



Affordable Communities of Texas Policies and Guidelines

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1. GENERAL. These policies and guidelines (collectively, the “Policy”) have been approved by the Board of Directors of the Texas State Affordable Housing Corporation (“TSAHC”) and set forth TSAHC’s policies and guidelines relating to the Affordable Communities of Texas program (the “ACT Program”). The ACT Program supports TSAHC’s mission to facilitate, preserve and expand affordable housing opportunities for all Texans. The ACT Program’s purpose is to create partnerships between TSAHC and local housing providers to acquire or accept donations of foreclosed housing assets, government properties and other real estate primarily for the benefit of, or to create affordable housing for, low-income households.

2. SOURCE OF FUNDS FOR THE ACT PROGRAM. The sources of funding for the ACT Program are TSAHC’s own funds, loans, grants or other sources of funding (“investments”) made by public and private entities to TSAHC. TSAHC may accept private donations, or apply for funding from government agencies for the ACT Program.

Eligible Activities. The ACT Program focuses on the acquisition of vacant or foreclosed housing units, land, and other properties that may be used to provide safe, decent, and affordable housing. Properties may be developed to preserve, rehabilitate, or construct housing for homeownership, rental, cooperative or any other form of affordable housing that is consistent with TSAHC’s public purpose. The ACT Program may also be used to clear vacant or blighted structures, maintain vacant lots, and fund the rehabilitation of existing homes or construction of new homes on land-banked properties owned by TSAHC or Local Partners (hereinafter defined). TSAHC shall adhere to its procurement guidelines when selecting vendors or other parties to maintain, manage or redevelop ACT properties. Some ACT Program funds may be limited to particular communities due to other contractual agreements between TSAHC and the providers of such funding.

3. LOCAL PARTNER SELECTION. TSAHC focuses on developing partnerships with qualified nonprofit, for-profit and local government entities as local partners (collectively the “Local Partners”) that have established relationships to the communities where properties are acquired and jointly developed with TSAHC. The definitions of Local Partner includes entities that enter into Joint Ventures agreements (herein after defined as Joint Venture Partners) with TSAHC. TSAHC will market the ACT Program to qualified Local Partners in targeted communities and/or may accept partnership applications from Local Partners. In either case, Local Partners must meet the following minimum qualifications:

- a. A nonprofit entity must be an active nonprofit 501(c)(3) or (c)(4) organization as recognized by the U.S. Internal Revenue Service, and registered as a nonprofit entity within the State of Texas;
- b. Financial audits or statements of the Local Partner for a two-year period must reflect the entity’s ability to manage funds appropriately, as determined solely by TSAHC;
- c. At least two years of experience in the planning, marketing, development or

- management of housing programs for moderate and low-income households;
- d. The ability to provide evidence of support from local government officials for their activities within the target community; and
- e. The entity must not have an active exclusion cited within the Texas Comptroller's System for Award Management Database.

4. TSAHC's ROLE. To carry out the eligible activities of the ACT Program, TSAHC will enter into memoranda of understanding with its Local Partners ("Local Partner MOU"). Each Local Partner MOU will detail the responsibilities and roles of both TSAHC and Local Partner. TSAHC's responsibilities may include any one or more of the following:

- a. Buyer Agent. In this capacity, TSAHC will serve as a conduit for the acquisition of properties on behalf of Local Partners, using funding provided by Local Partners. TSAHC will be reimbursed by Local Partners for any option fees, title agreements, or due diligence activities required to purchase the property, which have been paid for by TSAHC. TSAHC will transfer ownership of the property to the Local Partner, be reimbursed for any expenses incurred during the acquisition process and collect a transaction fee prior to transfer in an amount no less than \$500.00.
- b. Land Bank. In this capacity, TSAHC will acquire properties using ACT Program funds, hold properties in TSAHC's name, and manage the redevelopment of properties directly or with assistance from Local Partners. TSAHC may use ACT Program funds to cover the cost of option fees, title reports, due diligence activities, environmental reviews, purchase price and closing costs. Local Partners may be responsible for financing the redevelopment of acquired land bank properties, unless otherwise provided by TSAHC through an agreement separate from the Local Partner MOU. TSAHC and the applicable Local Partner shall determine the appropriate end use of the property (for-sale or rental) and a timeline for completing redevelopment and occupancy by a qualified low-income household. TSAHC shall determine the final sales price or rental rates of all homes, in its sole determination, ensuring that Local Partners are reimbursed for reasonable rehabilitation costs from sales proceeds. TSAHC may also utilize a shared equity agreement, in the form of a ground lease or other acceptable documentation, in order to recover its investment in a property and generate revenues for the ACT Program.
- c. Land Trust. In this capacity, TSAHC may acquire real property, provide, or accept mortgages and manage real and improved property in perpetuity for the benefit of providing affordable housing. TSAHC will assist Local Partners with the planning and redevelopment of properties and may commit ACT Program funds to cover predevelopment activities. After redevelopment TSAHC may split the land from the improvements and sell the improvements to the Local Partner or qualified low-income households. TSAHC will continue to own the land and grant access to the Local Partner or qualified low-income households through a ground lease

agreement, mortgage or other legal agreement deemed appropriate in the sole determination of TSAHC. TSAHC may collect ground lease payments or other payments in order to cover its holding cost, monitoring expenses and other expenses associated with a land trust property. The Land Trust model will be applied to all Joint Ventures, as defined here in.

- d. Land Bank Administrator. In this capacity, TSAHC will acquire properties using funding provided by Local Partners, hold properties in TSAHC's name, and manage the redevelopment of properties with assistance from Local Partners. TSAHC will be reimbursed by Local Partners for any option fees, title agreements or due diligence activities required to purchase the property and initially paid for by TSAHC. TSAHC will hold properties under its ownership until the Local Partner can complete redevelopment activities and place qualified low-income households into properties. TSAHC will collect an annual fee for overhead and administration, plus reimbursement for the actual cost of insurance premiums from the Local Partner. TSAHC shall transfer ownership of the property to the Local Partner within 60 days of written notice, and TSAHC will collect a reasonable transfer fee.

5. COMPETITIVE OR SELECT APPLICATION PROCEDURES. In the event TSAHC receives funding that requires TSAHC to utilize a competitive or other application process to disburse the funds, TSAHC shall publish on its website a request for proposals (an "RFP") and application materials. TSAHC will only accept applications when there are available sources of funds and will include all guidelines, procedures, thresholds and scoring criteria in the relevant RFP.

6. LOCAL PARTNER APPROVALS. The Director of Development Finance (the "Director") is responsible for coordinating and overseeing the review of Local Partner applications. Local Partner applications that fulfill all of the threshold and selection criteria of this Policy and any applicable RFP will be recommended by the Director to TSAHC's President or Executive Vice President for approval and execution of a Local Partner MOU. If approved, the Local Partner must enter into a Local Partner MOU with TSAHC prior to the commencement of land banking activities.

7. PROJECT APPROVALS. The process of reviewing and selecting projects or properties that will be acquired utilizing ACT Program funds will be completed in the following manner.

- a. Each project, proposed by a Local Partner or found by TSAHC staff, will be assessed to determine if the project will meet all of the requirements of this Policy. This includes, but is not limited to the Qualified Project, Affordability Threshold, Construction Standards, Locations Standards and Additional Threshold Requirements, in the proceeding sections.
- b. Once a project is determined to meet the requirements of this Policy, the Director

will present a project summary to the President, Executive Vice President and Chief Financial Officer for approval.

- c. If a project's initial purchase cost exceeds \$500,000, the project summary will also be presented to the Board of Directors for approval.
- d. Projects requiring board approval may be placed under contract, as long as the purchase agreement is conditioned upon board approval prior to closing.

8. QUALIFIED PROJECTS. All housing units acquired by TSAHC must meet the following criteria in order to be considered a qualified project ("Qualified Project") for the purposes of this policy.

- a. A Qualified Project must be consistent with the public purpose of TSAHC;
- b. A Qualified Project must be financially feasible and provide sufficient funds to TSAHC to sustain the ACT Program;
- c. A Qualified Project must be located in an area that provides access to reasonable educational, and employment opportunities, and to transportation and other community services; and
- d. A Qualified Project must have a plan to ensure the property will be redeveloped primarily for the benefit of low-income Texans.

In order to be considered for a Land Trust, a Qualified Project must also demonstrate a special circumstance or condition that justifies its inclusion as a Land Trust. Such special circumstances may include the development of homes for persons with disabilities or other special needs, homes for extremely low-income households, and homes in areas considered to be high opportunity areas (such as areas experiencing gentrification or high-income areas) that will advance TSAHC's public purpose and provide affordable housing opportunities in these special circumstances.

9. AFFORDABILITY THRESHOLD.

- a. TSAHC's public purpose requires that housing provided by TSAHC be used primarily for the benefit of low, very-low and extremely low-income households. To ensure adherence to these requirements, Qualified Projects will be required to meet the following minimum qualifications:
 - i. Acquired and developed units for homeownership shall be primarily made available to low-income households at eighty percent (80%) or below of the area median income (the "AMI") for the location of the property, or eighty percent (80%) or below of the statewide median income, whichever is greater;

- ii. Acquired and developed units for rental shall be primarily made available to low-income households at or below 80% of the AMI for the location of the property;
- iii. All multifamily properties (4 or more units) acquired and developed for rental shall be held to the following additional income and rent restrictions:
 - A. At least 20% of the total units in the development for persons or families earning 50% or less of the AMI, based on the size of the unit and number of persons occupying the unit; or
 - B. At least 40% of the total units in the development for persons or families earning 60% or less of the AMI, based on the size of the unit and number of persons occupying the unit.
- iv. TSAHC may impose additional affordability requirements in accordance with funding limitations or on a case by case basis.
- b. Consistent with its public purpose TSAHC may permit the development of units for sale or rental to qualified low or moderate income households, not to exceed 120% of the AMI for the location of the property or statewide median income, whichever is greater; and
- c. In the event the President or Executive Vice President determines that a property is not suitable for low or moderate income households, due to environmental or location conditions, feasibility concerns, or any other reason deemed appropriate by the President or Executive Vice President, TSAHC may remove a property from affordability restrictions and sell it to a private or public entity, and funds from such sale will be used by TSAHC for the acquisition or rehabilitation of other suitable ACT Program properties.
- d. TSAHC will accept the following forms of certification of household income on for-sale homes:
 - i. Homebuyer Income Certification (HIC). Buyers submit income and asset documentation to the project's Local Partner or TSAHC directly. The Local Partner and TSAHC will calculate the Buyer's annual income using U.S. Department of Housing and Urban Development's (HUD) standard practices. The maximum income limit is determined by the number of persons in the Buyer's household using the incomes for all persons over 18 years of age; or
 - ii. If a Buyer is using a mortgage product, with or without down payment assistance, that requires the Mortgage Lender to certify the Buyer's income is 80% of area median income to qualify for the mortgage

product, TSAHC will accept the Mortgage Lender's proof of income eligibility. The Mortgage Lender's proof of income certification must come directly from the Mortgage Lender and include information about the mortgage product and its income limits.

10. CONSTRUCTION STANDARDS. To ensure that working families have safe, decent, affordable housing, and to ensure long-term affordability and usability, all Qualified Projects must meet the following standards:

- a. All Qualified Projects, at the time of acquisition or completion of construction or rehabilitation, shall meet all local building codes for the jurisdiction where they are located. If the development is located in an area where no local building codes are in place or have been adopted, the development shall meet the most recent International Residential Code or International Building Code.
- b. All Qualified Projects, at the time of acquisition or completion of construction or rehabilitation, shall be compliant with the Federal Fair Housing Act Accessibility Standards, Titles II and III of the Americans with Disabilities Act of 1990 and §2306.514 (visitability guidelines) of the Texas Government Code. Borrowers must submit to TSAHC a certification from the project architect, engineer, or other third-party building inspector that the proposed Qualified Project will meet or exceed the above listed accessibility requirements;
- c. All Qualified Projects, at the time of acquisition or completion of construction or rehabilitation, shall be compliant with the most recently adopted energy and water conservation design standards published by the Texas Comptroller's State Energy Conservation Office. As of January 1st, 2021 the most recently adopted codes include ASHRAE 90.1-2016 or 2018 IECC. Applications must include a certification from the project's architect, engineer or third party inspector confirming the building plans adhere to this requirement; and
- d. All Qualified Projects, at the time of acquisition or completion of construction or rehabilitation, shall have sidewalks, driveways and streets that are compliant with the Americans with Disabilities Act and Fair Housing Accessibility Standards.
- e. TSAHC typically requires backyard privacy fencing when constructing new homes. Fences must be designed and installed in compliance with local zoning, building codes, and homeowner association rules. Fences must be built on legal property lines. A final survey of the property may be required, post construction, to ensure fences do not impede upon neighboring properties. Fencing should be consistent in material and finish to adjacent or nearby lots. TSAHC encourages the use of wood, metal or iron fencing at a standard height of six feet. TSAHC discourages the use of chain link fencing, unless otherwise required by local codes or neighborhood standards. TSAHC may exempt projects from this requirement on a case-by-case basis, at TSAHC's sole

discretion.

11. LOCATION STANDARDS. TSAHC shall consider a variety of factors to determine if a Qualified Project is located in an area that promotes safe, healthy and decent housing for low-income households. TSAHC will consider a project's proximity to grocery stores, pharmacies, financial services and other commercial services. All Qualified Projects must meet the following minimum location standards:

- a. Qualified Projects may not be located within the 100-year floodplain as identified by the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps; and
- b. Qualified Projects located within a county or city that is covered by the Texas Windstorm Insurance Association (TWIA) shall be required to secure windstorm insurance in accordance with the TWIA insurance policy requirements.

12. ADDITIONAL THRESHOLD REQUIREMENTS. All Qualified Projects must meet the following additional threshold requirements:

- a. A general review of environmental conditions at each Qualified Project location. The environmental review may include a review of city or county environmental records; an environmental notification process, as may be required by TSAHC's funding partners; or a Phase I Environmental Site Assessment and any necessary updates, based on TSAHC's sole determination of need;
- b. TSAHC generally will not fund a Qualified Project that may cause the displacement of a low-income household. Exceptions to this requirement may be considered on a case-by-case basis;
- c. TSAHC will use minimum underwriting standards in evaluating all projects. TSAHC will review such items as debt coverage ratio, cost of project maintenance and the Local Partner's financial strength and creditworthiness. The minimum underwriting standards will reflect the nature of the project, its location and the AMI for qualified low-income households. TSAHC's Director shall be responsible for determining the feasibility of each project; and
- d. TSAHC may require a third-party market analysis, or may conduct its own assessment of market conditions, to determine the feasibility of a proposal. Current information on demographics, population growth, employment trends, median home prices, zoning requirements, absorption rates, and any other indicators of the market capacity may be considered in TSAHC's review

13. SECURITY INTEREST. To ensure the fulfillment of the applicable Affordability Threshold, a variety of agreements may be filed and recorded in the deed records of Qualified Projects. At a minimum, TSAHC may consider the following security interests,

or any combination thereof:

- a. **Deed Restriction or LURA:** TSAHC may file a deed restriction or Land Use Restriction Agreement (the “LURA”) in the real property records that defines limitations on resale and occupancy of the Qualified Project. Deed restrictions may or may not be filed as non-foreclosable instruments.
- b. **Shared Appreciation Agreement:** A shared appreciation agreement (the “Shared Appreciation Agreement”) will be filed and recorded as a mortgage instrument, deed restriction, or other form of agreement or instrument acceptable to TSAHC, and will allow TSAHC to recapture grant funds or equity transfers (or the equivalent thereof) to a Qualified Project upon any future sale or transfer of ownership. TSAHC shall seek to recapture 100% of such grant dollars and/or a percentage of such equity transfers. The total recapture amount will depend on the net proceeds available after repayment of superior liens.
- c. **Ground Lease:** TSAHC may also hold properties and sell or lease their improvements to Local Partners to operate affordable rental housing, or sell improvements to qualified low-income households. In either case, the Qualified Project will be restricted for occupancy in accordance with the applicable affordability requirements through a ground lease agreement.
- d. **Loan or Lien:** TSAHC may issue a note or mortgage to a Qualified Household, in a primary or subordinate lien position, in order to secure a financial stake and provide security for an affordability term. The note or mortgage may be made on a repayable or forgivable basis. TSAHC may forgive any unpaid balance of a note or mortgage to a Qualified Household prior to the end of the term of the note or mortgage, if the Qualified Household can demonstrate extraordinary circumstances which had not been reasonably foreseeable at the time the note or mortgage was made, and merit the need for forgiveness of the note or mortgage. Any forgiveness of the note or mortgage will be made at the sole discretion of TSAHC Executive staff.

14. PROJECT MONITORING. TSAHC requires that all Qualified Projects undergo a regular review to determine that the project continues to meet the applicable Affordability Threshold criteria and goals of the ACT Program. TSAHC may require, especially in the case of rental developments, that an asset management or asset oversight review be completed on an annual, semi-annual or other periodic basis, as determined by TSAHC. TSAHC may charge an annual fee in order to cover the cost of such reviews.

15. DISPOSITION OF PROPERTIES. To accomplish the sale or transfer of Qualified Projects, TSAHC may rely on its Local Partners to market, broker, or otherwise sell or lease Qualified Projects. In the absence of a Local Partner, or as otherwise determined necessary, the President or Executive Vice President of TSAHC shall be authorized to

list properties for-sale as owner without representation, contract disposition activities to a licensed real estate broker or contract with any other qualified third-party entity for the disposition of the property.

16. INSURANCE. TSAHC shall be authorized to carry general liability, property, casualty and other necessary insurance coverage on Qualified Projects. The President, Executive Vice President, or Chief Financial Officer of TSAHC shall be authorized to contract for such insurance services.

17. FEES. TSAHC may charge fees, penalties, or any other monetary amounts deemed reasonable by TSAHC's President or Executive Vice President to cover the cost of operating the ACT Program, including application review, professional fees, asset and compliance reviews, ground leases, maintenance or holding costs, and any other applicable costs associated with operating the program.