



## MEMORANDUM

**TO:** Mayor and Council Members

**FROM:** Mandy DeMayo, Interim Director, Housing Department 

**DATE:** January 25, 2024

**SUBJECT:** February 1, 2024, City Council Meeting – Agenda Items 11 - 21

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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 1, 2024, City Council Meeting, staff will bring forward items for consideration of various resolutions for eleven proposed developments in the City of Austin, with an additional resolution for one proposed development in the City's extraterritorial jurisdiction to be considered on February 15, 2024. 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, governed by the Internal Revenue Code, awards tax credits to offset federal tax liability to developers of affordable housing. The tax credits are awarded through a competitive process, known as the 9% Tax Credits, and a noncompetitive lottery process, known as the 4% Tax Credits. Upon award of tax credits, the developer will sell the credits to an investor, usually a bank or other large institution, which has a federal tax liability large enough to use the credits. The investor uses the tax credits to offset their federal taxes over a ten-year period.

The sale of the tax credits generates equity for the development of affordable housing; a 9% tax credit award can generate as much as 70% of the cost of developing an affordable housing product. To qualify for an award, the development must provide a specified minimum percentage of units at rates affordable to low-income households. Further, these units must be affordable for decades. 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 9% tax credits to proposed multi-family residential developments scoring the highest in each state region. Region 7 includes Austin as well as Travis and the surrounding counties.

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, 2024.

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 Land Use and Restrictions Agreement, or LURA, 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. Developments also elect to serve a specific Target Population (General, Elderly, or Supportive Housing) which is defined and enforced by TDHCA.

### ***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 2024 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.” An applicant would receive 0 points in this category if no resolution is approved.
2. Commitment of Development Funding by Local Political Subdivision: 1 point. Section 11.9(d)(2) of the 2024 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. Development may also qualify through a waiver of other permitting fees or an award of local funding.
3. Concerted Revitalization Plan (CRP) Area: Up to 7 points. Section 11.9(d)(7) of the 2024 QAP states that an application will receive 7 points for a letter from the municipality documenting that the proposed development contributed to revitalization efforts 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. Housing staff review and respond to these requests.
4. Twice the State Average Per Capita: No points. Section 11.3(c) of the 2024 QAP requires applicant to obtain a written statement of support 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. This provision applies to all proposed developments within the City of Austin.
5. One Mile, Three Year Rule: No points. Section 11.3(d) of the 2024 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.
6. Limitations on Developments in Certain Census Tracts: No points. Section 11.3(e) of the 2024 QAP requires support or no objection from the local governing body when an application proposes a new development that is located in a census tract that has more than 20% (0.2) Housing Tax Credit Units per total households.
7. High-Poverty Tract Neighborhood Risk Factor: No points. Section 11.101(a)(3)(D)(i) of the 2024 QAP requires developments located in a census tract that has a poverty rate above 40% for individuals to receive a resolution from the local governing body which acknowledges the high poverty rate and authorizes the development to move forward. This is considered a “Neighborhood Risk Factor” by TDHCA, and an application would be ineligible if this resolution is not provided.

**Staff Criteria for Recommendation of Support**

TDHCA will award tax credits based on their established scoring criteria. To ensure that the City’s priorities are also reflected in proposed developments, Housing staff identify separate criteria which must be met in order for a proposed development to be eligible for a recommendation of support.

For 2024, staff identified 7 criteria aligned with City priorities including the activation of City-owned land, affordable housing in high opportunity areas, anti-displacement, transit-oriented development, supportive housing, preservation of affordable housing, and family-friendly unit composition. Applicants who met two of these criteria were eligible to receive a recommendation for a Resolution of Support. Of the 15 initial applications, 13 applicants met at least two of these criteria.

These criteria were:

1. The development is located on a site owned, or slated to be owned, by the Austin Housing Finance Corporation (AHFC), the City of Austin, or an affiliate of AHFC or the City of Austin.
2. The development is located in a High Opportunity Area.
3. The development is located in a Displacement Risk area, according to the Project Connect Displacement Risk Maps.
4. The development is located within 0.5 miles of the Project Connect first phase project, according to Exhibit A of Austin City Council Resolution No. 20230601-072 (including Light Rail Phase 1, Priority Extension, and Future Austin Light Rail).
5. No fewer than 25% of the units in the development are dedicated to the Continuum of Care.
6. The development is a rehabilitation of an existing affordable housing community.
7. No fewer than 75% of the units in the development include 2 or more bedrooms.

Each of the proposed developments being considered by Council meet at least two of these criteria. As a result, all are eligible for staff recommendations of support.

**Current Applications for 9% LIHTC Resolutions**

Staff received requests for resolutions from fifteen LIHTC Developers in December 2023. Since that time, resolutions associated with three of the developments have been withdrawn after their developers chose not to proceed with the full application. As a result, only twelve developments are being considered by Council. The twelve developments seeking Resolutions of Support, and their current estimated total unit counts, are as follows:

1. Eberhart Place (At-Risk Set-Aside) – 38 units
2. Pathways at Santa Rita Courts East (At-Risk Set-Aside) – 91 units
3. Pathways at Santa Rita Courts West – 95 units
4. Ovetta Rosedale – 70 units
5. Bailey at Stassney - 104 units
6. Bailey at Berkman - 104 units
7. Eden Gardens - 104 units
8. Highland Studios - 106 units
9. Mary Lee Square Phase I - 175 units
10. Rutledge Apartments – 80 units
11. St. Martin’s Senior Housing – 104 units
12. Burleson Studios (February 15 Council meeting) – 106 units

TDHCA allocates a limited amount of available tax credits to each region in the state, as well as a special category called the At-Risk Set Aside which is limited to specific development types. Most applicants apply in Region 7, the geographic region which includes Austin and the surrounding area. Certain applicants are eligible

to participate in the At-Risk Set Aside, a statewide category which does not compete for the same limited allocation amount as Region 7. Those applicants are marked above.

It is estimated that Region 7 will see \$5,371,064 in funding, according to the most current TDHCA Pre-Application log, which is enough to fund two developments in the Region. The At-Risk Set Aside has \$13,026,864 available to allocate statewide.

Please note that Burleson Studios will be considered at the February 15 Council meeting. This proposed development is located in the City's extraterritorial jurisdiction, and as a result the applicant must obtain a resolution of support from both the City and Travis County. Staff have requested that the applicant provide evidence of support from the Travis County Commissioner's Court before their Council request is considered. To allow time for County approval, this item will be considered February 15.

Attached please find a table and map detailing the attributes of each of the three applications. Further details on each can be found in the RCA and backup materials.

***Future Funding Requests***

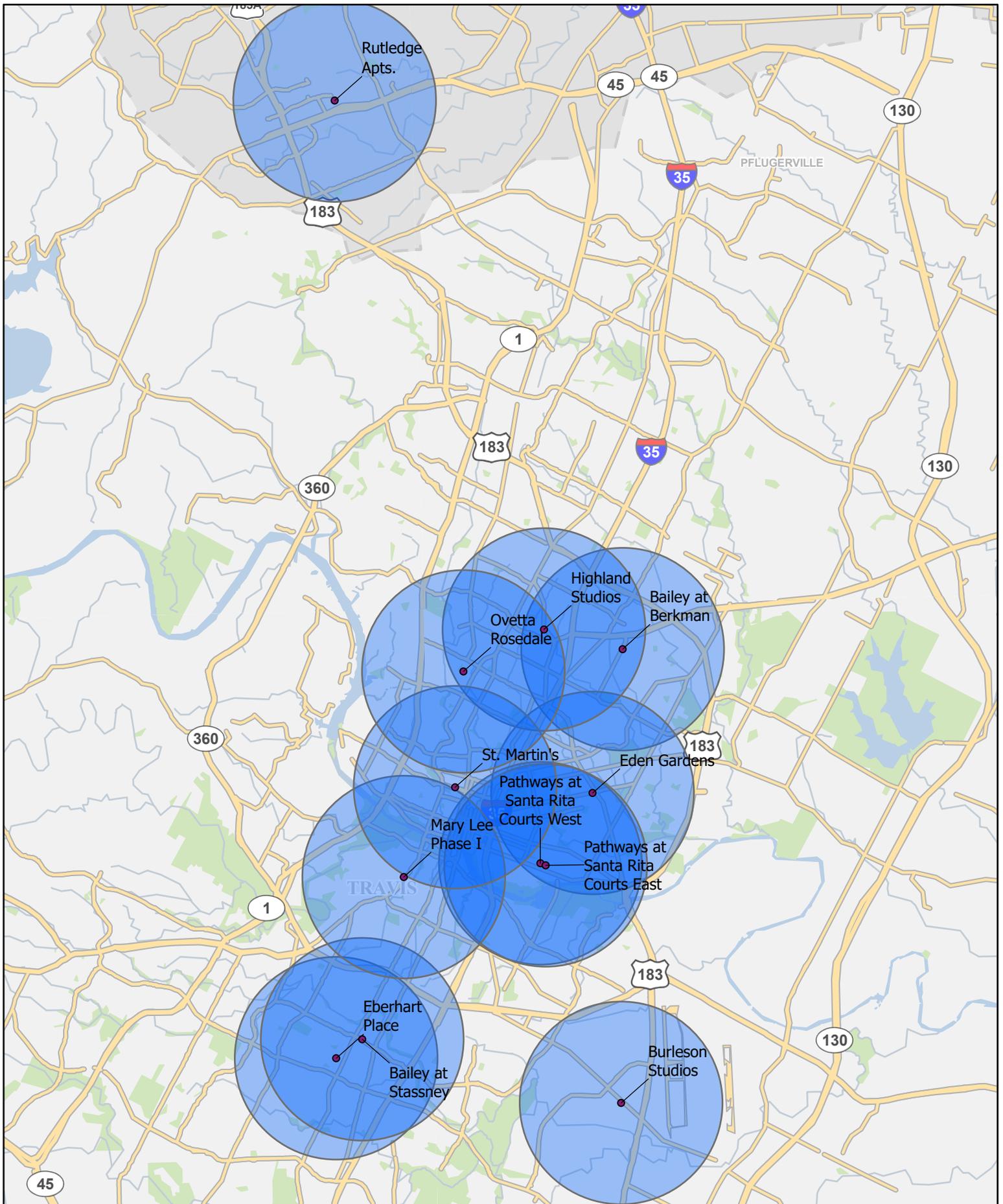
Many applicants have indicated that they intend to apply for extremely large amounts of RHDA gap financing. Staff do not anticipate funding being available at these levels in upcoming funding cycles. As a result, staff will be communicating with the applicants to inform them that alternative financing sources will need to be identified in order to sizably close their financing gaps. Staff wish to make it abundantly clear that approval of a Resolution of Support by Council does not indicate support for any future requests for City funding.

Please do not hesitate to contact me if you have any questions at [Mandy.DeMayo@austintexas.gov](mailto:Mandy.DeMayo@austintexas.gov) or 512-974-1091.

cc: Jesús Garza, Interim City Manager  
Veronica Briseño, Assistant City Manager

Attachments: 2024 9 Percent Applications - 1.19.24 - Units & Withdrawals  
Updated Map 9 Percent LIHTC 2024 1.19.24

<b>Project Name</b>	<b>Address</b>	<b>Council District</b>	<b>Total Units</b>	<b>Affordable Units</b>	<b>Target Population</b>	<b>Contact</b>
<b>Eberhart Place</b> (At-Risk Set-Aside)	808 Eberhart Ln. Austin, TX 78745	District 2	38	38	Elderly	National Church Residences, Tracey Fine; tfine@nationalchurchresidences.org
<b>Pathways at Santa Rita Courts West</b>	Approx. 2210 E. 2nd St, Austin, TX 78702	District 3	95	95	General	Housing Authority of City of Austin (HACA) & Carleton Companies, Audrey Martin; audrey@purplemartinre.com
<b>Pathways at Santa Rita Courts East</b> (At-Risk Set Aside)	Approx. 2341 Corta St, Austin, TX 78702	District 3	91	91	General	Housing Authority of City of Austin (HACA) & Carleton Companies, Audrey Martin; audrey@purplemartinre.com
<b>Ovetta Rosedale</b>	4202-4210 Medical Pkwy, Austin, TX 78756	District 10	70	67	General	Saigebrook/O-SDA, Erin Curby, Erin@Saigebrook.com
<b>Bailey at Stassney</b>	400 & 404 W Stassney Ln, Austin, TX 78745	District 3	104	104	Supportive Housing	Structure Development, Christine Castillo, christine@structuretexas.com
<b>Bailey at Berkman</b>	6405 Berkman Dr, Austin, TX 78723	District 4	104	104	Supportive Housing	Structure Development, Christine Castillo, christine@structuretexas.com
<b>Eden Gardens</b>	3129 E. 12th St, Austin, TX 78702	District 1	104	104	Elderly	Capital A Housing, David Dinoff, david@capitalahousing.com
<b>Highland Studios</b>	5900-5906 Airport Blvd, Austin, TX 78752	District 4	106	106	Supportive Housing	Foundation Communities, Michelle Le, michelle.le@foundcom.org
<b>Mary Lee Phase I</b>	1326, 1328, 1332, & 1342 Lamar Square Dr, Austin, TX 78704	District 9	175	175	Supportive Housing	Foundation Communities, Michelle Le, michelle.le@foundcom.org
<b>Rutledge Apts.</b>	13641 Rutledge Spur, Austin, TX 78717	District 6	80	80	General	Foundation Communities, Michelle Le, michelle.le@foundcom.org
<b>Burleson Studios</b>	7905 Burleson Rd, Austin, TX 78744	ETJ	106	106	Supportive Housing	Foundation Communities, Michelle Le, michelle.le@foundcom.org
<b>St. Martin's</b>	700 W. 15th St, Austin, TX 78701	District 9	104	104	Elderly	DMA, Andrew Sinnott, AndrewS@dmacompanies.com



# LIHTC 2024 APPLICANTS

