



## **M E M O R A N D U M**

**City of Austin  
Financial Services Department  
Purchasing Office**

**DATE:** January 20, 2017  
**TO:** Memo to File  
**FROM:** John Hilbun, Contract Administrator Corporate  
**RE:** MA 7200 NG170000024

This MA was created as a payment mechanism only. The original contract is administered, maintained, and located with Austin Housing Finance Corporation (AHFC) or Neighborhood Housing & Community Development (NHCD).



# Austin Housing Finance Corporation

# MEMO

P.O. Box 1088, Austin, TX 78767-1088

Sherry Cardino, Contract Compliance Specialist

(512) 974-3153, Fax: (512) 974-3161, sherry.cardino@austintexas.gov

Date: January 5, 2017

To: Linda Lindsey, Finance

RE: RQM Request

This memo is to request set-up of a new PO# needed for additional funding awarded to an existing loan agreement between **Chestnut Neighborhood Revitalization Corporation (CNRC)** and the **Austin Housing Finance Corporation**. The AHFC Board approved \$992,000 of additional funding on 12/15/16 (see RBA attached). The existing loan agreement has been modified to increase its total to **\$4,954,717**. See history below.

\$1,081,610.00	Contract Amount, 3/23/12
<u>\$1,023,224.86</u>	Total check amount provided for 3 closings, acquisition of six (6) properties
\$58,385.14	Remaining balance (G. O. Bond) – Set Up for disbursement (CT# Issued)
<b>\$293,658.00</b>	<b>Modification #1, 9/14/12</b>
\$1,375,268.00	Revised Contract Amount
<b>\$1,265,000.00</b>	<b>Modification #2, 12/5/13, CIP</b>
\$2,640,268.00	Revised Loan Amount
<b>\$1,322,449.00</b>	<b>Modification #3, 10/21/15, HTF</b>
\$3,962,717.00	Revised Loan Amount
<b>\$1,322,449.00</b>	<b>Modification #4, 1/4/17, GO</b>
\$4,954,717.00	Revised Loan Amount

*\*SEE ATTACHED AWARD & FUNDING HISTORY DOCUMENT; ALL PO#S PRESENT*

Additional funding will be used for costs associated with development/construction of The Chicon (Chicon Corridor). The term of the agreement is from contract execution **March 23, 2012** through **December 31, 2018**. Using these funds, borrower shall complete development of thirty-three (33) newly-constructed residential units as part of a mixed-use development and sell the residential units to income-eligible homebuyers at or below 80% MFI.

Vendor ID: **CHE7151350**

**Chestnut Neighborhood Revitalization Corporation**

2211 East MLK Jr. Blvd

Austin, Texas 78702

Please find the following payment and funding information:

Additional Funding Amount:	Approved Funding Line:	Funding Source:
\$992,000.00	7011 – 7207 – 1300	G.O. Bonds

The CARR form and its attachments are included.

Please contact Sherry Cardino or David Potter should you have any questions. Thank you in advance for your assistance.

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**FOURTH MODIFICATION AGREEMENT**  
**Modifying Promissory Note and Three Deeds of Trust**  
**[Modified Loan Amount \$4,954,717.00]**

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**Date:** Jan 4, 2017

**Holder of Note and Lien:** AUSTIN HOUSING FINANCE CORPORATION, a Texas public, non-profit corporation

**Holder's Mailing Address:** 1000 East 11<sup>th</sup> Street, Suite 200  
Austin, Travis County, Texas 78702

**Obligor:** CHESTNUT NEIGHBORHOOD REVITALIZATION CORPORATION, a Texas non-profit corporation

**Obligor's Mailing Address:** 2211 E. MLK, Jr. Blvd.  
Austin, Travis County, Texas 78702

**Note**

**Date:** March 23, 2012

**Original principal amount:** US \$1,081,610.00

**Borrower:** CHESTNUT NEIGHBORHOOD REVITALIZATION CORPORATION

**Lender:** Austin Housing Finance Corporation

**Maturity date:** March 31, 2017

**Unpaid Principal and Interest on Note:** US \$1,081,610.00

**Lien Documents:**

1. A Modification to a Note and Three Deeds of Trust dated September 14, 2012, and recorded in Document Number 2012158289, Official Public Records of Travis County, Texas.
2. A Modification to a Note and Three Deeds of Trust dated December 5, 2013, and recorded in Document Number 2013224768, Official Public Records of Travis County, Texas.

3. A Modification to a Note and Three Deeds of Trust dated October 2, 2015, and recorded in Document Number 201602440, Official Public Records of Travis County, Texas.
4. A Deed of Trust from the Borrower to the Holder of Note and Lien dated of even date with the Note, and recorded in Document Number 2012046781, Official Public Records of Travis County, Texas.
5. A Deed of Trust from the Borrower to the Holder of Note and Lien dated of even date with the Note, and recorded in Document Number 2012047694, Official Public Records of Travis County, Texas.
6. A Deed of Trust from the Borrower to the Holder of Note and Lien dated of even date with the Note, and recorded in Document Number 2012047253, Official Public Records of Travis County, Texas

**Property (including any improvements) Covered by the Lien (the "Property"):**

The certain real property described on **Exhibit "A"** attached to this Modification Agreement and by this reference incorporated in it, and all rights, titles and interests appurtenant thereto.

**Modified Terms:**

1. The Principal Amount is amended to be **Four Million Nine Hundred Fifty-four Thousand Seven Hundred Seventeen and 00/100 U. S. Dollars (\$4,954,717.00)**.

The Note is secured by liens against the Property. Whether Obligor is primarily liable on the Note or not, Obligor nevertheless agrees to pay the Note and comply with the obligations expressed in the Lien Documents.

For value received, Obligor renews the Note and promises to pay to the order of Holder of Note and Lien, according to the Modified Terms, the Unpaid Principal and Interest on Note. All unpaid amounts are due by the Extended Maturity Date of Note. Obligor also extends the liens and agrees to perform and comply with all covenants, conditions and obligations described in the Lien Documents.

The Note and the Lien Documents continue as written, except as provided in this agreement.

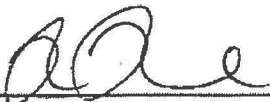
Obligor warrants to Holder of Note and Lien that the Note and the Lien Documents, as modified, are valid and enforceable and represents that they are not subject to rights of offset, rescission, or other claims.

When the context requires, singular nouns and pronouns include the plural.

**[Remainder of page intentionally left blank.]**

EXECUTED AND DELIVERED effective the date first above stated.

Holder of Note and Lien: AUSTIN HOUSING FINANCE CORPORATION

BY:   
NAME: ROSIE TRUELOVE  
TITLE: TREASURER

Obligor: CHESTNUT NEIGHBORHOOD REVITALIZATION CORPORATION

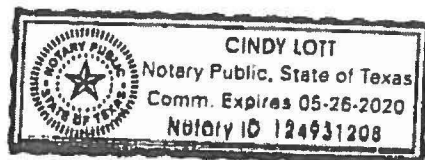
BY:   
NAME: SEAN GARRETSON  
TITLE: BOARD CHAIR

ATTACHED EXHIBIT A - Legal Description of Property

(Acknowledgments)

STATE OF TEXAS §  
COUNTY OF TRAVIS §

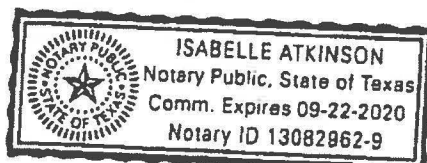
This instrument was acknowledged before me on 1.4, <sup>2017</sup>~~2016~~ by ROSIE TRUELOVE, Treasurer, Austin Housing Finance Corporation, a Texas public, non-profit corporation, on behalf of said corporation.



  
Notary Public, State of Texas

STATE OF TEXAS §  
COUNTY OF TRAVIS §

This instrument was acknowledged before me on December 20<sup>th</sup>, 2016 by SEAN GARRETSON, Board Chair, Chestnut Neighborhood Revitalization Corporation, a Texas non-profit corporation, on behalf of said corporation.



  
Notary Public, State of Texas

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**AFTER RECORDING RETURN TO:**

Austin Housing Finance Corporation  
ATTN: RHDA Program  
1000 East 11<sup>th</sup> Street, Suite 200  
Austin, Texas 78702

**PREPARED IN THE LAW OFFICE OF:**

City of Austin  
Law Department

**EXHIBIT A**  
**Legal Description of the Property**

The legal description of the Property referred to in this instrument is described as follows:

Tract 1: Being 0.1806 of an acre of land, more or less, out of Lot 5, Block 4, C. R. JOHNS SUBDIVISION OF OUTLOT 36, DIVISION "B", according to the map or plat thereof, recorded in Volume 1, Page 3, Plat Records, Travis County, Texas, being the same tract of land conveyed to Calavan Family Partnership by Deed recorded in Document No. 2005025042, Official Public Records, Travis County, Texas, and being more particularly described by metes and bounds in Exhibit "A-1" attached hereto and made a part hereof, commonly known as **1212 Chicon Street**.

Tract 2: Being 0.1804 of an acre of land, more or less, out of Lots 5 and 6, Block 4, C. R. JOHNS SUBDIVISION OF OUTLOT 36, DIVISION "B", according to the map or plat thereof, recorded in Volume 1, Page 3, Plat Records, Travis County, Texas, being the same tract of land conveyed to Calavan Family Partnership by Deed recorded in Document No. 2006014940, Official Public Records, Travis County, Texas, and being more particularly described by metes and bounds in Exhibit "A-2" attached hereto and made a part hereof, commonly known as **1807 East 13<sup>th</sup> Street**.

Tract 3: The South ½ of the South ½ of Lots 1 and 2, Block 8, OUTLOT 34, DIVISION "B", IN THE ORIGINAL CITY OF AUSTIN, according to the map or plat thereof, recorded in Volume 1, Page 42, Plat Records of Travis County, Texas, more commonly known as **1301 Chicon Street**.

Tract 4: The North 72.5 feet or the North One-half of Lots 1 and 2, Block 8, of the subdivision of OUTLOT 34, DIVISION "B", OF THE ORIGINAL CITY OF AUSTIN, according to the map or plat thereof, recorded in Volume 1, Page 42, Plat Records, Travis County, Texas, more commonly known as **1305 Chicon Street**.

Tract 5: Lots 9 and 10, Block 8, of the subdivision of OUTLOT 34, DIVISION "B", OF THE ORIGINAL CITY OF AUSTIN, according to the map or plat thereof, recorded in Volume 1, Page 42, Plat Records, Travis County, Texas, more commonly known as **1309 Chicon Street**.



# AUSTIN HOUSING FINANCE CORPORATION

## BOARD OF DIRECTORS' MEETING

### AUSTIN HOUSING FINANCE CORPORATION

THURSDAY, December 15, 2016

Board of Directors:  
Steve Adler, President  
Kathie Tovo, Vice President  
Ora Houston, Director  
Delia Garza, Director  
Sabino Renteria, Director  
Greg Casar, Director  
Ann Kitchen, Director  
Don Zimmerman, Director  
Leslie Pool, Director  
Ellen Troxclair, Director  
Sheri Gallo, Director  
Elaine Hart, General Manager  
Jannette Goodall, Secretary  
Rosie Truelove, Treasurer  
Anne Morgan, General Counsel

The Board of Directors of the Austin Housing Finance Corporation (AHFC) was convened on Thursday, December 15, 2016, in the Council Chambers of City Hall, 301 W. 2<sup>nd</sup> Street, Austin, Texas. The following were the AHFC items considered by the Austin Housing Finance Corporation's Board of Directors.

President Adler called the meeting to order at 3:55 p.m.

#### CONSENT AGENDA

AHFC1. 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).

The motion authorizing an increase to an existing loan to the Chestnut Neighborhood Revitalization Corporation was approved on Vice President Tovo's motion, Director Houston's second on an 8-3 vote. Those voting aye were: President Adler, Vice President Tovo, Director's Casar, Garza, Gallo, Houston, Kitchen, and Pool. Those voting nay were: Director's Renteria, Troxclair, and Zimmerman.

President Adler adjourned the meeting at 4:06 p.m. without objection.






# Austin Housing Finance Corporation

P.O. Box 1088, Austin, TX 78767-1088

(512) 974-3100 • Fax: (512) 974-3161 • [www.austintexas.gov/ahfc](http://www.austintexas.gov/ahfc)

December 12, 2016

TO: AHFC Board of Directors

FROM: Rosie Truelove, AHFC Treasurer 

SUBJECT: December 15, 2016 AHFC Board Meeting,  
Agenda Item #1

This purpose of this memorandum is to provide you with background and current information on Agenda Item #1 which would "authorize an increase of \$992,000 to an existing loan to the Chestnut Neighborhood Revitalization Corporation (CNRC) 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."

To date, the AHFC Board has approved \$3,962,717 in 2006 Affordable Housing G.O. Bond funds and Capital Improvement Program (CIP) funds. The development will consist of 43 residential units, 33 of which will provide affordable ownership opportunities, as well as commercial space on the ground floor. CNRC already has buyer contracts on the residential units.

Earlier this year, while applying for construction financing beyond AHFC's contribution, the proposed new lender discovered a title issue. A mistake found on the deed meant that a portion of the property being built upon was not actually conveyed to CNRC. As a result, construction had to stop, pending resolution of the title issue.

The issue was resolved at the Title Insurance Company's expense. Due to unfortunate timing of the title problem, the bank's loan could not be made before CNRC exhausted the AHFC funding. The length of time necessary to resolve the matter put the project in jeopardy and the ongoing work stoppage required the General Contractor to file liens to protect its interests.

Since that time, CNRC has obtained approval for a \$2 million loan from the Texas State Affordable Housing Corporation and a \$4 million loan from Frost Bank. Both loans are contingent upon AHFC's approval of this funding request.

*Board of Directors:* Steve Adler, President • Kathie Tovo, Vice President  
Ora Houston, Director • Dalia Garza, Director • Sabino Renteria, Director • Gregorio Casar, Director  
Ann Kitchen, Director • Don Zimmerman, Director • Lashe Pool, Director • Ellen Troxclair, Director • Shen Gallo, Director  
Elaine Hart, General Manager • Rosie Truelove, Treasurer • Jannette Goodall, Secretary  
• Anne L. Morgan, General Counsel •

*The Austin Housing Finance Corporation is committed to compliance with the American with Disabilities Act and will provide reasonable modifications and equal access to communications upon request.*

If funding is approved, the cost per affordable unit at The Chicon will be approximately \$150,100. This amount is not out of line with other projects that have been funded, including:

Blackshear CDC, 2112 East 8 <sup>th</sup> Street	1 unit	\$157,100/unit
Guadalupe Neighborhood Development Corp.		
Houses Relocated from Rainey Street	4 units	\$151,700/unit
Accessible Housing Austin!, 3705 Tamil Street	1 unit	\$137,900/unit
AHFC, Anderson Village	24 units	\$125,000/unit
Saint Louise House, acquisition and rehabilitation	24 units	\$113,000/unit

It is critical that this project resume construction, and staff recommends approval of the requested additional funding. To date, AHFC has been the only lender and if the project failed, it would require AHFC to finish the project at a cost anticipated to be more than the \$7 million in financing CNRC is now poised to receive.

Please feel free to contact me if you have questions.

cc: Elaine Hart, AHFC General Manager  
Bert Lumbreras, Assistant City Manager



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 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)



# Austin Housing Finance Corporation

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P.O. Box 1088, Austin, TX 78767-1088

(512) 974-3100 • Fax: (512) 974-3161 • [www.cityofaustin.org/ahfc](http://www.cityofaustin.org/ahfc)

December 16, 2016

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

Dear Mr. Garretson:

On December 15, 2016, the Austin Housing Finance Corporation (AHFC) Board of Directors approved additional funding for The Chicon in the amount of \$992,000. The funding will come from Affordable Housing General Obligation Bond Funds.

We look forward to working with the Chestnut Neighborhood Revitalization Corporation and the other lenders to help facilitate closing on the financing necessary to complete the project. Should you have questions, please contact me at 512-974-3192.

Sincerely,

David W. Potter  
Neighborhood Development Program Manager

cc: Rosie Truelove, AHFC Treasurer

*Board of Directors:* Steve Adler, President • Kathie Tovo, Vice President  
Ora Houston, Director • Delia Garza, Director • Sabino Renteria, Director • Gregorio Casar, Director  
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Chestnut Neighborhood Revitalization Corporation (CNRC)  
Chicon Corridor  
Loan and Modification Agreement Transaction History

Date	Amount	Fund Source	Notes	Identifiers (PO & Instrument #'s)
3/23/2012	\$1,081,610.00	GO	Loan Agreement executed	
	<b>\$1,081,610.00</b>			
3/22/2012	\$1,023,224.86		Acquisition of six properties; check issued at closing COA Check #: 000000003401107	
4/17/2012	\$58,385.14		PO issued; balance of loan set up for progress draws	CT 7200 12041700841
9/14/2012	\$293,658.00	GO	<b>Loan Modification #1</b>	2012158289
	<b>\$1,375,268.00</b>		Principal Loan Amount Amended; amended up to the AHFC Board-Approved amount.	
10/1/2012	\$352,043.14		PO Modified; \$293,658 added	CT 7200 12041700841
12/5/2013	\$1,265,000.00	CIP	<b>Loan Modification #2</b>	2013224768
	<b>\$2,640,268.00</b>		Principal Loan Amount Amended	
12/13/2013	\$1,265,012.55		PO Modified; \$1.265M + \$12.55 balance added)	CT 7200 12041700841-1
10/21/2015	\$1,322,449.00	CIP	<b>Loan Modification #3</b>	2016024400
	<b>\$3,962,717.00</b>	<b>\$3,962,717.00</b>	Principal Loan Amount Amended	
3/3/2016	\$153,907.27		Balance of PO	CT 7200 12041700841-1
3/31/2016	\$1,322,449.00		PO/DO Issued 3-31-16	DO 7200 16033110505
5/27/2016	\$0.00		Zero Balance - Draw #31 - Final Payment Request Issued to Finance	DO 7200 16033110505