MEMORANDUM

To: Mayor and Council Members

From: Jesús Garza, Interim City Manager

Date: June 8, 2023

Subject: City Council June 8, 2023, Agenda Item 84

At your June 8, 2023, Council meeting, you will consider approving a resolution that would allow the Housing Authority of Travis County (HATC) to participate in a proposed development on Real Street. The proposed development is one of seven developments being proposed by the Travis County Supportive Housing Collaborative. This memorandum provides staff's recommended approach and is based on information provided by Capital A Housing and the Travis County Supportive Housing Collaborative ("the Collaborative"), as well as publicly available information.

The Request

Capital A Housing is requesting Council authorize the Housing Authority of Travis County (HATC) to participate in a proposed development to be located on Real Street. The transaction includes the Collaborative (namely Family Eldercare and Capital A Housing), private developer, and a public facility corporation (PFC) affiliated with HATC (known as TCFC). If the resolution is approved, the HATC/TCFC will be allowed to participate in the proposed development and will provide a property tax abatement.

Background

Public Facility Corporations (PFC) are governed under Chapter 303 of the Texas Local Government Code https://statutes.capitol.texas.gov/Docs/LG/pdf/LG.303.pdf. Under Section 303.042, PFCs enjoy a wide range of tax benefits, including full property tax exemption and sales taxes exemption in certain situations. Due to rapidly growing use of this tax exemption, coupled with wide spread abuse of the PFC tool, the Texas Legislature recently adopted PFC reforms (HB 2071 https://capitol.texas.gov/BillLookup/Actions.aspx?LegSess=88R&Bill=HB2071) to ensure that PFCs and their purported community benefits are appropriately calibrated and monitored. The legislation is awaiting the Governor's signature.

PFC sponsors can be a variety of entities, including municipalities and housing authorities. The City of Austin recently created the Austin Housing PFC. In addition, both the Housing Authority of the City of Austin (HACA) and HATC have PFCs. It is important to note, however, that should a Housing Authority (or its PFC) propose to operate outside of its jurisdiction, it is required to get the consent of both the municipality and the housing authority within the jurisdiction. Thus, should HATC or its PFC choose to operate within the City, it can only do so with the consent of both HACA and the City. In 2018, HACA and the City consented to another Housing Authority operating within the City.

Travis County Supportive Housing Collaborative
The Collaborative is a collection of local nonprofit providers that are focused on developing deeply affordable supportive housing and services for individuals who face systemic barriers to housing. The Collaborative consists of seven nonprofit organizations: A New Entry, Austin Area Urban League, Caritas of Austin, Family Eldercare, Integral Care, and SAFE Alliance. The Housing Department and Austin Housing Finance Corporation (AHFC) have worked extensively with six of the seven partners on programs and projects serving the low-income community.

The Collaborative was formed in response to the growing need for Permanent Supportive Housing (PSH) for people experiencing homelessness in the City and Travis County. With an influx of Covid-related federal funding, Travis County pledged $50 million to the Collaborative's proposed PSH response.

2824-2826 Real Street (Family Eldercare)
2824-2826 Real Street is currently owned by Real Horizons Investors LP. The development partner – The Geyser Group – plans to develop the 2+ acre property into a 240-unit Class A multifamily development. The development partner will donate 0.55 acres to Family Eldercare in order to build a 60-unit PSH development. The donated value is estimated to be $3.6 million.

	2824 Real Street	**2826 Real Street**
Size	1.2215 Acres	0.8752 Acres
Current Use	Office	Warehouse/Commercial
Zoning	TOD-NP	TOD-NP
TCAD Assessment	$4,361,984	$1,950,000
Estimated Taxes (2022)	$53,322.92 ($12,492.90 CoA)	$27,648.93 ($6,477.80 CoA)

In total, the two parcels will accommodate a total of 300 units of residential development. 50% of the units will be income-restricted to certain households, thus enabling the entire property to be eligible for benefits established under the PFC provisions. Of the affordable units,20% of the units will be PSH, and the remaining affordable units will be restricted to 70% and 80% median family income (MFI). 150 units will be completely unrestricted and will command full market rents. Because 20% of the units are affordable at 50% MFI or below and on average serving 60% MFI, the entire property meets the affordability standards required by Affordability Unlocked.

The proposed PFC structure confers a 100% property tax (and sales tax on construction) exemption via HATC's PFC, Travis County Facilities Corporation. The PFC has a leasehold interest in the transactions. In comparison, as detailed below, AHFC's partnerships include an ownership interest in the developments.

Details on the public cost of the proposed deal are below:

	Cost
Estimated Property Tax Exemption (Upon Full Build Out)	$1,287,304/year
Estimated Construction Sales Tax (on the full 300-unit development)	$1,179,750
Travis County ARPA (committed)	$4,474,947
RHDA Loan (awarded)	$3,400,000
SMART Housing Fee Waivers (granted to date on the full 300-unit development)	$31,860
Project Based Vouchers (35) from HACA	$542,500/year (est.)
APH Support Services Contracts	To be determined

As of May 31, 2023, the remaining gap to complete the 60-unit Family Eldercare PSH project is approximately $4.4 million. The Collaborative has a pending application with the Texas Department of Housing and Community Affairs (TDHCA) for $3,809,725 and a planned philanthropic raise of $608,436.

The estimated value of the property tax exemption upon full build out is approximately $1.3 million. The tax exemption will be secured for at least 75 years, or as long as the affordability period. The value of the property tax exemption is estimated to be more than $100 million in today's dollars over the 75-year affordability period. While 25% of the value of the annual property tax exemption is committed to funding supportive services at the Collaborative properties, 75% of the value of the property tax exemption is accruing to the benefit of the private development partner.

The value of S.M.A.R.T. Housing fee waivers reflects fees waived thus far, including site plan application and review fees. Further fees will be waived as part of site and subdivision inspections, building permits, processes, and applications which have not been initiated yet.

In addition to quantifiable expenses, the Collaborative has applied for Affordability Unlocked for the entire 2+ acre site (300-unit development, including the 60-unit PSH development). The application is pending, as there are questions about whether the proposed project will meet the AU requirements (specifically, the dispersion of units throughout the project and the full access of common areas to low-income tenants). Assuming the project is certified as an Affordability Unlocked Qualifying Development, the entire 300-unit development will be able to access increased entitlements, such as a height bonus, a waiver of compatibility height, a waiver of minimum site area requirements, and a waiver of non-accessible parking requirements.

AHFC Chapter 394 Comparative Example

AHFC is currently finalizing Memorandum of Understandings and Partnership Agreements with NHP Foundation, Capital A Housing, and Integral Care to develop an affordable multifamily development called Seabrook Square on 3 acres AHFC owns at 3515 Manor Road. Seabrook Square will be a two-phase development totaling 264 units reserved for households earning at or below 60 percent of Austin's MFI. One phase will be 60 units developed as single room occupancy units reserved for persons previously experiencing homelessness and referred through the City's Coordinated Entry System (PSH units). This development will be owned by Integral Care and will include onsite case management and support services to be provided by Integral Care. The other phase includes a 204-unit family-friendly multifamily 4% tax credit development owned by a partnership between NHP Foundation, Capital A, and

AHFC. All 204 units will be reserved for households earning at or below 60 percent MFI with 25 percent of units reserved for households earning at or below 50 percent MFI, and 15 percent of units reserved for households earning at or below 30 percent MFI. Construction is expected to begin on this development in Fall 2023.

In addition to the affordable housing, Seabrook Square will also include affordable ground-floor commercial space and live/work units oriented around a publicly accessible plaza. This commercial space is currently anticipated to be leased to Origin Studio House, a black-owned art studio and coffee house, with the live/work units to be leased by Six Square, a non-profit arts organization that works in historically black east Austin.

Seabrook Square requires a significant investment by AHFC on behalf of the City of Austin including contribution of the land, a highly reduced ground lease rent payment, Rental Housing Development Assistance loans anticipated to total between approximately $13.5 and $22 million, 60 Local Housing Vouchers estimated to be approximately $900,000 annually, Social Service funding provided by Austin Public Health, and a 100 percent property tax exemption. AHFC as General Partner, Ground Lessor, and Lender is estimated to receive nearly full repayment of its initial investment within the first 17 years of the development through proceeds from development, operation, and refinancing/purchasing the tax credit equity investor's interests at the end of the tax credit compliance period. These proceeds are anticipated to include $9 million in developer fee, ground lease rent, general fees, a share of cash flow, and refinancing proceeds, in addition to the full repayment of the initial RHDA loan with 3 percent simple interest. These funds will be reinvested by AHFC to preserve and create affordable housing throughout Austin. In addition to the PSH units, deeply affordable rental housing, and an affordable commercial space, AHFC will retain ownership of the entire property for the Seabrook development permanently ensuring long-term affordability.

Details on the public cost of the Seabrook Square deal are below:

	Cost
Estimated Property Tax Exemption (Upon Full Build Out)	$950,000/year
Estimated Construction Sales Tax (on the full 264-unit development)	$950,000
RHDA Loan (on June 8, 2023, AHFC Agenda)	$13,516,414
SMART Housing Fee Waivers (granted to date on the full 264-unit development)	$4,910
Local Housing Voucher (60)	$900,000/year (estimated)
APH Support Services Contracts	$2,000,000

Concerns and Recommendation
There are a number of policy implications that have come to light as the result of recent PFC conversations. Private developers are taking advantage of a tool created by the State of Texas that has come under scrutiny in recent years. Private developers are also accessing multiple layers of programs that were individually created to incentive the creation of affordable housing units. However, when layering the programs, the developments are not yielding additional affordable housing units or community benefits. One development is utilizing the newly created VMU2 density-bonus, along with SMART Housing. However, the affordable unit yield sits at 15% of the units at 60% MFI, which is the minimum required in order to participate in VMU2. The remaining 35% of the units are affordable at

80% MFI, which is comparable to market rate in the submarket. Another development is utilizing Affordability Unlocked and SMART Housing and requesting RHDA funding to achieve deeper affordability (50% MFI units). All of these projects are also requesting a 100% property tax exemption under the PFC legislation. The property tax exemption applies to 100% of the units – both affordable (which are marginally affordable) and market rate. In all of the examples, the developers are taking advantage of multiple programs which were designed on their own to incentive affordability through increased entitlements, fee waivers, and/or exemptions. Essentially, the developers are taking multiple bites at the apple.

Upon consideration of the Collaborative's Family Eldercare project, it is important to note that the Collaborative – a 501c3 dedicated to the creation of Permanent Supportive Housing – will benefit in a variety of ways, including a one-time transfer of approximately $1.2 million in sales tax exemption and a $300,000 annual payment resulting from the property tax exemption. The private developer will donate the land on which Family Eldercare will develop its 60-unit PSH project; the land is valued at $3.2 million.

There is a significant amount of public investment already committed to the Family Eldercare project (as well as other Collaborative projects). The City has committed $3.4 million in RHDA funding. Travis County has committed nearly $4.5 million in ARPA funds. In addition, HACA has committed funding for 35 Project Based Vouchers, the value of which is estimated to be more than $500,000/year for 20 years. This commitment of local and federal dollars speaks to the need for housing for people experiencing homelessness and the confidence in the Collaborative's nonprofit partners. Staff recognize the significance of the commitment of resources from our regional partners and values that commitment.

However, the overarching concern that cannot be ignored is the enormous financial benefit that will accrue to a private developer of essentially market rate units (and some marginally affordable units). The private developer will receive the benefit of property tax exemption – valued at more than $100 million in present day dollars – over 75 years. It is also important to note that the required consent for HATC to operate outside their jurisdiction came to staff very recently – functionally at a point that was too late in the process for staff to have a meaningful discussion about the structure of the deals. Had this followed the expected route, and City staff were involved earlier in the process, the structure of these deals would be significantly different, likely following a more traditional path with more meaningful affordability in addition to the PSH.

While the consideration item on the June 8th is for one development, staff cannot help but consider the implications for all PFC developments – those part of the Collaborative, and those that are TCFC deals outside of the Collaborative, and how action on the June 8th Agenda could be construed to establish a precedent for how these deals will be considered in the future.

The public benefit arguments associated with the Collaborative deals are compelling and, after carefully weighing all the considerations associated with the Family Eldercare project, City staff recommend that City Council consider authorizing the Cooperative Agreement (Item 84 on the June 8, 2023, City Council agenda) but limiting that authorization to the Real Street Development. The three Travis County Supportive Housing Collaborative PFC projects are similarly structured. These three projects are providing community benefit – in the form of PSH that will provide housing to individuals who are experiencing homelessness.   These projects will be a component of the community's homeless response system and demonstrate the potential of the public sectors (including the city and the county), as well as the private sectors coming together to address common community concerns.

Staff's recommendation does not apply to the remaining non-Collaborative HATC/TCFC deals. Staff has not had the opportunity to vet any of the specifics of those deals. Based on limited understanding, there are numerous density bonuses, developer incentives, and subsidies being requested with marginal community benefits in return – which is in sharp contrast to the community investment that is occurring with the Collaborative developments which result in limited but deeply affordable housing developments stewarded by non-profits with a track record of success in this arena. **Accordingly, staff does not recommend authorizing any additional PFC-proposed projects at this time.** Additionally, we will engage an independent third party to review the known additional PFC-proposed projects to assess if community and council policy objectives for affordability are being met.

Next Steps
Staff has initiated collaborative conversations with the Housing Authority of Travis County (HATC) and the Housing Authority of the City of Austin (HACA), with the goal of developing both a framework and a process for review and authorization of PFC projects. Working with HACA and HATC, staff will identify the community priorities (including alignment with Austin Strategic Housing Blueprint goals, tenant protections, assignment of ownership interest, regulatory oversight and compliance, etc.) that will guide future staff recommendations. Staff will be reviewing our Housing Development Program Guidelines to ensure developments provide a complete development picture, including all applicable incentive program usage, to ensure staff can evaluate awards based on all relevant information and can make recommendations for funding to the AHFC Board accordingly.

If you have any questions, please contact Rosie Truelove, Housing Director, at 512-974-3064 or rosie.truelove@austintexas.gov.

cc: Veronica Briseño, Assistant City Manager
Rosie Truelove, Housing Director
Mandy DeMayo, Housing Deputy Director