City of Austin

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TO: Mayor Adler and Council Members

FROM: Rosie Truelove, Director

DATE: January 28, 2022

SUBJECT: February 3, 2022 City Council Meeting – Agenda Items 21-26

The purpose of this memorandum is to provide information about the State of Texas 9% competitive Low Income Housing Tax Credit (LIHTC) Program as well as the role of the City of Austin as it relates to the program.

Items for City Council Consideration

At the February 3, 2022 City Council Meeting, staff will bring forward items for consideration of various resolutions for at least six (6) proposed developments in the City of Austin. If approved, the Council resolutions would be submitted with each development's tax credit application to the state agency which administers the program, the Texas Department of Housing and Community Affairs (TDHCA).

Low Income Housing Tax Credit Program Information

The LIHTC program is governed by the Internal Revenue Code and offers investors (usually banks and other large institutions) the opportunity to purchase tax credits to offset other federal tax liability. The program provides an incentive to invest in the development of multi-family rental housing and requires a specified minimum percentage of units be affordable to low-income households.

When a developer receives an award of tax credits and sells them to an investor who needs the tax credits, the sale generates approximately 70% of the financing needed to fund the proposed development. The funds generated are equity for the development and not debt. In exchange, the investor is allowed to use the credits to offset other taxes over a 10-year period.

Tax credit developments help ease the shortage of affordable rental housing, attract private investment in affordable housing, and create jobs with an economic multiplier effect that lasts beyond the end of construction.

The State of Texas Process

Each January, TDHCA begins its competitive cycle to award tax credits to proposed multi-family residential developments scoring the highest in each state region. Austin is in Region 7 which includes Travis and the surrounding counties.

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The rules and scoring criteria for LIHTC applications are governed by a document known as a Qualified Allocation Plan (QAP). The QAP is revised each year by TDHCA with public input and must be approved by the Governor. This year's statutory deadline for competitive LIHTC applications is March 1, 2022.

The percentage of affordable units in a tax credit property is specified in a restrictive covenant between the owner and TDHCA. The restrictive covenant is commonly known as a LURA, or Land Use Restriction Agreement, and for 9% LIHTC developments is typically in effect for a period of 45 years. TDHCA monitors each property for physical condition and to ensure compliance with the conditions of the LURA in terms of household incomes and the amount of rent being charged to low-income households.

The Role of the City in the Competitive Tax Credit Cycle

Since the LIHTC Program is competitive, there are opportunities for the City to assist applicants with certain scoring criteria worth varying amounts of points or for the City to support an award of tax credits for a project while acknowledging certain conditions exist.

1. Local Government Support: Up to 17 points. Section 11.9(d)(1) of the 2021 QAP states that "Within a municipality, the Application will receive: (i) seventeen (17) points for a resolution from the Governing Body of that municipality expressly setting forth that the municipality supports the Application or Development." A Resolution of No Objection from the municipality would score 14 points or 0 points in this category if no resolution is approved.

2. Commitment of Development Funding by Local Political Subdivision: One point. Section 11.9(d)(2) of the 2021 QAP gives one point if the municipality provides a *de minimis* amount of funding. In the case of the City of Austin, developments that are certified for S.M.A.R.T. Housing™ would qualify for the single point in this category because of certain waived development fees.

3. Concerted Revitalization Plan (CRP) Area: Up to 7 points. Section 11.9(d)(7) of the 2021 QAP states that an application will receive 7 points for a letter from the municipality documenting measurable improvements in a designated revitalization area. It is important to note that TDHCA staff will determine if the selected application meets the criteria for being in a CRP area, and therefore, if the application merits the additional points.

4. Twice the State Average Per Capita: No points. Section 11.3(c) of the 2021 QAP requires applicant to obtain prior approval from the local governing body for an allocation of tax credits for a proposed housing development when the municipality has more than twice the state average of units per capita supported by housing tax credits or private activity bonds

5. One Mile, Three Year Rule: No points. Section 11.3(d) of the 2021 QAP requires approval by the local governing body when an application proposes a new development that is one linear mile or less from another development serving the same type of household and that received an award of tax credits within the past three years.

Current Applications for 9% LIHTC Resolutions

Staff received requests for resolutions from nine LIHTC Developers in December 2021. Since that time, three of the developers have chosen not to proceed with the full application. Accordingly, those resolutions associated with the three developments have been withdrawn. The remaining six developments seeking Resolutions of Support are as follows:

1. Cobblestone Court
2. Cady Lofts
3. Anderson Creek
4. Red Oaks
5. The Lancaster
6. Kensington Apartments

It is estimated that Region 7 will see $4,058,048 in funding, according to the most current TDHCA Pre-Application log, which is enough to fund two or three developments in the Region, depending on the amount of funding requested. It should be noted that Region 7 includes several applications from neighboring communities. While staff is confident in the competitiveness of each of these proposals, it is possible that one or more proposed applications in Bee Cave may secure a tax credit award, but it is too soon to definitively say, given the host of scoring factors involved in tax credit applications. Additionally, Cobblestone Court is competing in the statewide "At-Risk Set-Aside," meaning that it does not compete with the remaining applications in Region 7.

Attached please find a table detailing the attributes of each of the six applications, including both TDHCA priorities and City of Austin priorities. Based on the information provided by each of the applicants, staff recommends that City Council provide Resolutions of Support for each of the six LIHTC applicants. Draft resolutions have been prepared for each of the six applicants and will be provided as attachments to the RCAs.

Please do not hesitate to contact me if you have any questions.

cc: Rodney Gonzales, Assistant City Manager

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