institution Capable of Receiving Matching Funds from the US Treasury and authorizing execution of the CDFI MOU by the President of the Corporation and Concerning Other Matters Incident and Related thereto”

WHEREAS, the Texas State Affordable Housing Corporation (the “Corporation”) has been duly created and organized pursuant to and in accordance with the provisions of the Texas Non-Profit Corporation Act, Article 1396-1.01 et seq. Vernon’s Annotated Texas Civil Statutes, as amended, and under the authority of Subchapter Y of Chapter 2306, Texas Government Code, as amended (the “Act”);

WHEREAS, pursuant to the information provided in the Official Board Packet for the meeting of Board of Directors of the Corporation (the “Board”) on January 29, 2010, the Corporation has determined to approve (i) the Memorandum of Understanding (the “CDFI MOU”) among the Corporation, the Texas Association of Community Development Corporations (“TACDC”) and Texas Community Capital, Inc. (“TCC”) to create a partnership among such entities to allow for the use of TCC as a Community Development Financial Institution (“CDFI”) to benefit the Corporation’s fund raising efforts through the receipt of federal matching funds for the promotion of affordable housing for low and very low income Texas residents, all as described in the CDFI MOU and (ii) the revised Bylaws and Articles of Incorporation of TCC in the form attached to the CDFI MOU as Exhibit A (the “TCC Documents”);

WHEREAS, pursuant to the CDFI MOU, the Corporation, TACDC and TCC shall enter into a management agreement mutually agreeable to all parties to provide management and technical assistance to TCC (the “Management Agreement”), the Corporation has determined to approve and authorize the President of the Corporation to execute any Management Agreement on behalf of the Corporation that meets the following minimum criteria: (i) staff of the Corporation will provide various funds management assistance, technical assistance and general management assistance to TCC so long as all such assistance is solely devoted to activities of TCC that promote the Charitable Purpose of the Corporation; (ii) all other management needs of TCC will either be provided by the staff of TACDC or by staff of TCC or a third party approved by the TCC Board; and (iii) all costs related to services provided by clause (i) will be covered by either the Corporation or TCC as determined by the Management Agreement, and all costs related to services provided by clause (ii) will be covered by TACDC or TCC as provided in the Management Agreement;

WHEREAS, the TCC Documents create a revised Board of Directors for TCC (the “TCC Board”) comprised of (i) two members appointed by the Board of Directors of the Corporation, (ii) two members appointed by the TACDC Board of Directors, and (iii) one member appointed by a majority of the four members appointed in clauses (i) and (ii) above, the Corporation has determined and agreed to appoint \_\_\_\_\_ and \_\_\_\_\_ as the initial members of the Board of Directors for TCC;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Texas State Affordable Housing Corporation:

Section 1. Authorization and Approval of the CDFI MOU. That the Board hereby approves the form of the CDFI MOU presented to the Board at the meeting at which this Resolution was considered and authorizes and directs the President of the Corporation to execute the CDFI MOU on behalf of the Corporation and any other documentation as may be appropriate to document the CDFI MOU.

Section 2. Authorization and Approval of the TCC Documents. That the Board hereby authorizes and approves the TCC Documents as described in the CDFI MOU and in accordance with this Resolution.

Section 3. Authorization and Approval of Management Agreement. That the Board hereby approves, authorizes and directs the President of the Corporation to execute any Management Agreement that meets the criteria described in the CDFI MOU and this Resolution.

Section 4. Authorization of Appointment of Members to TCC Board of Directors. That the Board hereby appoints \_\_\_\_\_ and \_\_\_\_\_ to serve as initial members on the TCC Board of Directors on behalf of the Corporation as provided in the CDFI MOU and in accordance with the TCC Documents and this Resolution.

Section 5. Ratification of Prior Actions. That all prior actions taken by or on behalf of the Corporation in connection with the subject of this Resolution are hereby authorized, ratified, confirmed and approved.

Section 6. Purposes of Resolution. That the Board has expressly determined and hereby confirms that the approval of and execution of the CDFI MOU and TCC Documents accomplishes a valid public purpose of the Corporation.

Section 7. Conflicting Prior Actions. That all orders, resolutions, or any actions or parts thereof of the Board in conflict herewith are hereby expressly repealed to the extent of any such conflict.

Section 8. Effective Date. That this Resolution shall be in full force and effect from and upon its adoption.

PASSED, APPROVED AND EFFECTIVE this January 29, 2010.

TEXAS STATE AFFORDABLE HOUSING CORPORATION

\_\_\_\_\_  
Chairperson

ATTEST:

\_\_\_\_\_  
Secretary

\*\*\*\*\*

**MEMORANDUM OF UNDERSTANDING AMONG  
TEXAS STATE AFFORDABLE HOUSING CORPORATION,  
TEXAS ASSOCIATION OF COMMUNITY DEVELOPMENT CORPORATIONS  
AND  
TEXAS COMMUNITY CAPITAL, INC.**

Dated: \_\_\_\_\_, 20\_\_

WHEREAS, the Texas State Affordable Housing Corporation is a public non-profit corporation organized and created under the laws of the State of Texas (hereinafter referred to as the “**Corporation**”) organized for purposes that have been determined by the Internal Revenue Service to be exempt from tax under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended; and

WHEREAS, The Corporation’s purpose in executing this agreement is generally to promote the public health, safety and welfare through the provision of adequate, safe and sanitary housing primarily for individuals and families of low, very low and extremely low income in the State of Texas, and to perform activities and services related to this purpose (the “**Charitable Purpose**”) and for other purposes as set forth in §2306 subchapter Y of the Texas Government Code (the “**Act**”); and

WHEREAS, Texas Association of Community Development Corporations is a non-profit corporation established pursuant to the laws of the State of Texas (hereinafter referred to as “**TACDC**”); and

WHEREAS, Texas Community Capital, Inc. is a non-profit corporation established pursuant to the laws of the State of Texas (hereinafter referred as “**TCC**”) that was formed for the purpose of and is eligible to apply to the United States Department of the Treasury (the “**Treasury**”) to become certified as a Community Development Financial Institution (a “**CDFI**”) allowing it to become eligible to receive various forms of federal financial assistance, including, but not limited to, federal matching funds, federal loans and grants and participation in the New Market Tax Credit Program (collectively, the “**Federal Assistance**”);

WHEREAS, the parties hereto wish to enter into this Memorandum of Understanding (the “**Agreement**”) whereby they will cooperate in achieving common charitable and humanitarian objectives for affordable housing in the State of Texas (the “**State**”) in accordance with the terms herein and pursuant to (i) this Agreement and (ii) the revised Articles of Incorporation and Bylaws of TCC (as revised by Section 4 hereof, the “**TCC Documents**”); and

NOW THEREFORE, in consideration of the covenants and obligations herein contained, and subject to the terms and conditions hereinafter stated, the parties hereby agree as follows:

**1. Purpose.** The purpose of this Agreement is to create agreements among the Corporation, TACDC and TCC to promote the creation and preservation of affordable housing in the State for low and moderate income households through the resources available to TCC as a CDFI and otherwise.

**2. Agreement.** This Agreement provides the basic terms and conditions of the relationship among the Corporation, TACDC and TCC for achievement of the Purpose. This Agreement shall be subject to any and all federal and state statutory limitations placed on the Corporation, including, but not limited to the Act and the policies as approved, revised and ratified by the Board of Directors of the Corporation (the “**TSAHC Board**”) from time to time. This Agreement is subject to termination and amendment according to the provisions listed herein, and does not represent a commitment of funds to the TCC on behalf of the Corporation or TACDC, unless otherwise noted in this Agreement.

**3. Effective Date and Term of Agreement.**

(a) This Agreement shall become effective upon the date the following actions have been completed (the “**Effective Date**”): (i) approval of this Agreement and the form of revised TCC Documents as described in Section 4 hereof by resolution of each of the TSAHC Board, the Board of Directors of TACDC (the “**TACDC Board**,” together with the TSAHC Board, the “**Appointing Authorities**”), and the current Board of Directors of TCC (together with the Appointing Authorities, the “**Initial Approval Authorities**”); and (ii) the execution of this Agreement by an authorized officer of each Initial Approval Authority.

(b) Subject to Sections 5(b), 8(e), 18 hereof, the term of this Agreement shall be 5 (five) years and shall terminate upon the fifth anniversary of the execution of the Agreement, unless otherwise amended and agreed to by all parties or upon the date the TCC Documents are revised without approval of the Appointing Authorities.

**4. TCC Documents.** All parties hereby agree that, on or prior to the Effective Date, the Articles of Incorporation and Bylaws of TCC shall be revised to be in the forms attached hereto as Exhibit A. At a minimum, the TCC Documents shall create an revised Board of Directors for TCC (the “**TCC Board**”) comprised of (i) two members appointed by the TSAHC Board, (ii) two members appointed by the TACDC Board, and (iii) one member appointed by a majority of the four members appointed in clauses (i) and (ii) above. In addition, any amendments to the TCC Documents shall require the approval of the TCC Board and the Appointing Authorities.

**5. Initial Funding and CDFI Certification.**

(a) TCC hereby agrees to utilize the approximately \$25,000 from its CDFI Fund TA grant (the “**Previous Grant**”) to pay for the costs of revising the TCC Documents, TCC’s costs associated with this Agreement, the additional costs of obtaining final certification as a CDFI from the Treasury (the “**Certification**”), and any other initial “start-up” costs (the “**Initial Costs**”).

(b) TCC hereby agrees to diligently pursue its Certification and shall obtain its Certification no later than June 30, 2011 (as such date may be extended by written agreement of all parties hereto) or this Agreement shall terminate and all parties shall have no further obligations hereunder.

**6. Management of TCC.** The Corporation, TACDC and TCC shall enter into a management agreement mutually agreeable to all parties to provide management and technical

assistance to TCC (the “**Management Agreement**”) that meets the following minimum criteria: (i) staff of the Corporation will provide various funds management assistance, technical assistance and general management assistance to TCC so long as all such assistance is solely devoted to activities of TCC that promote the Charitable Purpose of the Corporation; (ii) all other management needs of TCC will either be provided by the staff of TACDC or by staff of TCC or a third party approved by the TCC Board; and (iii) all costs related to services provided by clause (i) will be covered by either the Corporation or TCC as determined by the Management Agreement, and all costs related to services provided by clause (ii) will be covered by TACDC or TCC as provided in the Management Agreement.

## **7. Funding of TCC.**

(a) As stated in Section 5(a) hereof, TCC shall use funds from the Previous Grant to pay the Initial Costs.

(b) As stated in Section 6 hereof, the Corporation, TACDC and TCC shall each pay portions of the costs of management of TCC pursuant to the Management Agreement; provided that TCC shall endeavor to be self-sufficient as to its primary management costs by the end year of 2010. In addition, TCC shall seek funding from banks seeking CRA credit to pay a portion of its management costs.

(c) Funds for various lending and other projects of TCC shall be provided by fundraising through low interest loans, “equity loans” provided by banks seeking CRA credit, grants or other gifts from various governmental authorities, nonprofit organizations and other similar entities, including possible grants or loans from the Corporation (subject to the conditions of Section 8) hereof or TACDC, and the Federal Assistance with a primary objective to maximize the available Federal Assistance.

(d) The TCC Board shall explore any additional sources of funds such as investment income and other opportunities.

(e) TCC will track and report to the Corporation and TACDC all sources of and uses of funds of TCC and provide quarterly reports to each Appointing Authority detailing such information as required by the Management Agreement. In addition, TCC shall provide each Appointing Authority an annual audit of all TCC’s funds prepared by a certified public accountant according to the applicable accounting standards within 120 days after the end of each fiscal year of TCC.

## **8. Grants and Loans from the Corporation.**

(a) The Corporation may, but is under no obligation to, provide periodic grants or loans to TCC for TCC to use for its programs that advance the Charitable Purpose of the Corporation (the “**TSAHC Grants/Loans**”).

(b) All TSAHC Grants/Loans will be provided pursuant to a form of grant agreement or loan agreement, as appropriate, prescribed by the Corporation to ensure such funds are used exclusively for the Charitable Purpose of the Corporation and providing other provisions.

(c) All funds provided to TCC by the Corporation pursuant to TSAHC Grants/Loans or otherwise shall be held in segregated accounts of TCC and used exclusively for the Charitable Purpose of the Corporation pursuant to the provisions of the Agreement and the applicable grant or loan agreement.

(d) TCC shall provide the Corporation with periodic reports regarding the use of any funds received through a TSAHC Grant/Loan pursuant to the requirements of the applicable grant or loan agreement and allow the Corporation to inspect any books and records related to a TSAHC Grant/Loan during normal business hours upon reasonable notice.

(e) If any funds provided by a TSAHC Grant/Loan are not exclusively used for the Charitable Purpose of the Corporation or if any activities of TCC threaten the 501(c)(3) status of the Corporation, all funds provided to TCC by the Corporation through TSAHC Grants/Loans or otherwise shall be immediately returned to the Corporation and this Agreement shall terminate with no further obligation hereunder or under the TCC Documents by the Corporation.

**9. Activities and Functions of TCC.** TCC shall perform the activities and functions as prescribed and approved by the TCC Board with a primary goal of utilizing its CDFI certification to maximize Federal Assistance to promote the availability of affordable housing for low and moderate income residents of the State. These activities and functions shall include, but not be limited to, the following:

(a) provide “developmental services” such as training, education, specialized counseling or other services for people, institutions, nonprofit organizations, developers and other entities promoting affordable housing in the State;

(b) develop and initiate priority lending programs to promote single family housing and multifamily housing through mortgage lending programs, secondary mortgage purchase programs, down payment assistance programs, second lien mortgages for gap financing and other financing programs;

(c) explore the use of New Market Tax Credits to benefit affordable housing in the State;

(d) create a self-capitalized lending corpus;

(e) seek and create partnerships and other arrangements with other providers of affordable housing in the State; and

(f) and any other related activities or functions approved by the TCC Board that meet the requirements of this Agreement.

**10. Annual Action Plan.** TCC shall provide the Corporation and TACDC with an annual action plan approved by the TCC Board by December 1 of each year covering expected activities and functions of TCC in the succeeding year. This annual action plan shall not be subject to approval by the Appointing Authorities, but shall primarily promote the Purpose of this Agreement and otherwise meet the requirements of this Agreement.

**11. Affordability Threshold.** The use of any moneys received by TCC from the Corporation, through TSAHC Grants/Loans or otherwise, must be used for financing activities and programs that meet the Corporation's statutory requirements for affordability (the "**Affordability Threshold**"). At a minimum, the Affordability Threshold requires the following:

(a) All financing assistance provided by TCC using funds of the Corporation to benefit properties developed for single family housing shall be for properties that are affordable to low, very-low and extremely-low income households at or below 80% of the area median income, as determined by the United States Department of Housing and Urban Development (the "**AMI**"), for the location of the financially assisted properties;

(b) All financing assistance provided by TCC using funds of the Corporation to benefit properties developed for rental shall be set aside for the following low-income households:

(i) At least 20% of the total units in the applicable financially assisted property shall be set aside for persons or families earning 50% of the AMI, based on the size of the unit and number of persons occupying the unit; or

(ii) At least 40% of the total units in the applicable financially assisted property shall be set aside for persons or families earning 60% of the AMI, based on the size of the unit and number of persons occupying the unit; and

(c) All households that meet the Affordability Threshold of (a) and (b) above, as applicable, above shall be considered "**Qualified Households**".

**12. Recorded Enforcement Documents.** To insure the fulfillment of the Affordability Threshold, the Corporation may need to cause TCC to file a deed restriction or land use restriction agreement (each a "**LURA**") in the real property record that defines limitations on resale, low-income occupancy by Qualified Households and other concerns of the financially assisted property. Deed restrictions and LURAs may or may not be filed as non-foreclosable instruments. TCC agrees to cooperate with the reasonable requirements of the Corporation with respect to LURAs and Qualified Households.

**13. Discrimination.** Each party subject to this Agreement shall not permit discrimination against members of Qualified Households on the basis of their gender, race, religion, color, familial status, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation, or physical, mental, emotional or learning disability.

**14. Property Monitoring.** The Corporation may require that all financially assisted properties, rental or single-family household, undergo a regular review to determine that the property continues to meet the Affordability Threshold and the other requirements of this Agreement. The Corporation may require a compliance, asset management or asset oversight review be completed on an annual, semi-annual or other periodic length of time, on all properties financially assisted by TCC but not sold to a single-family Qualified Household, as determined by the Corporation. The Corporation may charge a periodic fee in order to cover the cost of its compliance, asset management or asset oversight reviews.

**15. Transfer and Assignment.** This Agreement may not be transferred or assigned to any other entity by any party hereto without the prior written consent of all the parties hereto.

**16. Waiver of Trial by Jury.** The Corporation, TACDC and TCC each (a) agrees not to elect a trial by jury with respect to any issue arising out of this Agreement or the relationship between the parties, as Corporation, TACDC and TCC, that is triable of right by a jury and (b) waives any right to trial by jury with respect to such issue to the extent that any such right exists now or in the future. This waiver of right to trial by jury is separately given by each party, knowingly and voluntarily with the benefit of competent legal counsel.

**17. Termination.** This Agreement may be terminated at the Corporation's or TACDC's option upon thirty (30) days within notice to the TCC upon the occurrence of any of the following events:

(a) TCC makes an assignment for the benefit of its creditors, admits in writing its inability to pay its debts as they become due, files a petition of bankruptcy or is adjudicated as bankrupt or insolvent, or files a petition seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation;

(b) If any material statement or representation made by or on behalf of the TCC to the Corporation or TACDC shall prove to be untrue, or if TCC shall have withheld any material information incident thereto;

(c) If there shall be a material adverse change, as determined by the Corporation or TACDC, in the financial condition or business operations of TCC;

(d) If TCC fails to comply with any obligation hereunder or to satisfy all of the conditions of this Agreement in a timely manner;

(e) TCC fails to maintain its existence as a non-profit corporation in the same it was when it executed this Agreement or amends the TCC Documents without the prior written consent of the Appointing Authorities;

(f) TCC fails to achieve its Certification by June 30, 2011 or

(g) TCC uses any funds provided by or through the Corporation in any manner inconsistent with the Charitable Purpose of the Corporation or the purposes of this Agreement.

**18. Entire Agreement.** This Agreement represents the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior oral and written agreements.

**19. USA Patriot ACT Compliance.** As a condition of this Agreement, TCC shall certify that (i) it is not acting, directly or indirectly, for or on behalf of any person, group, entity, or nation named by any Executive Order or the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person," or other banned or blocked person, entity,

nation, or transaction pursuant to any law, order, rule, or regulation that is enforced or administered by the Office of Foreign Assets Control; and (ii) it is not engaged in this transaction, directly or indirectly on behalf of, or instigating or facilitating this transaction, directly or indirectly on behalf of, any such person, group, entity, or nation.

**20. Amendments.** This Agreement may be changed or amended only by a written agreement signed by all parties.

**21. Liability.** ALTHOUGH TCC UNDERSTANDS AND HEREBY ACKNOWLEDGES THAT THE ACTS AND ACTIVITIES TO BE ENGAGED IN AND PERFORMED BY TCC UNDER THIS AGREEMENT MAY POTENTIALLY SUBJECT THE CORPORATION OR TACDC, THEIR OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS TO THE RISK OF SERIOUS INJURY, ILLNESS OR EVEN LIFE-THREATENING CONDITIONS, TCC HEREBY INDEMNIFIES THE CORPORATION AND TACDC FOR ANY DAMAGES OR INJURY THAT MAY BE SUSTAINED IN CONNECTION WITH OR AS A RESULT OF THE PERFORMANCE BY TCC, ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS OF THE TCC'S DUTIES AND RESPONSIBILITIES UNDER THIS AGREEMENT AND AGREES AND UNDERSTANDS THAT THE CORPORATION AND TACDC SHALL HAVE NO LIABILITY WHATSOEVER FOR ANY SUCH DAMAGE OR INJURY, INCLUDING, BUT NOT LIMITED TO, THE GROSS NEGLIGENCE OF THE CORPORATION OR TACDC, RESPECTIVELY.

**22. Not a Partnership.** Nothing herein shall be construed as creating a partnership or joint venture among the Corporation, TACDC and TCC. Except for employees of the Corporation or TACDC performing services pursuant to the Management Agreement, no person performing any of the work or services described hereunder on behalf of TCC shall be considered an officer, agent, servant or employee of the Corporation or TACDC, nor shall any such person be entitled to any benefits available or granted to employees of the Corporation or TACDC.

**23. Notices.** Any notice given under this Agreement shall be in writing and shall for all purposes be deemed to be fully given by a party if sent, by first class mail with proper postage prepaid or by overnight courier, to the other party at its address indicated below. The date of the mailing or pick up by the overnight courier shall be deemed to be the date on which such notice was given. Either party may change its address for the purpose of this Agreement by giving the other party written notice of its new address. The parties' current addresses appear below.

Texas State Affordable Housing Corporation  
2200 East Martin Luther King Jr. Blvd.  
Austin, Texas 78702  
Phone #: (512) 477-3555  
Fax #: (512) 477-3557

Texas Association of Community Development Corporations  
1524 South IH 35, Suite 310  
Austin, TX 78704  
Phone #: (512) 916-0508

Fax #: (512) 916-0541

Texas Community Capital  
1524 South IH 35, Suite 310  
Austin, TX 78704  
Phone #: (512) 916-0508  
Fax #: (512) 916-0541

**24. Governing Law.** The rights and obligations of the parties hereunder shall be governed by and construed in accordance with the laws of the State of Texas, and any dispute arising hereunder shall be subject to the jurisdiction of the courts of the United States of America or the State of Texas sitting in Travis County, Texas.

**25. Headings.** The section and paragraph headings in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

**26. Severability.** If any term or provision of this Agreement or the application thereof to any party hereto or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to any party hereto or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

**27. Counterparts.** This Agreement may be executed in any number of counterparts and by the different parties hereto on separate counterparts, each of which, when so executed, shall be deemed an original, but all such counterparts shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the undersigned parties have caused their duly authorized representatives to execute this Agreement effective as of the date first above written.

TEXAS STATE AFFORDABLE HOUSING CORPORATION, a Texas non-profit corporation

By: \_\_\_\_\_  
Name: David Long  
Title: President

TEXAS ASSOCIATION OF COMMUNITY DEVELOPMENT, a Texas non-profit corporation

By: \_\_\_\_\_  
Name:  
Title: President

TEXAS COMMUNITY CAPITAL, INC., a Texas non-profit corporation

By: \_\_\_\_\_  
Name:  
Title: President

**EXHIBIT A**  
**ARTICLES OF INCORPORATION AND BYLAWS OF TEXAS COMMUNITY  
CAPITAL, INC.**

**ARTICLES OF INCORPORATION  
OF  
TEXAS COMMUNITY CAPITAL**

The undersigned natural person over the age of eighteen (18), acting as incorporator of a corporation under the Texas Non-Profit Corporation Act, adopts the following Articles of Incorporation for Texas Community Capital.

**ARTICLE ONE  
NAME**

The name of the corporation is Texas Community Capital (the "Corporation").

**ARTICLE TWO  
NONPROFIT CORPORATION**

The Corporation is a nonprofit corporation.

**ARTICLE THREE  
DURATION**

The period of its duration is perpetual.

**ARTICLE FOUR  
MEMBERSHIP**

The Corporation will not have members.

**ARTICLE FIVE  
PURPOSES**

The Corporation is organized pursuant to the Texas Nonprofit Corporation Act. The purposes for which the Corporation is organized are exclusively charitable within the meaning of the Internal Revenue Service Code, Section 501(c)(3), and the Texas Tax Code, Section 11.18, and consist of the following:

Texas Community Capital (the "Corporation") shall exist for the purpose of providing loan and investment products, development services and other related activities to community development financial institutions (CDFIs) and community development corporations(CDCs) in Texas. The mission of the Corporation is to provide specialized loan and investment products and services that strengthen the capacity of CDFIs and CDCs to promote economic and community development in low income Texas communities. The Corporation shall be and is a non profit corporation under the laws of the State of Texas. The service area of the Corporation is the entire state of Texas, with a focus on low income and under-served areas

**ARTICLE SIX  
RESTRICTIONS AND REQUIREMENTS**

(1) Notwithstanding any other statements to the contrary, this Corporation shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of its primary purposes set forth in these Articles. The Corporation may not take any action prohibited by the Texas Non-Profit Corporation Act.

(2) **No Private Inurement:** The Corporation is not organized nor shall it be operated for the primary purpose of generating pecuniary gain or profit. The Corporation may not pay dividends or other corporate income to its directors or officers, or otherwise accrue distributable profits, or permit the realization of private gain. No part of the net earnings of

the Corporation shall inure to the benefit of any director of the Corporation, officer of the Corporation, or any private individual, (except that reasonable compensation may be paid for services rendered to or for the Corporation affecting one or more of its purposes), and no director or officer of the Corporation, or any private individual, shall be entitled to share in the distribution of any of the corporate assets on dissolution of the Corporation.

(3) **501(c)(3) Limitations:** Notwithstanding any other provision of these Articles of Incorporation, the Corporation may not take action that would be inconsistent with the requirements for tax exemption under the Internal Revenue Code, Section 501(c)(3), and related regulations, rulings, and procedures. Nor may it take any action that would be inconsistent with the requirements for receiving tax-deductible charitable contributions under the Internal Revenue Code, Section 170(c)(2), and related regulations, rulings, and procedures. Regardless of any other provision in these Articles of Incorporation or state law, the Corporation may not:

- (a) Engage in activities or use its assets in manners that do not further one or more exempt purposes, as set forth in these Articles and defined by the Internal Revenue Code and related regulations, rulings, and procedures, except to an insubstantial degree.
- (b) Serve a private interest other than one clearly incidental to an overriding public interest.
- (c) Devote more than an insubstantial part of its activities to attempting to influence legislation by propaganda or otherwise, except as provided by the Internal Revenue Code and related regulations, rulings, and procedures.
- (d) Participate in or intervene in (including publishing or distributing statements and any other direct or indirect campaign activities) any political campaign on behalf of any candidate for public office. The prohibited activities include publishing or distributing statements and any other direct or indirect campaign activities.
- (e) Have objectives characterizing it as an "action organization" as defined by the Internal Revenue Code and related regulations, rulings, and procedures.
- (f) Distribute its assets on dissolution other than for one or more exempt purposes.
- (g) Permit any part of the Corporation's net earnings to inure to the benefit of any private shareholder or member of the Corporation or any private individual.

(4) **Private Foundation:** In addition, in the event that this Corporation shall become a "private foundation" within the meaning of Section 509 of the Internal Revenue Code of 1954, the Corporation shall distribute its income at such times and in such manners as to avoid tax for undistributed income under Section 4942 of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent federal tax laws. The Corporation shall not:

- (a) Engage in any act of self-dealing as defined in Section 4941(d) of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent federal tax laws.
- (b) Retain excess business holdings as defined in Section 4943(c) of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent federal tax laws.
- (c) Make any investments in such a manner as to subject it to tax under Section 4944 of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent federal tax laws.
- (d) Make any taxable expenditures as defined in section 4945(e) of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent federal tax laws.

(5) **Dissolution:** Upon dissolution of the Corporation or the winding up of its affairs, the assets of the Corporation remaining after payment of all debts and liabilities shall be distributed exclusively to the State of Texas or an organization exempt from taxes under Internal Revenue Code Section 501(c)(3) for one or more purposes exempt under Texas franchise tax.

## ARTICLE SEVEN POWERS

Except as these Articles otherwise provide, the Corporation has all the powers provided in the Texas Non-Profit Corporation Act. Moreover, the Corporation has all implied powers necessary and proper to carry out its express powers. The Corporation may reasonably compensate directors or officers for services rendered to or for the Corporation in furtherance of one or more of its purposes. All amendments and changes to these Articles must be approved by at least two-thirds of the Board of Directors present at a meeting where a quorum is present.

**ARTICLE EIGHT**  
**INITIAL REGISTERED OFFICE AND AGENT**

The initial registered office of the Corporation will be 1021 East 7<sup>th</sup> Street, Suite 104, Austin, Texas 78702 and its initial registered agent at such address is J. Reymundo Ocañas.

**ARTICLE NINE**  
**BOARD OF DIRECTORS**

The management of the corporation is vested in its Board of Directors and such committees of the board that the board may, from time-to-time, establish. The by-laws will provide the qualifications, manner of selection, duties, terms, and other matters relating to the Board of Directors. The initial board will consist of four (4) persons. The initial board will consist of the following persons at the following addresses:

<u>NAME</u>	<u>ADDRESS</u>
Francie Ferguson	1013 Harwood Place, Austin, Texas, 78704
Tom Wilkinson	P. O. Drawer 4128, Bryan, Texas, 77805
Janic Barrera	2014 S. Hackberry, San Antonio, Texas, 78210
J. Reymundo Ocañas	1021 East 7 <sup>th</sup> Street, Suite 104, Austin, Texas 78702

The number of directors may be increased or decreased by adopting or amending the bylaws. The number of directors may not be decreased to fewer than three (3).

**ARTICLE TEN**  
**INCORPORATOR**

The name and street address of the incorporator is:

J. Reymundo Ocañas  
1021 East 7th Street, Suite 104  
Austin, Texas 78702

IN WITNESS WHEREOF, I execute these Articles of Incorporation on this 23<sup>rd</sup> day of January, 2002.

  
\_\_\_\_\_  
J. Reymundo Ocañas

## **BY-LAWS OF TEXAS COMMUNITY CAPITAL, INC.**

### **ARTICLE I**

These Bylaws (the “Bylaws”) constitute the code of rules adopted by the TEXAS COMMUNITY CAPITAL, INC. for the regulation and management of its affairs.

### **ARTICLE II**

#### **Purpose**

Texas Community Capital (the “Corporation”) shall exist for the purpose of providing loan and investment products, development services and other related activities to residents of underserved communities either directly or through community development financial institutions (CDFIs) and community development corporations (CDCs), and similar community lenders in Texas in order to expand the availability of funds for affordable housing and similar community development investments. The mission of the Corporation is to promote economic and community development in low-income Texas communities, particularly by financing affordable housing for low income and moderate income residents of the State of Texas. The Corporation shall be and is a non-profit corporation under the laws of the State of Texas. The service area of the Corporation is the entire State of Texas, with a focus on low income and under-served areas.

### **ARTICLE III**

#### **Board of Directors**

(1) **Powers**

The Board of Directors (“Board of Directors”) of this Corporation is vested with the management of the business and affairs of this Corporation, subject to the Texas Non-Profit Corporation Act, the Articles of Incorporation, and these Bylaws.

(2) **Qualifications**

Participation as a member of the Board of Directors (a “Director”) shall not be denied to any person on the basis of race, creed, sex, religion, or national origin.

No Director shall have the power to appoint any other member of the Board of Directors other than through the individual vote of that Director.

(3) **Number of Directors**

The Board of Directors will consist of five (5) Directors. Two Directors shall be appointed by resolution of the Board of Directors of the Texas State Affordable Housing Corporation (“TSAHC Board”), a Texas non-profit corporation. Two Directors shall be appointed by resolution of the Board of Directors of the Texas Association of Community Development Corporations (“TACDC Board”), together with the TSAHC Board, the “Appointing Authorities” and each individually an “Appointing Authority”, a Texas non-profit corporation. One Director shall be appointed by majority vote by the other Directors of the Board of Directors. Upon majority resolution of the Board of Directors and approval by each of the TSAHC Board and the TACDC Board, the number of Directors may be increased or decreased from time to time, but in no event shall a decrease have the effect of shortening the term of an incumbent Director, or decreasing the total number of Directors to less than three Directors. The persons serving as directors at the time of adoption of this amendment to the Bylaws shall continue to serve until such time as their replacements have been named and seated. The Executive Director of the Corporation shall serve as an ex-officio non-voting member of the Board of Directors. All other employees of the Corporation are ineligible to serve on the Board of Directors.

(4) **Term and Election of Directors**

Directors shall serve terms of four years, however each Appointing Authority named above shall in its initial appointments name one Director to an initial term of two years and the other director to an initial term of four years so that each appointing authority fills one board vacancy every two years. The Director appointed by the

Board of Directors shall fill an initial term of four years. Any directorship to be filled by reason of an increase in the number of Directors shall be filled at the next regular meeting of the Board of Directors or at a special meeting called for that purpose pursuant to the revised Bylaws previously approved by each Appointing Authority.

Directors whose terms have expired may continue serving until they are either re-appointed or until their successors are chosen. When a re-appointment or replacement is made, the re-appointment or replacement shall be considered effective on the date that the term expired (i.e. the new term does not begin on the date of re-appointment or replacement).

(5) Nomination Process

Each Appointing Authority shall nominate their respective Directors and one can be nominated by the Board of Directors.

(6) Resignation

Any Director may resign at any time by delivering written notice to the Secretary or Chair of the Board of Directors. Such resignation shall take effect upon receipt or at the time specified therein.

(7) Removal

Any Director may be removed without cause, at any time, by a majority of the entire Board of Directors, at a regular or special meeting called for that purpose. Any director under consideration of removal must first be notified about the consideration by written notice at least five days prior to the meeting at which the vote takes place.

(8) Vacancies

Vacancies shall be filled by the respective Appointing Authority with respect to the Directors that they are responsible to appoint. The Vacancy of the Director appointed by the Board of Directors shall be filled by the Board of Directors.

(9) Compensation

Directors shall not receive any salaries for their services, but, by resolution of the Board of Directors, may be compensated for any actual expenses incurred in the performance of their duties for the Corporation. The corporation shall not make any loan of money or property to, or guarantee the obligation of, any Director or officer, however this provision does not limit the Corporation's ability to loan money or property or otherwise guarantee an obligation to a lending entity of which the Director is an employee, principle, or a Member of its board of directors.

#### **ARTICLE IV** **Committees**

(1) Standing Committees

The Board of Directors may from time to time designate and appoint standing or temporary committees by majority vote of the Board of Directors. Such committees shall have and exercise such prescribed authority as is designated by the Board of Directors. The Board Chair of the Board of Directors (the Board Chair") shall appoint the Chair of any such committee. The Directors may authorize these committees to exercise any powers, responsibilities, and duties consistent with the Articles of Incorporation and these Bylaws.

#### **ARTICLE V** **Advisory Board**

The Board of Directors may provide a formal process for community development leaders and representatives of low-income communities to advise the Corporation on its decisions regarding the Corporation's programs, loans, investments, development services (technical assistance) and capital development through the creation of an Advisory Board. The Board of Directors may appoint Advisory Members from lenders eligible to

receive loans and investments from the corporation; from financial institutions, corporations or foundations which have made capital available to the corporation in the form of grants, loans or investments; from local, state and national organizations dedicated to the field of community development, or may appoint individuals as Advisory Members. The Advisory Board may meet in person or by electronic means.

The responsibilities of the Advisory Board include:

- (1) Ensuring that the corporation has sufficient capital in order to operate its loan and investment programs.
- (2) Reviewing the Corporation's loan and investment products to ensure they are meeting the Corporation's capital needs.
- (3) Planning and organizing functions, events and campaigns to educate the community about the Corporation's loan and investment products, as well its development services (technical assistance).

## **ARTICLE VI Code of Ethics**

It is imperative to the success of the Corporation that there be a fully informed, responsive, and reasonable Board of Directors. To accomplish this end, all Directors shall conduct themselves at all times in the best interest of the Corporation. In this regard, each Director shall abide by the following "Code of Ethics." While no code or set of rules can be framed which will particularize all the duties of a Director, the following code of ethics shall serve as a general guide. The enumeration of particular duties should not be construed as a denial of the existence of others equally imperative, though not specifically mentioned.

- (1) Directors shall put forth their best effort to attend all meetings and constructively participate in the meetings.
- (2) Directors shall be responsible for insuring that adequate and correct information is presented to public.
- (3) Directors shall exercise good judgment in the control and use of confidential information that may from time to time come into their possession. No Director shall use confidential information gained by reason of being a Director for personal gain to the detriment of the Corporation.
- (4) Each Director shall serve as a public relations agent for the Corporation and therefore shall work diligently and properly to promote its goals and objectives while keeping abreast with its overall progress.
- (5) Conflict of Interest and Nepotism: Directors shall fully disclose at meetings of the Board of Directors any and all familial (family), financial relationships, or other conflicts of interest in regard to any matter which is presented to the Board of Directors for a vote. "Financial relationship" includes but is not limited to: any direct or indirect financial interest in any loan or investment transaction, including a commission or fee, share of the proceeds, the prospect of promotion or profit, or any other form of financial reward. Directors shall recuse themselves when voting on any matter that could present a conflict of interest for themselves or their employer.

## **ARTICLE VII Board Meetings**

- (1) Place of Board Meetings  
Meetings of the Board of Directors, regular or special, will be held in person or by electronic means at a place designated by the Board Chair.
- (2) Regular and Special Meetings  
Regular meetings of the Board of Directors shall be held each quarter, or more frequently as deemed necessary by the Board of Directors. The Board Chair or any three Directors may call special Meetings.

(3) Notice of Board Meetings

Notice of the date, time, and place of regular meetings of the Board of Directors shall be given to each Director by regular mail, telephone (including voice mail), facsimile, or electronic e-mail no less than five business days prior to the meeting. Notice of the date, time, and place of special meetings shall be given to each Director by telephone (including voice mail), facsimile, or electronic e-mail, no less than twenty-four hours prior to the meeting, with the exception of special meetings held to amend the Articles of Incorporation or these Bylaws, for which a five-day written notice by mail or facsimile shall be required.

(4) Waiver of Notice

Attendance by a Director at any meeting of the Board of Directors will constitute a waiver of notice of such meeting except where such Director attends the meeting for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened.

(5) Quorum

A majority of the incumbent Directors (not counting vacancies) shall constitute a quorum for the conduct of business. At meetings of the Board of Directors where a quorum is present, a majority vote of the Directors attending shall constitute an act of the Board of Directors unless a greater number is required by the Articles of Incorporation or by any provision of these Bylaws.

(6) Actions without a Meeting

Any action required or permitted to be taken by the Board of Directors under the Texas Non-Profit Corporation Act, the Articles of Incorporation, and these Bylaws may be taken without a meeting, if all Directors individually and collectively consent in writing, setting forth the action to be taken. Such unanimous written consent shall have the same force and effect as a unanimous vote of the Board of Directors.

## ARTICLE VIII

### Officers

(1) Roster of Officers

The Corporation shall have a Chair, Vice Chair, Secretary, and Treasurer. The Corporation may have, at the discretion of the Board of Directors, such other officers as may be appointed by the Directors. One person may hold two or more offices.

(1) Selection and Removal of Officers

All officers shall serve two-year terms. The election shall be conducted at the regularly scheduled Board of Directors meeting held in the first quarter of each year and following the election of the new Directors filling expired terms, or as soon as practical thereafter. Officers shall remain in office until their successors have been selected. Officers may serve consecutive terms without limit. The election of officers shall be by majority vote of the Directors attending the meeting at which a quorum is present..

(2) Vacancies

If a vacancy occurs during the term of office for any elected officer, the Board of Directors shall fill the vacancy as soon as practical by appointing a new officer by majority vote of Directors present at which a quorum is present.

(3) Chair

- The Chair will supervise and control the affairs of the Corporation and shall exercise such supervisory powers as may be given him or her by the Board of Directors.
- The Chair will perform all duties incident to such office and such other duties as may be provided in these Bylaws or as may be prescribed from time to time by the Board of Directors. The Chair shall preside at all meetings of the Board of Directors and shall exercise parliamentary control.
- The Chair shall serve as an ex-officio member of all standing committees, unless otherwise provided by

the Board of Directors or these Bylaws.

- The Chair shall, with the advice of the Board of Directors and in accordance with the requirements of these Bylaws, set and cause the secretary to give notice of the agenda for each meeting of the Board of Directors.

(4) Vice Chair

- The Vice Chair shall act in place of the Chair in the event of the chair's absence, inability, or refusal to act, and shall exercise and discharge such other duties as may be required by the Board of Directors.
- The Vice Chair shall serve as the parliamentarian and interpret any ambiguities of the Bylaws.

(5) Secretary

- The Secretary will perform all duties incident to the office of Secretary and such other duties as may be required by law, by the Articles of Incorporation, or by these Bylaws.
- The Secretary shall attest to and keep the Bylaws and other legal records of the Corporation, or copies thereof, at the principal office of the Corporation.
- The Secretary shall take or ensure that someone takes minutes of all meetings of the committees, Board of Directors, and members, and shall keep copies of all minutes at the principal office of the Corporation.
- The Secretary shall keep a record of the names and addresses of the Directors and members at the principal office of the Corporation.
- The Secretary shall, with the approval of the Board of Directors, set up procedures for any elections held by the Corporation. The Secretary shall keep a record of all votes cast in such elections.
- The Secretary shall ensure that all records of the Corporation, minutes of all official meetings, and records of all votes, are made available for inspection by any member of the Board of Directors at the principal office of the Corporation during regular business hours.
- The Secretary shall see that all notices are duly given in accordance with these Bylaws or as required by law.
- The Secretary shall see that all books, reports, statements, certificates, and other documents and records of the Corporation are properly kept and filed.
- In the case of the absence or disability of the Secretary, or the Secretary's refusal or neglect to fulfill the duties of Secretary, the Vice Chair shall perform the functions of the Secretary.

(6) Treasurer

- The Treasurer will have charge and custody of all funds of the Corporation, will oversee and supervise the financial business of the Corporation, will render reports and accountings to the Directors as required by the Board of Directors, and will perform in general all duties incident to the office of Treasurer and such other duties as may be required by law, by the Articles of Incorporation, or by these Bylaws, or which may be assigned from time to time by the Board of Directors.
- The Treasurer and the staff of the Corporation shall devise a plan providing for the acceptance and disbursement of all funds of the Corporation, which shall be approved by the Board of Directors.
- The Treasurer, with the approval of the Board of Directors, shall set up all checking, savings, and investment accounts of the Corporation and deposit all such funds in the name of the Corporation in such accounts.
- The Treasurer's signature shall be one of the two authorized signatures for all checking, savings and investment accounts of the Corporation. The signature of the Corporation's Executive Director will be the other authorized signature for all checking, savings and investment accounts of the Corporation.
- The Treasurer shall render to the Chair and the Board of Directors, upon request, an accounting of all transactions and of the financial conditions of the Corporation.
- The Treasurer shall keep all financing records, books, and annual reports of the financial activities of the Corporation at the principal office of the Corporation and make them available at the request of any Director or member of the public during regular business hours for inspection and copying.

## ARTICLE IX

## **Rules of Procedure**

The proceedings and business of the Board of Directors shall be governed by following parliamentary procedures.

### **ARTICLE X** **Executive Director**

The Board of Directors may, upon resolution, appoint an Executive Director to serve at the discretion of the Board of Directors and to carry out whatever tasks the Board of Directors from time to time resolves. The Executive Director shall be paid an annual salary set by the Board of Directors. Subject to such supervisory powers as are vested in the Board of Directors, the Executive Director shall supervise, direct, and control the business of the Corporation and actively manage its business, and shall have such other powers and duties as may be prescribed by the Board of Directors or by these Bylaws.

The Executive Director may engage in negotiations involving commitments of the resources of the Corporation or the acceptance of money or resources by the Corporation in furtherance of the purposes of the Corporation as set out in the Articles of Incorporation and these Bylaws.

The Executive Director shall generally be expected to attend all meetings of the Board of Directors and meetings of all Advisory Boards.

### **ARTICLE XI** **Indemnification**

The Corporation will provide indemnification insurance for its Directors at such time that the Corporation begins implementation of its lending and investment programs, and the Board of Directors shall select the amount and limits of such insurance policy.

To the extent permitted by law, any person (and the heirs, executors, and administrators of such person) made or threatened to be made a party to any action, suit, or proceeding by reason of the fact that he is or was a Director or Officer of the Corporation shall be indemnified by the Corporation against any and all liability and the reasonable expenses, including attorney's fees and disbursements, incurred by him (or by his heirs, executors or administrators) in connection with the defense or settlement of such action, suit, or proceeding, or in connection with any appearance therein.

### **ARTICLE XII** **Operations**

(1) **Execution of Documents**

Unless specifically authorized by the Board of Directors or as otherwise required by law, all final contracts, deeds, conveyances, leases, promissory notes, or legal written instruments executed in the name of and on behalf of the Corporation shall be signed and executed by the Executive Director or the Chair/Vice Chair (or such other person designated by the Board of Directors), pursuant to the general authorization of the Board. Financial Transactions, including loans and investments made by the Corporation shall require majority approval of the Board of Directors unless such approval is delegated by resolution of the Board of Directors.

(2) **Records**

The Corporation will keep correct and complete records of account and will also keep minutes of the proceedings of the meetings of the Board of Directors and Committees. The Corporation will keep at its principal place of business the original or a copy of the Bylaws, including amendments to date certified by the Secretary of the Corporation.

(3) **Inspection of Books and Records**

All books and records of this Corporation may be inspected by any Director and each Appointing Authority for any purpose at any reasonable time on written demand.

(4) Amendments

The Board of Directors may adopt Articles of Amendment (amending the Articles of Incorporation) by a vote of two-thirds of Directors present at a meeting where a quorum is present. Articles of Amendment must be adopted in accordance with Texas law. These Bylaws may be amended at any time by a vote of the majority of Directors at a meeting where a quorum is present. In addition, any Articles of Amendment or amendments to these Bylaws must also be approved by each Appointing Authority to become effective.

(5) Fiscal Year

The fiscal year for the Corporation will be the calendar year, January 1 to December 31.

(7) Audit

The Corporation shall have an annual audit to be completed by April 30 of each year for the previous fiscal year by a certified public accountant.

**CERTIFICATION**

I hereby certify that these Bylaws were adopted by the Board of Directors of Texas Community Capital, Inc. at its meeting held on \_\_\_\_\_ and were also approved by each Appointing Authority.

\_\_\_\_\_  
Secretary

## **Accounting Report on Bank Depository Services Contract**

**January 29, 2010**

### ***Agenda Item:***

Presentation, Discussion and Possible Approval of Bank Depository Services Contract Award.

### ***Background:***

Bank of America, N.A. has served as the Corporation's primary bank since 2003. In keeping with the Corporation's policy to periodically evaluate all contracted services, a Request for Proposals (RFP) for bank depository services was issued on November 26, 2009. Two proposals were received in response to the RFP. The Corporation established the following overall objectives in the RFP as a guide in evaluating proposals.

- Banking services costs and earnings potential
- Responsiveness and ability to provide services and reports required
- Earnings potential
- Experience, references, and continuity of the bank and bank officials
- Creditworthiness and stability of the bank

Patterson & Associates, the Corporation's investment advisor, assisted in the preparation of the RFP and the evaluation of proposals received.

### ***Staff Recommendation:***

Staff recommends that the Board approve the contract award for bank depository services to Frost Bank.



## **INVESTMENT POLICY**

*(Approval February 13, 2009)*

**TEXAS STATE AFFORDABLE HOUSING CORPORATION**

**INVESTMENT POLICY**

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**ATTACHMENT A: CERTIFICATION OF INVESTMENT POLICY**

# TEXAS STATE AFFORDABLE HOUSING CORPORATION

## INVESTMENT POLICY

### I. POLICY

It is the policy of Texas State Affordable Housing Corporation (the “Corporation”) to invest public funds in a manner which will fulfill, by priority, the following objectives:

- A. Safety of principal;
- B. Sufficient liquidity to meet the Corporation's cash flow needs;
- C. Diversification to reduce market and credit risk;
- D. A market rate of return for the risk assumed; and
- E. Compliance with all applicable state statutes governing the investment of public funds, including (i) the Corporation's enabling legislation, Texas Government Code, Section 2306, Subchapter Y, and (ii) the Public Funds Investment Act (the “Act”), Texas Government Code, Section 2256.

### II. SCOPE

This Investment Policy (“Policy”) applies to all financial assets of the Corporation, except for any promissory notes payable to the Corporation.

### III. PRUDENCE

- A. Prudent Person Standard - Investments shall be made with judgment and care under circumstances then prevailing which persons of prudence, discretion and intelligence exercise in the management of their own affairs; not for speculation, but for investment, considering the probable safety and liquidity of their capital as well as the probable income to be derived.
- B. The standard of prudence to be used by the Investment Officer shall be the “prudent person” standard and shall be applied in the context of managing an overall portfolio. Investment Officers (hereinafter defined) acting in accordance with the Policy and written procedures and exercising due diligence shall be relieved of personal liability for an individual security's credit risk or market price changes, provided that deviations from expectations are reported in a timely fashion and appropriate action is taken to control adverse developments.

#### **IV. OBJECTIVES**

The investment portfolio shall be designed with the objective of obtaining reasonable yield throughout budgetary and economic cycles commensurate with the Corporation's investment risk constraints and cash flow needs. A maximum dollar-weighted average maturity (WAM) will be ~~six (6) months~~ one year which is based on the historic cash flows. A benchmark for risk in the portfolio shall be the six-month U.S. Treasury Bill mirroring that WAM. The following are the primary objectives of investment activities in order of priority:

##### **A. Safety of Principal**

Preservation and safety of principal is the foremost objective of the investment program. Investments of the Corporation shall be undertaken in a manner that seeks to ensure the preservation of capital. The principal will be protected by limiting credit risk through purchase of high credit quality securities and limiting interest rate risk through a structured portfolio which addresses projected cash flow requirements.

##### **B. Liquidity**

Liquidity risk is the risk that funds will not be available to pay liabilities or the inability to sell a security for needed cash. To protect liquidity needs the Corporation will prepare a cash flow analysis to direct investments and limit its maximum final stated maturity to three years. The Corporation's investment portfolio shall contain a liquidity buffer to meet all unanticipated cash flow needs. In addition, securities with active secondary or resale markets will be used to meet unanticipated liabilities.

##### **C. Diversification**

The Corporation shall diversify its portfolio to eliminate the risk of loss resulting from over-concentration of assets in a specific maturity, a specific issuer or a specific class of investments. Investment shall always be selected that provide for stability of income and reasonable liquidity.

##### **D. Yield**

The Corporation's investment portfolio shall be designed with the objective of attaining a reasonable market yield throughout budgetary and economic cycles, taking into account the investment risk constraints and cash flow needs of the Corporation. Return on investment is of less importance than the safety and liquidity of the investments. Reasonable yield shall be obtained through competitive bidding on all transactions and comparative analysis of all market alternatives available within the parameters of this Policy.

## V. INVESTMENT STRATEGY

- B. The Corporation may commingle its operating funds for maximum investment efficiency and economy of scale. Interest will be distributed as applicable among the funds. The authorized securities, investments or pools utilized for this portfolio will be of the highest credit quality and marketability supporting the Corporation's objectives of safety, liquidity, diversification, and yield.
- C. Securities, when not matched to a specific liability, will be short-term and of a liquid nature to provide adequate cash flow for the Corporation. The portfolio shall be diversified to protect against credit and market risk in any one sector. Diversification requirements can be fully met through use of an authorized pool. The weighted average maturity on the pooled investment group will be no greater than ~~six (6) months~~one year. Because the funds are pooled for investment purposes, the portfolio will address the varying needs of all funds in the pooled fund.

## VI. DELEGATION OF AUTHORITY AND RESPONSIBILITY

### A. Board of Directors

1. The Board of Directors of the Corporation (the "Board") shall establish the Corporation's investment policy and objectives, review and adopt the Policy and strategies in accordance with State law annually, obtain such expert advice and assistance with respect to its actions as is necessary to exercise its responsibilities prudently, and monitor the actions of staff and advisors to ensure compliance with this Policy. It is the Board's intention that this Policy be carried out by those persons who are qualified and competent in their areas of expertise.

The Board shall also review and adopt the list of eligible broker/dealers annually and shall receive and review the quarterly investment report. The Board shall designate the Investment Officer by resolution, which shall remain effective until rescinded by the Board or the termination of the Investment Officer's employment by the Corporation. The Board shall also provide for the training required for Investment Officers.

2. The delegation of authority as provided below in no way diminishes the Board's ultimate responsibility as the funds' fiduciary.
3. Each member of the Board shall attend at least one training session relating to the person's responsibilities under the Act within six months after taking office or assuming duties. Training under this section may be provided by the Texas Higher Education Coordinating Board and include investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, compliance with the Act and compliance with this Policy.

## **B. Investment Officer(s)**

1. The authority to manage the Corporation's investment program is granted to the Chief Executive Officer (CEO) or the President when the CEO and the President is not the same individual. The Board designates the investment officer by resolution along with the responsibility for the operation of the investment program to the Chief Financial Officer as the designated "Investment Officer".
2. The Investment Officer shall be responsible for all transactions undertaken and shall establish internal controls to regulate the activities of subordinate officials. Procedures should include reference to safekeeping, delivery vs. payment, investment accounting, repurchase agreements, wire transfer agreements, collateral/depository agreements and banking service contracts. Such procedures may include explicit temporary delegation of authority to persons responsible for investment transactions.
3. The Investment Officer shall establish written procedures for the operation of the investment program consistent with this Policy.
4. The Investment Officer shall attend ten (10) hours of training within twelve (12) months of assuming the position and in each succeeding two-year period and may receive the training from any independent source approved by the Board. Training is to include investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with the Act.
5. The Investment Officer may temporarily delegate investment responsibilities to subordinate staff. Subordinate staff members must have a clear understanding of their authority and responsibilities to avoid improper actions.
6. No person may engage in an investment transaction except as provided under the terms of this Policy and the procedures established by the Investment Officer.

## **VII. ETHICS AND CONFLICT OF INTEREST**

- A.** If an Investment Officer of the Corporation has a personal or business relationship with a business organization offering to engage in an investment transaction with the Corporation (as described in Section 2256.005(i) of the Act), the Investment Officer shall file a statement disclosing that personal business interest with the Board and the Texas Ethics Commission.
- B.** An Investment Officer who is related within the second degree by affinity or consanguinity to an individual seeking to sell an investment to the Corporation shall file a statement disclosing that relationship with the Board and the Texas Ethics Commission.

## VIII. AUTHORIZED BROKER/DEALERS AND FINANCIAL INSTITUTIONS

- A. The Corporation shall maintain a list with a minimum of three qualified broker/dealers and financial institutions authorized to engage in investment transactions with the Corporation. This list of qualified brokers shall be reviewed, revised and adopted at least annually by the Board.
- B. Broker/dealers shall, at a minimum, provide information as required by the Investment Officer and provide evidence of Securities and Exchange Commission (SEC) registration and Financial Industry Regulatory Agency (FINRA) membership. Information on the counter-parties shall be maintained by the Investment Officer or Investment Adviser.
- C. Any person/firm (banks, broker/dealers and pools) offering to engage in an investment transaction with the Corporation shall be provided a copy of this Policy. Material changes to the Policy will require re-certification by all counter-parties. A certification in the form attached as Attachment A hereto or in any other form acceptable to the Corporation (a "Certification") shall affirm that the person/firm:
  - 1. Has received and reviewed this Policy; and
  - 2. Acknowledged that the business organization has implemented reasonable procedures and controls in an effort to preclude investment transactions that are not authorized by this Policy, except to the extent that this authorization is dependent on an analysis of the makeup of the entire portfolio or requires an interpretation of subjective investment standards.
- D. The Investment Officer of the Corporation may not buy any securities from a person who has not delivered the signed Certification to the Corporation.
- E. The brokerage subsidiary of the Corporation's depository banking services bank shall not be used for purchase of securities in order to perfect delivery versus payment (DVP).
- F. No less than every five years, the Corporation shall, through a competitive process chose a banking services institution to serve as its primary depository and a custodian for Corporation owned securities.

## IX. AUTHORIZED INVESTMENTS

- A. Notwithstanding any grant or program limitations to the contrary, the following are authorized investments of the Corporation:
  - 1. **Obligations of the U.S. Government, its agencies and instrumentalities** including collateralized mortgage obligations (CMO). Debentures shall have a

stated maturity not to exceed three (3) years. CMOs shall have a stated maturity not to exceed ten (10) years.

2. **Certificates of Deposit** issued by any state or national bank doing business in the State of Texas or a savings bank doing business in the State of Texas and are:
  - a. Guaranteed or insured by the Federal Deposit Insurance Corporation (FDIC) or its successor;
  - b. Secured by obligations of the US Government, its agencies and instrumentalities as further defined in Section XIII of this Policy; and
  - c. Have a stated maturity not to exceed one year.
3. **Fully collateralized repurchase agreements** and reverse repurchase agreements which:
  - a. Have a defined termination date and are executed under the terms of a written Master Repurchase Agreement;
  - b. Are secured by collateral defined in Section XIII of this Policy and held by an independent safekeeping agent approved by the Corporation;
  - c. Require that the securities being purchased be held in the Corporation's name by an independent custodian approved by the Corporation; and
  - d. Are executed with a primary government securities dealer, as defined by the Federal Reserve;

The term of any reverse security repurchase agreement may not exceed 90 days after the date of the reverse. Money received by the Corporation from the reverse security repurchase agreement may be used to acquire authorized investments, but the maturity date of the investment acquired must not be later than the expiration date of the reverse

4. **SEC registered money market mutual funds.**
  - a. A money market mutual fund is an authorized investment if the fund:
    - i. Is registered with and regulated by the Securities and Exchange Commission;
    - ii. Has a dollar-weighted average stated maturity of 90 days or fewer; and
    - iii. Includes in its investment objectives the maintenance of a stable net asset value of \$1 for each share.

- b. The Corporation is not authorized to invest its funds or funds under its control in any money market mutual fund in an amount that exceeds 10 percent of the total assets of the mutual fund.
- 5. **Commercial Paper.** Commercial paper is an authorized investment if it:
  - a. Has a stated maturity of ninety (90) days or fewer to its stated maturity; and
  - b. Is rated not less than A-1/P-1 or equivalent by at least two nationally-recognized credit rating agencies,
- 6. **Uncollateralized Guaranteed Investment Contracts.** For funds that are pledged under a trust indenture for bonds issued by the Corporation, investment securities that are permitted under the terms of such trust indenture, including, but not limited to, uncollateralized investment agreements.
- 7. **Texas Local Government Investment Pools.** Permitted constant dollar investment pools, as defined by the Act, are authorized under this policy if the investment pool:
  - a. Is created to function as a money market mutual fund, marks its portfolio to market daily and strives to maintain a \$1 net asset value.
  - b. If it is rated not less than AAA or AAA-m or equivalent rating by at least one nationally recognized rating service.
- B.** No additional securities or investments are authorized for Corporation use until this Policy has been amended and the amended policy has been adopted by the Board.
- C.** All investment transactions shall require competitive bidding.
- D.** To minimize loss of principal, securities which are downgraded in credit or become unauthorized after purchase should be monitored on a daily basis and may be sold prior to maturity after a prudent analysis of market conditions.
- E.** Security swaps may be utilized for improvement in the quality, yield, or target duration in the portfolio but only if analysis proves a positive horizon value for the swap.
- F.** Any investment held prior to changes in this Policy that does not meet the guidelines of this Policy shall be exempted from the requirements of this Policy. However, at maturity or liquidation, such monies shall be reinvested only as provided by this Policy.

## X. UNAUTHORIZED INVESTMENTS

The following are not authorized investments:

- A. Interest only obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal (IO);
- B. Principal only obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest (PO); and
- C. Collateralized mortgage obligations that have a stated final maturity date of greater than 10 years.
- D. Inverse floating collateralized mortgage obligations, the interest rate of which is determined by an index that adjusts opposite to the changes in a market index (Inverses).

## XI. DIVERSIFICATION

The Corporation will diversify its investments by security type and institution. With the exception of U.S. Treasury securities, no more than 50% of the Corporation's total investment portfolio will be invested in a single security type or single issuer.

General diversification parameters will include:

<u>Type of Obligation</u>	<u>Maximum Percentage of Total Portfolio</u>
U.S. Obligations	80%
Obligations of U.S. Agencies	80%
Certificates of Deposit (total)	<del>45</del> 60%
Certificates of Deposit (by institution)	<del>10</del> 5%
Repurchase Agreements	30%
Money Market Mutual Funds	25%
Commercial Paper (total)	30%
Commercial Paper (by issuer)	10%
Local Government Pool	75%
Banking Accounts	80%

## **XII. EFFECT OF LOSS OF REQUIRED RATING**

An investment that requires a minimum rating under this Policy does not qualify as an authorized investment during the period the investment does not meet or exceed the minimum rating. The Corporation shall take prudent measures that are consistent with its Policy to evaluate possible liquidation of an investment that does not meet or exceed the minimum rating as market conditions dictate (Act Section 2256.021). However, the Corporation is not required to liquidate investments that were authorized at the time of purchase (Act Section 2256.017).

## **XIII. COLLATERALIZATION**

Collateralization will be required on all time and demand accounts above FDIC insurance levels and on repurchase agreements. In order to anticipate market changes and provide a level of security for all funds, the collateralization margin level will be 102%.

- A.** For time and demand deposits the following securities are authorized as pledged collateral:
  - 1. Obligations of the United States or its agencies and instrumentalities including mortgage backed securities meeting the bank test;
  - 2. Direct obligations of the State of Texas or its agencies and instrumentalities;
  - 3. Other obligations, the principal and interest of which are unconditionally guaranteed or insured by or backed by the full faith and credit of Texas or the United States or their respective agencies and instrumentalities; and
  - 4. Obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent.
- B.** For repurchase agreements, obligations of the U.S. Government, its agencies and instrumentalities including mortgage backed securities are authorized as collateral owned under the transaction:
- C.** Collateral shall always be held in safekeeping by an independent third party with whom the Corporation has a current custodial agreement executed under the terms of FIRREA (time and demand deposits). A clearly marked evidence of pledge or ownership must be supplied to the Corporation and retained. The Corporation shall grant the right of collateral substitution, subject to receiving prior approval from the Investment Officer.

- D. It shall be the contractual liability of the counter-party pledging or selling the securities to monitor and maintain the appropriate 102% margin at all times.
- E. The custodian of the collateral shall provide an independent, detailed listing of the collateral on a monthly basis.

#### **XIV. SAFEKEEPING AND CUSTODY**

All securities owned by the Corporation will be held by an independent third party custodian approved by the Corporation and under a current custody agreement.

All security transactions will be executed on a Delivery vs. Payment (DVP) basis. This ensures that securities are deposited prior to the release of funds. Securities will be held by an independent third-party custodian and evidenced by safekeeping receipts.

#### **XV. INTERNAL CONTROLS**

##### **A. Internal Controls**

The Investment Officer is responsible for establishing and maintaining internal controls to ensure that the assets of the Corporation are protected from loss, theft, or misuse. The internal controls shall address the following points:

1. Control of collusion,
2. Separation of transaction authority from accounting and record keeping.
3. Custodial safekeeping.
4. Clear delegation of authority to subordinate staff members.
5. Written confirmation of all transactions.

In developing controls, the concept of reasonable assurance recognizes that:

1. The cost of control should not exceed the benefits likely to be derived; and
2. The valuation of costs and benefits requires estimates and judgments by management.

## **B. Compliance Audit**

At least once every two years, the Corporation shall arrange for a compliance audit of management controls on investments and adherence to this Policy and the Act.

1. The compliance audit shall be performed by the Corporation's internal auditor or by a private auditor.
2. The results of the audit performed under this section shall be presented to the Board.
3. The Corporation shall report the results of the audit performed under this section to the Office of the State Auditor not later than January 1 of each even-numbered year. The report shall be prepared in a manner as prescribed by the Office of the State Auditor.
4. The Corporation shall also report to the Office of the State Auditor other information the state auditor determines necessary to assess compliance with laws and policies applicable to the Corporation's investment.

## **C. Wire Transfers**

All wire transfers will be transacted under a written agreement and, if possible, require two sign-offs. This agreement shall delineate controls, security provisions, and responsibilities of each party.

# **XVI. REPORTING**

## **A. Quarterly Reports**

At least quarterly, the Investment Officer shall prepare and present to the Board an investment report, including a summary that provides a clear picture of the status of the current investment portfolio and transactions made over the last quarter. This investment report will be prepared in a manner, which will allow the Board to ascertain whether investment activities during the reporting period have conformed to the Policy. The report must:

1. Describe in detail the investment position on the date of the report;
2. Be prepared jointly by all Investment Officers;
3. Be signed by each Investment Officer;
4. Be prepared in compliance with Generally Accepted Accounting Principles (GAAP) for each fund that states:
  - a. The stated maturity date and call or reset date of each security;

- b. The book value and market value of each security at the beginning and end of the reporting period by type and market sector;
  - c. Additions and changes in market value during the period;
  - d. Fully accrued interest and total earnings for the reporting period;
  - e. State the fund or pooled group for which each individual investment was acquired; and
5. State the compliance of the investment portfolio as it relates to the investment strategy expressed in this Policy and the Act.

#### **B. Audit Report**

An independent auditor shall formally review the investment reports prepared by the Investment Officer under this Policy at least annually and that auditor shall report the result of the review to the Board.

#### **C. Performance Standards**

The investment portfolio will be managed in accordance with the parameters specified within this Policy and the cash flow analysis. The maximum dollar weighted average maturity of the portfolio is six months. In order to measure performance and the level of risk in the portfolio, a benchmark of the six-month Treasury Bill for the comparable period will be reported quarterly.

#### **D. Market Value**

The Investment Officer will obtain market prices used to calculate market value from independent, recognized published sources or from other qualified professionals.

#### **E. Changes to Public Funds Investment Act**

The Investment Officer shall present to the Board a report on changes to the Act no later than 180 days after the last regular session of the legislature.

### **XVII. INVESTMENT POLICY ADOPTION**

The Investment Policy shall be reviewed and adopted by resolution of the Board at least annually. The Board must approve and adopt any amendments made thereto. The Board shall adopt by written resolution a statement that it has reviewed the investment policies and strategies and note any changes made.

**ATTACHMENT A**

**CERTIFICATION OF RECEIPT AND REVIEW OF  
TEXAS STATE AFFORDABLE HOUSING CORPORATION INVESTMENT POLICY**

As a qualified representative of the Firm \_\_\_\_\_ (name of "Firm").

I, and the broker covering the account, acknowledge that we have received and reviewed the Corporation's Investment Policy dated \_\_\_\_\_.

We acknowledge that the Firm has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Firm and the Corporation that are not authorized by the Corporation's Investment Policy, except to the extent that this authorization is dependent on an analysis of the Corporation's entire portfolio or requires an interpretation of subjective investment standards.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

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

**Texas State Affordable Housing Corporation  
Authorized Broker/Dealer List**

*(Submitted for Approval January 29, 2010)*

The authorized broker/dealer list for Texas State Affordable Housing Corporation is shown below. Each of these firms, and the individual covering the account, has been or will be sent the Investment Policy. In accordance with the Public Funds Investment Act (TX Gov't Code 2256.005(k)) before any broker/dealer transacts business with the Corporation it will have had to certify in writing to a review of the Policy and have certified that procedures are in place to assure compliance with that Policy. Attachment A of the Policy is the certification form used for this purpose.

The Corporation's Policy establishes specific criteria for the brokers and requires that the list of broker/dealers be approved annually by the Board. Patterson & Associates maintains the brokerage compliance files for the Corporation.

When any material changes are made to the Investment Policy the new Policy is sent out for re-certification.

1. Barclay's Capital
2. Citigroup
3. Merrill Lynch
4. Mizuho Securities
5. Wells Fargo
6. Morgan Keegan
7. Stiefel Nicolaus
8. Vining Sparks



TEXAS STATE AFFORDABLE HOUSING CORPORATION  
2010 ANNUAL ACTION PLAN

# TEXAS STATE AFFORDABLE HOUSING CORPORATION

## ANNUAL ACTION PLAN 2010

According to Section 2306.0721(7), the Texas State Affordable Housing Corporation (“Corporation”) Annual Action Plan must be included as part of the 2010 State Low Income Housing Plan (“SLIHP”).

### OVERVIEW

This report is prepared in accordance with Texas Government Code, Section 2306.566, which requires the Texas State Affordable Housing Corporation (“Corporation”) to develop a plan to address the state’s housing needs and provide the plan to the Texas Department of Housing and Community Affairs (“TDHCA”) for incorporation into the resource allocation plans in the State Low Income Housing Plan (“SLIHP”). In accordance with Section 2306.0722(n), TDHCA will provide the needs assessment information compiled for the report and plan to the Corporation. Additionally, the Corporation's plan must include specific proposals to help serve rural and other underserved areas of the state. Sec. 2306.566 of the Texas Government Code reads:

*COORDINATION REGARDING STATE LOW INCOME HOUSING PLAN.*

*The corporation shall review the needs assessment information provided to the corporation by the department under Section 2306.0722(b).*

*The corporation shall develop a plan to meet the state's most pressing housing needs identified in the needs assessment information and provide the plan to the department for incorporation into the state low income housing plan.*

*The corporation's plan must include specific proposals to help serve rural and other underserved areas of the state.*

### HISTORY OF THE CORPORATION

The Texas State Legislature created the Corporation as a self-sustaining non-profit entity to facilitate the provision of affordable housing for low-income Texans who do not have comparable housing options through conventional financial channels. Enabling legislation, as amended, may be found in the Texas Government Code, Chapter 2306, Subchapter Y, Sections 2306.551 et seq. All operations of the Corporation are conducted within the state of Texas. Corporate offices are located in Austin, Texas. A five-member board of directors appointed by the Governor with the advice and consent of the Senate oversees the business of the Corporation.

The Corporation issues mortgage revenue bonds and private activity bonds to finance the purchase and creation of affordable housing. Over the course of its history, the Corporation has utilized over \$338 million in single family and approximately \$540 million in multifamily bonding authority.

The following four programs allow homebuyers to finance the purchase of single family homes: (1) the Professional Educators Home Loan Program, (2) the Fire Fighter, Law Enforcement or Security Officer and Emergency Medical Services Personnel Home loan Program (more commonly referred to as the Homes for Texas Heroes Program), (3) the Home Sweet Texas Loan Program, and (4) the Mortgage Credit Certificate Program. The Corporation has served over 3000 income eligible individuals and/or families through its single family first-time homebuyer programs. These programs are provided at no cost

to the state and its taxpayers. The Corporation does not receive any state funding and is not subject to the legislative appropriations process.

The Corporation is organized, operated and administered in accordance with its enabling legislation as a 501(c)(3) nonprofit corporation in order to access additional sources of funding to accomplish its mission. The Corporation is an approved originating seller/servicer for single family loans with Fannie Mae, Freddie Mac, Ginnie Mae, U.S. Rural Development, FHA and VA. The Corporation has conduit sales agreements with Bank of America Home Loans and Wells Fargo Funding and with the Community Development Trust, Inc., for multifamily mortgage loans. The Corporation is also an associate member borrower of the Federal Home Loan Bank of Dallas.

## NEEDS ASSESSMENT REVIEW

According to an analysis of the Texas Department of Housing and Community Affairs' (TDHCA) Needs Assessment and other published studies on the subject, the following represent the most pressing housing needs in the state:

### GENERAL HOUSING NEEDS

- Between 2002 and 2008, Texas' population increased approximately 14.6 percent. The total population estimate for January 1, 2009 is 23,705,962 and it is expected to continue to grow, with projections putting the state's population at 35.7 million by 2040.<sup>1</sup>
- The population in Texas is also becoming older. In 2009, the percentage of the population that was 65 years or older was 10.3 percent. That number is expected to increase to 18.0 percent by 2040. Additionally, the American Community Survey found that 45.3 percent of those 65 years or older had a disability. Furthermore, 56 percent of older Texans spend more than 30 percent of their income on housing.<sup>2</sup>
- Based on the information found in the State's Needs Assessment, the expected rise of Texans older than 65 years-old will increase the demand for affordable senior housing and barrier removal or home modification programs.
- The ethnic makeup of the state's population is also expected to change in the next 30 years. It is projected that the Anglo percentage of the overall population will increase by 0.2 percent between 2009 and 2040, while the Hispanic population is expected to increase by 53.1 percent and the Black population by 20 percent in the same period.<sup>3</sup>
- Historically, there's been a substantial difference in income levels between Anglos and Blacks and Hispanics. Poverty levels among Blacks is 24.7 percent and 21.2 percent among Hispanics, both significantly higher than the 10.5 percent poverty level among Anglos.<sup>4</sup> Consequently, the Corporation anticipates that the need for affordable housing in Texas will increase with the projected change in our state's demographics.
- As a result of the growing population, housing demands will change substantially in the coming years with both owner and renter housing growing at nearly equal rates.<sup>5</sup>

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<sup>1</sup> Texas Department of Housing and Community Affairs, Center for Housing Research, Planning and Communications, 2010 State of Texas Low Income Housing Plan and Annual Report (Austin, TX: Texas Department of Housing and Community Affairs, 2009).

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> Texas A&M University, Center for Demographic and Socioeconomic Research and Education, *A Summary of the Texas Challenge in the Twenty-First Century: Implications of Population Change for the Future of Texas*, 2002.

- Affordable housing is in short supply for the extremely low, very low, low and moderate income brackets, which was caused primarily by the private sector's concentration of development, both single family and multifamily development, in larger metropolitan areas and targeting higher income individuals and families.<sup>6</sup>
- Many HUD-financed or HUD-subsidized properties, which represent a significant portion of the state's affordable housing portfolio, are at risk of becoming market rate properties.<sup>7</sup>

## SINGLE FAMILY HOUSING NEEDS

The Corporation administers the Professional Educators, Homes for Texas Heroes, and Home Sweet Texas Loan Programs. The programs are available statewide on a first come, first-served basis, to first-time homebuyers who wish to purchase a newly constructed or existing home.

- Texas is expected to add nearly 3.8 million more students over the next 40 years creating a high demand for educators.<sup>8</sup>
- The Texas nursing education system is operating close to capacity and faces several impediments to producing more graduates—faculty shortages due to retirement, inadequate salaries and fewer faculty applicants.<sup>9</sup>
- Lack of funds for down payment and closing costs has created one of the greatest obstacles that prevent first-time homebuyers of low-to-moderate-income families, such as the teachers, police officers and firefighters, from achieving the American dream of owning a home.<sup>10</sup>

## MULTIFAMILY HOUSING NEEDS

- Renter households are, on average, a lower income group than owner households. More than 37 percent of renter households earn less than 50 percent of the Area Median Family Income, compared to only 16.3 percent of owner households. As a result, renter households are more likely to be in need of housing assistance.<sup>11</sup>
- According to the results of the 2006 Community Needs Survey distributed by TDHCA to cities, counties, local housing departments, public housing authorities and the US Department of Agriculture/Rural Development field offices, approximately 35 percent of respondents indicated that their community's greatest need was the construction of new rental units.<sup>12</sup>
- The lack of affordable housing opportunities leads to severe and extreme housing cost burdens for lower-income groups; in particular, extremely low-income renter households.<sup>13</sup>
- Overcrowding may indicate a general lack of affordable housing in a community and lower income renter households experience overcrowded conditions more frequently than higher income households.<sup>14</sup>

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<sup>6</sup> Texas Department of Housing and Community Affairs, Center for Housing Research, Planning and Communications, 2005 State of Texas Low Income Housing Plan and Annual Report (Austin, TX: Texas Department of Housing and Community Affairs, 2004).

<sup>7</sup> Ibid.

<sup>8</sup> Texas A&M University, Center for Demographic and Socioeconomic Research and Education, *A Summary of the Texas Challenge in the Twenty-First Century: Implications of Population Change for the Future of Texas*, 2002.

<sup>9</sup> Health and Nurses in Texas – The Future of Nursing: Data for Action (Vol. 3 No. 1. 2000. San Antonio, TX: The Center for Health Economics and Policy (CHEP), the University of Texas Health Science Center at San Antonio).

<sup>10</sup> National Association of Home Builders, *News Details; March 24, 2004*.

<sup>11</sup> Texas Department of Housing and Community Affairs, Center for Housing Research, Planning and Communications, 2005 State of Texas Low Income Housing Plan and Annual Report (Austin, TX: Texas Department of Housing and Community Affairs, 2004).

<sup>12</sup> Texas Department of Housing and Community Affairs, Center for Housing Research, Planning and Communications, 2010 State of Texas Low Income Housing Plan and Annual Report (Austin, TX: Texas Department of Housing and Community Affairs, 2009)

<sup>13</sup> Ibid.

- In the 2005-2009 State of Texas Consolidated Plan, it is estimated that 2 million people or 9.9 percent of the total population are 65 years of age and older. The Texas Department of Aging and Disability Services estimate that by year 2040, individuals age 60 and over will comprise 23 percent of the population in Texas. Though the majority of the elderly Texans live in urban areas, rural areas have a higher percentage of elderly relative to the local population. According to the 2000 Census, 13.1 percent of seniors age 65 and over in Texas live below the poverty level. Approximately 30 percent of all elderly households pay more than 30 percent of their income on housing with 14 percent paying more than 50 percent of their income on housing. Lower incomes combined with rising healthcare costs contribute to the burden of paying for housing.<sup>15</sup>
- There is a shortage of affordable housing in the extremely low, very low, low and moderate income brackets. This is primarily caused by the private sector's concentration of development in larger metropolitan areas and targeting higher income individuals and families.<sup>16</sup> Cities with populations between 20,000 and 50,000 have a particularly hard time accessing funds. They cannot access USDA funding and are too small to effectively compete for other funding opportunities.<sup>17</sup>
- According to the US Census Related Comprehensive Housing Affordability Strategy (CHAS) Data, there are approximately 2,903,671 people living in rural areas of Texas. Of these, 574,843 people or 20 percent are living below the poverty level; 83,454 low-income households live with the cost burden of paying more than 30 percent of their income on housing expenses; 26,999 occupied units are "overcrowded"; and 5,211 units were found to have substandard conditions such as lack of piped water, utilities and waste facilities.<sup>18</sup>
- Preservation of existing affordable and subsidized housing stock is an important element of providing safe, decent and affordable housing. The explosive population growth in the metropolitan areas as well as the lack of new construction during the late 80's and early 90's created a huge demand for housing at all income levels. Adding to this problem is the loss of units in the federally subsidized Section 8 portfolio, the USDA/Rural Development portfolio and the pools of tax credit units that have reached their 15 year affordability periods. The USDA/Rural Development portfolio contains smaller rural rental properties which, in many cases, represent the sole affordable housing stock in Texas' smallest towns.<sup>19</sup>
- As of the most recent statistical information available, there were 2,676,060 renter occupied housing units in Texas. Eighty-four percent of these were constructed before 1990 with the highest production of rental housing (50.8 percent) built between 1970 and 1989. Therefore, the majority of rental housing stock in Texas is between 15-35 years old and may be in need of some type of moderate to substantial rehabilitation in order to preserve its functionality.<sup>20</sup>

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<sup>14</sup> Ibid.

<sup>15</sup> Texas Department of Community Affairs, 2005-2009 State of Texas Consolidated Plan (Austin, Texas, February 2005).

<sup>16</sup> Texas Department of Housing and Community Affairs, Strategic Plan for Fiscal Years 2005-2009.

<sup>17</sup> Texas Department of Housing and Community Affairs, Report on the 2004 Regional Advisory Committee Meetings on Affordable Housing and Community Services Issues, November 2004.

<sup>18</sup> 2000 U.S. CHAS Data, Texas Department of Housing and Community Affairs

<sup>19</sup> Texas Department of Community Affairs, 2005-2009 State of Texas Consolidated Plan (Austin, Texas, February 2005).

<sup>20</sup> 2000 U.S. Census Data

## CORPORATION PROGRAM DESCRIPTIONS

### SINGLE FAMILY MORTGAGE REVENUE PRIVATE ACTIVITY BOND PROGRAMS

The Corporation administers the Professional Educators, Homes for Texas Heroes, and Home Sweet Texas Loan Programs. These Programs are the Corporation's Single Family Mortgage Revenue Private Activity Bond Programs. The first two Programs were established by the Legislature in 2001 and 2003 respectively, and allocate approximately \$60 million of the State's Ceiling for Private Activity Bond Cap for the exclusive purpose of making single family mortgage loans to Texas Professional Educators (\$30 million) and Fire Fighters, EMS Personnel, Law Enforcement Officers Corrections Officers, and Public Security Officers (\$26 million) who are first-time home buyers.

In 2006 the Corporation created the Home Sweet Texas Loan Program which is funded by applying for bond cap after the collapse of the set-asides for all state issuers of bonds. The Home Sweet Texas Loan Program is available statewide with no professional requirements to those at or below 80 percent of the AMFI.

The Programs are available statewide on a first come, first-served basis, to first-time homebuyers who wish to purchase a newly constructed or existing home. Borrowers must meet income and purchase price limits set by the Corporation, while meeting standard mortgage underwriting requirements demonstrating credit worthiness. The borrower must also occupy the purchased home as his or her primary residence.

Through each Program, eligible borrowers are able to apply for a 30 year fixed rate mortgage loan and may receive down payment assistance in the form of a grant. The programs are accessible to eligible borrowers by directly contacting a trained, participating mortgage lender.

Since the inception of both the Professional Educator Home Loan Program in 2001 and the Fire Fighter and Law Enforcement or Security Officer Home Loan Program in 2003, the Corporation has only seen the demand for these programs increase. Over 2800 individuals and families have become homeowners through the assistance offered by the Corporation.

Given the volatility of the bond market in 2008 and 2009, the Corporation was not able to issue mortgage revenue bonds for its first-time homebuyers. In an effort to continue serving our homebuyers, the Corporation converted its bonding authority into mortgage credit certificates, thus establishing the Mortgage Credit Certificate (MCC) Program. Through the MCC Program an annual tax credit is made available to the same qualifying homebuyers mentioned above. With an MCC, the qualified homebuyer is eligible to take a portion of the annual interest paid on the mortgage as a special tax credit, up to \$2,000, each year that they occupy the home as their principal residence. An MCC has the potential of saving the homebuyer thousands of dollars over the life of the loan.

To date \$125 million in bonding authority has been converted which has served 395 first-time homebuyers.<sup>21</sup> The Corporation plans on serving over 745 first-time homebuyers under this program.

### 2010 IMPLEMENTATION PLAN

The Corporation's primary goal for 2010 will be to continue to develop a financing structure that minimizes the Programs' mortgage interest rate and offers the best possible down payment assistance grant to the borrowers. Down payment assistance is especially critical when the spread between conventional mortgage rates and tax-exempt mortgage rates have reached historical lows. If the

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<sup>21</sup> As of December 8, 2009.

Corporation is unable to issue bonds, then other avenues to assist first-time homebuyers will be explored. A continuation of the Mortgage Credit Certificate Program may be an option.

The Corporation will also continue to advertise and to receive input about the Programs by attending home builder, real estate agent, lender and the various professional trade associations' conventions and trade shows in 2010. In addition, the Corporation will continue to train and develop relationships with mortgage lenders and realtors who represent the Programs to the borrowers.

Given the demand for first-time homebuyer programs, other financing options available to the Corporation through its enabling legislation will be explored. If demand continues, the Corporation will continue to submit applications to the Texas Bond Review Board requesting additional volume cap during the collapse to serve new first-time homeowners.

## INTERIM CONSTRUCTION AND LAND ACQUISITION PROGRAM

The Corporation's Interim Construction and Land Acquisition Loan Program (the "ICAP") supports our mission to serve the housing needs of low-, very low- and extremely low-income Texans who do not have comparable housing opportunities in rural and underserved communities. The program accomplishes this by providing short-term financing for site acquisition and interim construction to non-profit and for-profit developers for the creation of affordably priced homes for Texans.

The Corporation considers proposals for land development, new construction and the rehabilitation of existing homes. All homes built using the Corporation's funding must be affordable to households earning 80% of the area median income and must be constructed to meet the Corporation's housing construction standards. Developers may also propose to build multi-unit developments such as, condominiums, town homes or cooperative developments to meet the needs of dense urban areas.

The Corporation has funded the ICAP program through the commitment of its own cash reserves, and by leveraging grants, loans and other investments from private foundations and financial institutions. Since the program's creation in 2007, the Corporation has provided \$750,000 to build 57 affordable homes in rural Texas. Loan rates for the program are generally between 4% and 7% with terms of 18 to 24 months.

## 2010 IMPLEMENTATION PLAN

Due to the national and statewide decline in home sales, the Corporation is working to double its efforts to provide new opportunities to developers under the ICAP program. The Corporation has applied for more than \$1 million in program related investments from private institutions to increase its lending corpus. Additionally, the program's marketing efforts have been successful at increasing interest in the program and we are currently considering several loan proposals for the upcoming year. The Corporation is on track to provide more than \$1 million in loans to create more than 100 affordably priced homes for Texans in 2010.

## AFFORDABLE COMMUNITIES OF TEXAS PROGRAM

The Affordable Communities of Texas (the "ACT") program was launched at the end of 2008 and has been working through a pilot stage in 2009. The program's primary purpose is to stabilize home prices in communities hardest hit by foreclosures by working with locally based nonprofit and government agencies to acquire and rehabilitate foreclosed homes. The ACT program will create and manage land banks in more than 14 communities in the coming year with support through the Neighborhood Stabilization Program (the "NSP").

The Corporation committed \$100,000 of its cash reserves to operate the pilot phase of the ACT program and has been successful at raising \$5 million in federal grants from the State of Texas' NSP program. At the end of 2010 fourteen local partners had been qualified for participation and in the program. The Corporation anticipates being able to acquire more than 100 foreclosed homes and vacant lots that will benefit households earning 80% of the area median income and below.

#### 2010 IMPLEMENTATION PLAN

The ACT program will be focused on the successful implementation of its NSP grant from the State of Texas during 2010. The Corporation has also submitted an application for NSP funding directly to the U.S. Department of Housing and Urban Development ("HUD") for an additional \$36 million in funding. The Corporation has been working with several private foundations and banking institutions to leverage its NSP funding for additional capital to finance the construction and rehabilitation of foreclosed properties acquired under the ACT program. For 2010, the Corporation anticipates purchasing more than 100 homes using its NSP funds from the State of Texas and more than 500 additional homes if funding from HUD is awarded.

#### MULTIFAMILY PRIVATE ACTIVITY BOND PROGRAM

In 2003, The Texas Legislature allocated 10 percent of the State's multifamily private activity bond ("PAB") cap to the Corporation in order to target underserved housing needs in Texas. The Corporation accomplishes this purpose by releasing an annual request for proposals ("RFP") that identifies the program's targeted housing needs, scoring criteria and process of application. The Corporation released its RFP in November 2009 and has approximately \$48 million in available bond cap for 2010. Nonprofit and for profit developers apply to the program to finance the acquisition and rehabilitation, or new construction of multifamily residential rental developments that serve low and very-low income households. Developers are encouraged to leverage the private activity bond funds using low income housing tax credits ("HTC") available through the Texas Department of Housing and Community Affairs ("TDHCA").

#### 2010 IMPLEMENTATION PLAN

The Corporation is concerned that the lack of investment by private and public institutions in PABs will limit the effectiveness of this program in 2010. While the demand and need for affordably priced rental housing continues to grow within the State, the lack of interest shown by financial institutions and investors in affordable housing over the past 18 months continues to limit opportunities for the Corporation's PAB program. The Corporation has identified the following housing needs for targeting in 2010.

- § Preservation of Existing Affordable Rental Housing
- § Housing in Rural Communities
- § Senior and Assisted Living Developments
- § Rental Housing in Communities Affected by Hurricanes Ike and Dolly

#### MULTIFAMILY 501(c)(3) BOND PROGRAM

The Corporation's 501(c)(3) Multifamily Bond Program was created to finance the acquisition and rehabilitation, or new construction, of affordable multifamily housing units. Unlike the Corporation's

PAB program, 501(c)(3) financing does not use the limited volume cap allocation available to the State. Only qualified nonprofit developers, designated under the internal revenue code as 501(c)(3) organizations, are eligible to apply for financing, and funds may not be combined with the State's housing tax credit program.

In addition to providing safe, decent and affordable rental housing to Texas residents, recipients of 501(c)(3) financing must adopt a dollar-for-dollar public benefit program, investing at least one dollar in rent reduction, capital improvement projects, or social, educational, and economic development services, for every dollar of abated property tax revenue they receive.

#### 2009 IMPLEMENTATION PLAN

The Corporation will continue to monitor market conditions but does not anticipate issuing new bonds under this program in 2010.

#### MULTIFAMILY DIRECT LENDING PROGRAM

The Multifamily Direct Lending Program supports the Corporation's mission to promote equal access to safe, decent and affordable housing with an emphasis on serving rural and underserved markets. The program provides both short and long-term financing to non-profit and for-profit developers to develop affordable rental housing for low, very-low and extremely low-income families in Texas.

The Corporation commits its own cash reserves to leverage investments by private foundations and financial institutions. The Corporation has made more than \$8.2 million in loans since the programs creation in 2001, creating more than 1,800 affordably priced rental units. The Corporation has leveraged more than \$6.3 million in funding through investments from Wells Fargo Bank, the Federal Home Loan Bank of Dallas, and the Community Development Trust.

#### 2010 IMPLEMENTATION PLAN

The Corporation will continue to work on building up its cash reserves and ability to provide increased funding to the Multifamily Direct Lending program over the next year. In 2009, the Corporation reviewed four loan applications approved a loan to one qualified development. In 2010, we hope to increase activity, especially in rural areas of the state, and are planning to increase the lending corpus of the program by an additional \$2 million through new investments and donations.

#### ASSET OVERSIGHT AND COMPLIANCE

Asset oversight of properties is required by many bond issuers, including the Corporation and TDHCA, to monitor the financial and physical health of a property and to provide suggestions for improvement. Compliance monitoring ensures that the borrowers are providing the required number of affordable units to income eligible households and that quality resident services are being provided to all residents of the property. Annual on-site inspections and resident file reviews of affordable units ensure that federal requirements relating to the tax-exempt status of the bonds are followed.

For those properties funded by the Corporation, the Corporation has developed a convenient way for property managers/owners to submit their compliance reports online. Since that time, properties have been reporting as required on a monthly and quarterly basis streamline paper and provide convenience to the properties.

The Corporation is currently providing asset oversight and compliance reviews for 40 bond issued properties<sup>22</sup>. In May of 2006 TDHCA contracted with the Corporation to provide asset oversight services for multifamily properties financed through their bond program. The Corporation conducted 34 reviews for the Department before the contract ended in March of 2009. The number of asset oversight reviews conducted by the Corporation for the Texas Department of Housing and Community Affairs are as follows:

2006	73 site visits	16,956 units
2007	86 site visits	19,727 units
2008	99 site visits	22,279 units
2009	34 site visits	7,182 units

#### 2009 IMPLEMENTATION PLAN

The Corporation will continue to provide high quality asset oversight and compliance monitoring services to the properties in our current portfolio and intends to increase the effectiveness and efficiency of the program. The Corporation is currently developing Asset Oversight and Compliance training tools. The Corporation will continue to work toward contracting with other entities to expand our asset oversight and compliance monitoring portfolio of business. The Corporation will pursue new asset oversight and/or compliance business relationships with public agencies such as the Department of Housing and Urban Development, the Texas Department of Housing and Community Affairs, Housing Authorities, the United States Department of Agriculture, or partnering with private owners and property management companies.

#### GRANT PROGRAM

As a 501(c)(3) nonprofit entity, the Texas State Affordable Housing Corporation actively pursues fundraising and grant opportunities. Since 2006, the Corporation has been making considerable strides to fundraise for new programs, such as the Texas Foundations Fund, the Interim Construction and Land Acquisition Program, the Affordable Communities of Texas (ACT) Program and the HomeWorks Loan Program. In addition, the Corporation actively fundraises for other Texas initiatives, such as the Texas Foreclosure Prevention Task Force and the Texas Statewide Homebuyer Education Program.

To date, the Corporation has received \$8 million in grants and donations.<sup>23</sup>

#### 2010 IMPLEMENTATION PLAN

The Corporation's mission of affordable housing matches many foundation and grant objectives. The Corporation will work to fundraise for grants and will pursue low-interest loans for the Texas Foundations Fund, the ACT Program, the HomeWorks Loan Program, the Multifamily Direct Lending Program and the Interim Construction and Land Acquisition Program. The Corporation will also seek to create and expand a pool of individual donors by undertaking an annual campaign, hosting events to promote the Texas Foundations Fund, and soliciting donations online. These are just a few of the fundraising activities and initiatives that the Corporation will undertake in 2010.

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<sup>22</sup> As of December 8, 2009

<sup>23</sup> *ibid.*

## HOMEWORKS PROGRAM

The Corporation created HomeWorks, an employer assisted housing program, in April of 2008. Employer assisted housing programs are aimed not only at providing an affordable financing product to potential homebuyers, but aid in recruiting new businesses to the State. Such programs can enhance existing businesses by offering incentives not otherwise possible to employees they would like to recruit and retain.

This program is a partnership between the Corporation and participating employers and their employees. HomeWorks offers a 30-year fixed rate mortgage through the mortgage lender of the borrower's choice. The program offers up to \$4,000 in matching funds for down payment and closing cost assistance courtesy of the Corporation and participating employers across Texas.

The Corporation and the employer match dollar for dollar, up to \$2,000 each, of an employee's contribution toward down payment and closing costs. Matching assistance is provided to the employee in the form of a 3-year deferred forgivable second lien loan (*33.33 percent is forgiven each year*). If the employee leaves or is terminated by the employer, the remaining balance of the assistance is to be paid back to the Corporation and/or the employer.

Participating employers contribute a maximum amount to the program and offer it to employees on a first-come, first-served basis. The employee must be employed by a participating employer for at least 6 months, with a 3 year commitment to the employer. The employee must participate in a homebuyer education course approved by the Corporation prior to closing on the loan. The employee must meet income (80 percent AMFI or below) and purchase price limits set by the Corporation, while meeting standard mortgage underwriting requirements demonstrating credit worthiness. The employee must also occupy the purchased home as his or her primary residence.

## 2010 IMPLEMENTATION PLAN

The Corporation will continue to have discussions with interested employers across the State. The Corporation is committed to assisting borrowers bridge the gap to homeownership while strengthening the economic viability and stability of the State. The Corporation will also continue its fundraising efforts to secure additional funding for this program.

## TEXAS FOUNDATIONS FUND

The Corporation created the Texas Foundations Fund (TFF) in early 2008 to improve the living standards of Texas residents of very low-income and extremely-low income, specifically those at 50 percent or below of the area median family income.

TFF provides grants of up to \$50,000 to nonprofit organizations and rural governmental entities (or their instrumentalities) for the construction, rehabilitation, and/or critical repair of single family homes for homeowners who are Texas residents of very low-income or extremely low-income, with a particular emphasis on serving very low-income disabled and rural Texans and the provision of additional supportive housing services for very low-income residents of multifamily rental units.

The Corporation accepts eligible project proposals through a competitive process. A notice of funding availability is published on an annual basis when the Board of Directors determines that sufficient funds exist to award grants. Proposals are first considered by the Corporation's Advisory Council, whose

members are appointed by the Corporation's Board of Directors, with final approval provided by the Board of Directors.

In October 2008, five \$50,000 grants were awarded to the following organizations: Affordable Homes of South Texas, Foundation Communities, Midland Habitat for Humanity, Brazos Valley Affordable Housing Corporation, and United Cerebral Palsy of Texas.

In light of the devastation left behind by Hurricanes Ike and Dolly in 2009, the Corporation conducted a Hurricane Relief Cycle of the TFF. Four grant awards were made for the purpose of the rehabilitation and/or critical repair of owner-occupied single family located in any one or more counties affected by Hurricanes Ike and Dolly. The four organizations awarded were: Fort Bend CORPS, Southeast Texas Interfaith Organization, Self Help Housing of East Texas, and Community Development Corporation of Brownsville.

#### 2010 IMPLEMENTATION PLAN

A notice of funding availability for a third round of funding was released in October of 2009. It is anticipated that awards will be made and funds disbursed in early 2010.

The Corporation has funded the first two rounds, and set aside funding for the third round, of funding using revenue generated through its other programs. While our Board of Directors will determine how much revenue the Corporation will contribute to future rounds of Texas Foundations Fund, it is estimated that the Corporation will be able to conduct one round of funding annually.