



## NOTICE OF MEETING

**The Austin Housing Finance Corporation, Board of Directors,  
will convene at 3:00 PM on Thursday, December 15, 2016,  
in Council Chambers at Austin City Hall, 301 W. Second Street, Austin, Texas**

## AGENDA

*The Board of Directors will go into a closed session under Chapter 551 of the Texas Government Code to receive advice from legal counsel, to discuss matters of land acquisition, to discuss personnel matters, or for other reasons permitted by law as specifically listed on this agenda. If necessary, the Board may go into a closed session as permitted by law regarding any item on this agenda.*

### Consent

1. Authorize an increase of \$992,000 to an existing loan to the Chestnut Neighborhood Revitalization Corporation for a total loan amount not to exceed \$4,954,717 for the new construction of mixed-use affordable ownership housing located at East 13th and Chicon Streets (District 1).

### Adjourn



*The City of Austin is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request.*

*For assistance, please call 512-974-2210 or TTY users route through 711.*

A person may request a Spanish language interpreter be made available by contacting the City Clerk's Office not later than twenty-four hours before the scheduled time of the item on which the person wishes to speak. Please call 974-3256 in advance or inform the City Clerk's staff present at the council meeting.

Cualquier persona puede solicitar servicios de intérprete en español comunicándose con la oficina del Secretario/a Municipal a no más tardar de veinte y cuatro horas antes de la hora determinada para el asunto sobre el cual la persona desea comentar. Por favor llame al 974-3256 con anticipo o informe al personal del Secretario/a Municipal presente en la sesión del Consejo.

<b>Recommendation for Board Action</b>				
Austin Housing Finance Corporation	Item ID	63839	Agenda Number	1.
Meeting Date:	12/15/2016		Department:	Neighborhood and Community Development
Subject				
<p>Authorize an increase of \$992,000 to an existing loan to the Chestnut Neighborhood Revitalization Corporation for a total loan amount not to exceed \$4,954,717 for the new construction of mixed-use affordable ownership housing located at East 13<sup>th</sup> and Chicon Streets (District 1).</p>				
Amount and Source of Funding				
Funding is available in the Fiscal Year 16-17 Capital Budget of the Austin Housing Finance Corporation.				
Fiscal Note				
A fiscal note is attached.				
Purchasing Language:				
Prior Council Action:				
For More Information:	Rosie Truelove, AHFC Treasurer, 512-974-3064; David Potter, NHCD Neighborhood Development Program Manager, 512-974-3192.			
Boards and Commission Action:	<p><u>March 8, 2012</u> – AHFC Board authorized negotiation and execution of a loan agreement for \$1,375,268 for the acquisition of 1212, 1301, and 1309 Chicon Street.</p> <p><u>June 6, 2013</u> – AHFC Board authorized an increase of \$1,265,000 for demolition and pre-development work for a total loan amount of \$2,640,268.</p> <p><u>October 1, 2015</u> – AHFC Board authorized an increase of \$1,322,449 for a total loan amount of \$3,962,717 to begin construction of units.</p>			
MBE / WBE:				
Related Items:				
Additional Backup Information				
<p>If approved, the existing loan to the Chestnut Neighborhood Revitalization Corporation (CNRC) will be increased by \$992,000 for a total loan amount of \$4,954,717 for the development of “The Chicon,” a 43-unit ownership and mixed-use development. Funding is anticipated to come from the Affordable Housing General Obligation Funds. The development will offer 33 affordable ownership opportunities in the area around the intersection of East 12<sup>th</sup> and Chicon Streets. This development is located in District 1.</p> <p><b>Funding Request</b></p> <ul style="list-style-type: none"> <li>• The reasons for the request includes several unforeseen issues, such as a land title issue, that stopped construction before a private lender loan could be secured. Additional utility work and sidewalk access issues also added to the total cost of the project.</li> <li>• Since that time, funding commitments from the Texas State Affordable Housing Corporation (TSAHC) and Frost Bank have been obtained. Both loans are contingent upon approval of this request for additional AHFC funding.</li> <li>• If funding is approved, financing sufficient to complete the project can be obtained. AHFC funds will represent</li> </ul>				

\$150,142 per affordable unit, and the total AHFC loan amount would represent 39 percent of the total project cost.

- This project was reviewed by Housing Bond Review Committee prior to the first round of G.O. Bond funding that was approved in 2012.
- Estimated sources and uses of funds for the project are as follows:

Sources		Uses	
Previous AHFC Funds	\$ 3,962,717	Acquisition	\$ 1,023,225
Proposed AHFC Funds	992,000	Residential & Commercial	
Private Lender Loan	4,000,000	Construction	10,504,374
TSAHC Loan	2,000,000	Financing, Fees,	
Commercial Sales	<u>1,764,380</u>	& Soft Costs	<u>1,191,498</u>
<b>TOTAL \$12,719,097</b>		<b>TOTAL \$12,719,097</b>	

#### **Project Characteristics**

- The Chicon is located on three properties in the 1200 and 1300 blocks of Chicon Street. The properties will be redeveloped into a mixed-use, mixed-income development with ground-floor retail/office space and two stories of housing above.
- The homes will be new construction, attached ownership units built to S.M.A.R.T. Housing™ standards and will be designed to achieve a three-star Austin Energy Green Building rating.
- The units to be constructed will have 1, 2, or 3 bedrooms and range in size from approximately 650 square feet to 1,100 square feet. The unit mix in the first phase will be:
  - 21 one-bedroom/one-bath units; 18 affordable, 3 market-rate
  - 5 two-bedroom/two-bath units; 2 affordable, 3 market-rate
  - 2 three-bedroom/two-bath units; 1 affordable, 1 market-rate
- The homes will be sold by CNRC under a Shared Equity or Community Land Trust ownership model that will be managed by the non-profit organization, Community Wheelhouse, to ensure long-term affordability. The sales prices will range from approximately \$145,000 to \$235,000 for the income-restricted units and the market-rate units will range in price from approximately \$190,000 to \$338,000.

#### **Neighborhood Support**

AHFC has received letters of support for The Chicon project from:

- The Davis-Thompson Neighborhood Association
- The Rosewood Neighborhood Plan Contact Team
- The Chestnut Neighborhood Plan Contact Team
- A neighbor living next door to one of the properties.

#### **Population Served**

The affordable units will be made available to households with incomes at or below 80 percent of the Median Family Income (MFI), currently \$62,250 for a 4-person household, with some units being targeted toward households with incomes at or below 65 percent MFI, currently \$50,570.

#### **Chestnut Neighborhood Revitalization Corporation**

CNRC is a 501(c) (3) non-profit community-based development corporation established in 1998 to address affordable housing and community development needs in the Chestnut Neighborhood and surrounding areas. CNRC has built and sold affordable single-family homes and most recently completed the award-winning Franklin Gardens 22-unit senior development located at the northwest corner of E. M. Franklin and East MLK Jr. Boulevards.



Chestnut Neighborhood Revitalization Corporation  
2211 East Martin Luther King, Jr. Blvd.  
Austin, TX 78702

*"A neighborhood of caring and sharing"*

September 27, 2016

Ms. Rosie Truelove  
Interim Director, NHCD, City of Austin  
1000 East 11<sup>th</sup> Street  
Austin, TX 78702

***Re: Additional Funding Needs for The Chicon***

Dear Ms. Truelove:

I am writing in my capacity as President of the Chestnut Neighborhood Revitalization Corporation (CNRC) to give you an update on CNRC's mixed-use, mixed-income development in East Austin, known as The Chicon, and to request additional funding from the Austin Housing Finance Corporation that is critically needed for the project to move forward and be completed.

As you know, The Chicon is well underway. We have poured our foundation and podium, and have many materials on-site for finishing construction. Moreover, we have entered into sales contracts and obtained earnest money on all but 1 of the 28 residential units and all but 3 of the 8 commercial units. **Unfortunately, there are several serious, unforeseen issues that have prevented our ability to move forward.** First, there is an issue with the utility work at the site and with sidewalk access. The second issue is related to the title of one of the properties CNRC purchased for this project.

**Utility Work & Sidewalk Access**

According to OSHA standards, overhead electric lines cannot be within ten feet of any person or building. At the same time, a variety of City of Austin zoning and development regulations for our site prevent the building from being placed any further away than ten feet from the overhead electric lines. This City of Austin requirement means The Chicon *cannot* be constructed within the OSHA guidelines. For example, a worker who needs to apply masonry to the exterior of the building would violate OSHA by being less than ten feet from an overhead electric line while on scaffolding.

There are numerous examples of this situation around Austin. New construction along South Lamar Boulevard, for example, faces the same issue. In *most cases*, Austin Energy has allowed a project to raise the lines temporarily or "swing" them out and away from the building during construction, then restore the lines to their original position after construction. At The Chicon, after several months of negotiations, Austin Energy has determined that these options are not desirable, and that the power lines in front of the Southeast Building must be buried. **The estimate for this work is \$1.1 million.** The entire development team worked diligently to come

up with a less costly solution, but unfortunately we have no alternative.

In addition to unexpected utility work, we are also facing unexpected sidewalk costs related to the zoning and code. A Mixed Use Development must have a sidewalk in front of it in order to meet land development code requirements. Regardless of who constructs them, sidewalks are in the right-of-way and are owned by the City of Austin. The use of sidewalk space by a private citizen or company requires a licensing agreement with the City.

It was our understanding that this type of agreement was required for *optional* sidewalk uses – such as placing planters, benches or other amenities in the sidewalk space. In our view, these were optional items that could be added at a later date as funding allowed. However, it has come to our attention that a licensing agreement is actually required for items that are not optional – planters and landscaping required by code and awnings required by Green Building, for example. **The cost of this work is in excess of \$150,000.**

### **Land Title Issues**

During the final stage of due diligence for the Construction Loan, the lender's attorney discovered an error in one of the deeds. The error meant that CNRC did not own all of the property on which it was preparing to build. A scrivener's error in the deed for one of the lots meant that in effect, there was a "donut hole" in the land that was not owned by CNRC. The title company took full responsibility for this issue and worked diligently to fix it. However, the cure for the title issue took more than four months, and during this time we were unable to move forward with construction, nor with closing on our construction loan. We also incurred costs that are not covered by the title insurance. As a result we have increased legal costs, increased general conditions (keeping the general contractor on the site) re-stocking costs for materials and a variety of costs related to re-mobilizing subcontractors.

We now have our final estimated bids from all engineers, the general contractor and subcontractors for the electrical work, the licensing agreement and costs related to the delays. The breakdown of the work is as follows:

#### *Changes to Power Lines*

Austin Energy Fee for Design and Line Relocation	\$179,467
Additional Permits	\$18,000
Engineering and Architecture Work	\$150,000
Traffic Control	\$32,456
Trench Excavation and Fill	\$796,000
Alley Power Line Relocation	\$9,258
Potholing to Locate Lines	\$35,038

#### *Licensing Agreement & Use of Sidewalk*

Licensing Agreement	\$150,000
Legal Review of Licensing, Adjustments to Condo Docs	\$25,000
Grading Changes and Revisions to Plans re Streetscape	\$38,056

#### *Title Costs*

General Conditions for Contractor Delays	\$316,725
<b>TOTAL</b>	<b>\$1,750,000</b>

We are writing to respectfully request an additional \$1,750,000 to go towards this unexpected work, and therefore, permit construction to resume. CNRC has executed sales contracts with more than 25 buyers for the commercial and residential spaces. Prices on all commercial units and any market-rate residential units have been raised to the maximum the market will bear. Therefore all funds will be used to support affordable housing for low-income homebuyers.

Furthermore, the issues we have encountered point to the need to modify the land development code to allow more infill development – a goal of Imagine Austin. Our team met with City planners for several hours to review our issues and how the new land development code could ameliorate the issues we have encountered for future infill development projects.

I appreciate your consideration of this urgent request. If you have any questions, contact me at [sean@pegasusplanninganddevelopment.com](mailto:sean@pegasusplanninganddevelopment.com) or 512/300-7270.

Sincerely,

A handwritten signature in black ink, reading "Sean Garretson". The signature is fluid and cursive, with a long horizontal line extending from the end of the name.

Sean Garretson, AICP  
Board President  
Chestnut Neighborhood Revitalization Corporation (CNRC)

## CIP EXPENSE DETAIL

**DATE OF BOARD CONSIDERATION:**

12/15/16

**CONTACT DEPARTMENT(S):**

Austin Housing Finance Corporation

**SUBJECT:** Authorize an increase of \$992,000 to an existing loan to the Chestnut Neighborhood Revitalization Corporation for a total loan amount not to exceed \$4,954,717 for the new construction of mixed-use affordable ownership housing located at East 13th and Chicon Streets (District 1).

**CURRENT YEAR IMPACT:**

<b>Department:</b>	<b>Austin Housing Finance Corporation</b>
Project Name:	The Chicon
Fund/Department/Unit:	7011-7207-1300
Funding Source:	2013 GO Bond
Current Appropriation:	3,747,500.00
Unencumbered Balance:	3,747,500.00
Amount of This Action:	<u>(992,000.00)</u>
Remaining Balance:	<u>2,755,500.00</u>

Total Amount of this Action funded by CIP	<u><u>992,000.00</u></u>
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**ANALYSIS / ADDITIONAL INFORMATION:** As the funds were previously authorized by Council, there is no analysis/ additional information required to demonstrate funding. If additional funding is needed it will be contingent on funding in future budgets.