



PROGRAM GUIDELINES
Private Activity Bond Program

City of Austin
Austin Housing Finance Corporation

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I. PURPOSE

The Austin Housing Finance Corporation (AHFC) was created in 1979 as a non-profit corporation and instrumentality of the City of Austin to carry out the purposes of the Texas Housing Finance Corporation Act, Chapter 394, Texas Local Government Code (the “Act”). The Act authorizes AHFC to issue revenue notes and bonds for the public purpose of providing a means of financing decent, safe and sanitary multifamily housing for income eligible residents.

The PAB Program Guidelines are based upon multiple documents which serve to implement the Austin Strategic Housing Blueprint. These documents include:

Imagine Austin Comprehensive Plan

2016 Mobility Bond Corridor Construction Program

2018 Affordable Housing Bond Implementation Plan

Capital Metro Project Connect Long Range Vision Plan

Austin Strategic Housing Blueprint Implementation Plan

The Austin Housing Finance Corporation (AHFC) reserves the right to issue private activity bonds at a lower amount than requested, and the right to deny applications that do not coincide with the City’s Action Plan goals and the Strategic Housing Blueprint.

II. SCOPE

The AHFC Board of Directors is the Austin Mayor and City Council Members. The Board of Directors has sole discretion to approve applications and to set forth general requirements and procedures applicable to the issuance of obligations by AHFC to provide financing for such multi-family residential developments. These guidelines are intended to apply to obligations issued to provide financing for new construction and acquisitions, as well as refinancing of previously financed multi-family residential developments and do not apply to any obligations issued by AHFC for the purpose of making or acquiring home mortgages (as defined in the Act).

Specific provisions may be waived by a majority vote of the AHFC Board of Directors where good cause is shown and is supported by adequate documentation. Any 501(c) (3) Financing must follow these guidelines including the special provisions in Section VI. In the event of modifications to the Code or to federal laws or regulations governing these Rules, AHFC reserves, in its sole option, the right to amend these guidelines.

This document outlines the framework of guidelines within which the PAB program operations are carried out. These guidelines undergo an annual review with any necessary revisions made prior to the next application deadline; however, additional revisions can be initiated by the AHFC Treasurer at any time. PAB Program Guidelines are not intended to address every circumstance that may be encountered in the development process, nor are they intended to be a verbatim restatement of all regulatory requirements. Omission of any federal or local regulatory requirements in these Program Guidelines does not relieve AHFC, or the PAB issuer from their respective obligations as may be required.

III. DEFINITIONS

501(c)(3) Financing	A bond financing for an Applicant that the Internal Revenue Service has issued a Section 501(c)(3) determination letter evidencing that the entity is a non-profit organization which is exempt from federal income taxation as of the closing date.
Accessibility	The requirement that any multi-family residential development comply with the Americans with Disabilities Act of 1990, as amended, and the applicable regulations therein
Act	The Texas Housing Finance Corporations Act, Texas Civil Statutes, Local Government Code, Chapter 394, as may be amended from time to time.
Affordable Rent	Rent paid by a tenant of a residential unit in a multi-family residential development such that the adjusted gross monthly rent of the residential unit does not exceed 30% of the gross monthly income of the tenant occupying such residential unit. This determination shall be made in accordance with procedures established by AHFC: 1. at the time of initial occupancy of the residential unit; and 2. at the time of each increase of the gross monthly rent with respect to such residential unit.
Applicant	The person or entity filing the Application for Multi-family Housing Bond Financing.
Application	The application each Applicant shall file with AHFC for the assumption, transfer, financing or refinancing of a multi-family residential development.
Board	Board of Directors of AHFC
Bond Counsel	McCall, Parkhurst & Horton L.L.P., Austin and Dallas, Texas, or such nationally recognized bond counsel firm, which AHFC from time to time has retained under contract. Documents required to be sent to Bond Counsel shall be mailed or delivered to: Mark Malveaux McCall, Parkhurst & Horton L.L.P. c/o Austin HFC Multi-family Financings 717 North Harwood - Ninth Floor Dallas, Texas 75201-6587 Telephone: 214 / 754-9200 E-mail: mmalveaux@mphlegal.com
Bonds	Any type of interest-bearing obligations, including, without limitation, bonds, notes, bond anticipation notes, or the evidence of indebtedness, issued by AHFC to finance a multi-family residential development, provided the maximum term of any such obligation shall not extend past the economic life of the multi-family residential development
City	City of Austin, a Texas home rule city and municipal corporation
Code	The Internal Revenue Code of 1986, as it may be amended from time to time, and the applicable regulations therein.
Deed Restricted Qualified Project Period	A period ending on the last to occur of: 15(fifteen) years after the date on which 90% of the units in the multi-family residential development are occupied as defined by the Code, or One-half of the life of the Bonds.

Financial Advisor	<p>Public Financial Management, Inc., Austin, Texas, or such nationally recognized financial advisor firm that AHFC, from time to time, has retained under contract. Documents required to be sent to Financial Advisor shall be mailed or delivered to:</p> <p>Dennis Waley Public Financial Management, Inc. c/o Austin HFC Multi-family Financings 700 Lavaca, Suite 1500 Austin, Texas 78701 Telephone: 512 / 472-7194 E-mail: waleyd@pfm.com</p>
AHFC Corporate Counsel	<p>AHFC's Corporate Counsel is the City of Austin's Law Department. Documents required to be sent to AHFC Corporate Counsel shall be mailed or delivered to:</p> <p>Leela Fireside City of Austin Law Department c/o AHFC Multi-Family Bond Financings 301 West 2nd Street- Fourth Floor Austin, Texas 78701 P.O. Box 1088 (78767-1088) Telephone: 512 / 974-2163 Fax: 512 / 974-2912 E-mail: leela.fireside@austintexas.gov</p>
AHFC SPOC	<p>The primary point of contact between Applicant and AHFC is:</p> <p>James May Community Development Manager Telephone: 512 / 974-3192 Fax: 512 / 974-3161 E-mail: james.may@austintexas.gov</p> <p><u>Mailing Address:</u> Austin Housing Finance Corporation Private Activity Bond Financing Program Attn. James May Post Office Box 1088 Austin, Texas 78767-1088</p>
Inducement Resolution	<p>The Board resolution declaring AHFC's intent to issue obligations to provide financing for a multi-family residential development in such form as may be recommended by Bond Counsel.</p>
Low Income Tenants	<p>Households of low or moderate income as determined in accordance with the Code, §167(k)(3)(B), whose incomes are less than or equal to sixty percent (60%) of the median income limit of the Austin-Round Rock-San Marcos, TX Metropolitan Statistical Area, adjusted for household size, and published annually by the Texas Department of Housing and Community Affairs (TDHCA).</p>
Multifamily residential development	<p>A multi-family residential development financed or to be financed by AHFC pursuant to the provisions of the Act and within the meaning of the Act, §394.003(13).</p>

Qualifying Tenants	Tenants whose adjusted household income does not exceed the income limitations of AHFC. The income limitations established by the Board are equal to eighty percent (80%) of the Median Family Income of the Austin-Round Rock-San Marcos, TX Metropolitan Statistical Area, adjusted for household size, and published annually by the TDHCA.
Restrictive Covenant	The restrictive covenant running with the land that restricts the use of each multi-family residential development during the Deed Restricted Qualified Project Period.
S.M.A.R.T. Housing certification	The City of Austin has adopted the S.M.A.R.T. Housing Ordinance to serve as a developer incentive to create affordable housing
TEFRA Public Hearing	The public hearing required by the federal Tax Equity and Fiscal Responsibility Act of 1982 prior to approval of the Bonds.
Very Low Income Tenants	Households of low or moderate income as determined in accordance with the Code, §167(k)(3)(B), whose incomes are less than or equal to fifty percent (50%) of the median income limit of the Austin-Round Rock-San Marcos, TX Metropolitan Statistical Area, adjusted for family size, as published annually by TDHCA.

IV. PROJECT ELIGIBILITY REQUIREMENTS

AHFC shall not issue obligations to provide financing for any multi-family residential development unless the Applicant has satisfied the general requirements set forth in this Article III. AHFC reserves the right to impose additional specific requirements with respect to any multi-family residential development.

A. Location.

AHFC shall issue obligations to provide financing only for multi-family residential developments located entirely within the corporate limits of the City of Austin.

B. Public Purpose.

AHFC shall not issue obligations to provide financing for any multi-family residential development unless the Board has made a finding that such financing of such multi-family residential development will promote the public purposes set forth in Section 3 of the Act.

C. Ineligible Costs.

Costs of any items of furniture, equipment, or other appointments not an integral part of the real property are not eligible for financing from this program.

D. S.M.A.R.T. Housing Certification.

An application for S.M.A.R.T. Housing certification should be submitted to AHFC and a proof of submission must be provided with the PAB application. Verification of fulfilling the requirements of the S.M.A.R.T. Housing will be done at a later stage by AHFC.

E. Restrictive Covenant.

Each owner of a multi-family residential development must execute a Restrictive Covenant.

F. Counsel

Applicants may nominate the Bond Underwriter and Underwriter's Counsel, subject to the approval of AHFC. Bond Counsel and Financial Advisor are retained by AHFC.

G. Eligible Project Types.

Financing provided through this program may be utilized for new construction, rehabilitation, acquisition and rehabilitation, or certain refunding of outstanding bonds issued by AHFC.

H. Bond Rating.

As a general rule, bonds issued by AHFC for multi-family housing developments must be rated no lower than the "A" category by at least one nationally recognized rating agency. The bonds must be issued in fully registered form. It is the responsibility of Applicant at its expense to secure a credit enhancement or plan of finance that accomplishes this rating.

Series of bonds rated lower than the "A" category may be issued by AHFC when investment letters, in satisfactory form and content to AHFC and its advisors, are obtained from all initial investors, each of whom must be an accredited investor.

I. Occupancy Requirements.

AHFC will not issue bonds exempt from federal taxation unless, in the opinion of Bond Counsel, interest thereon is exempt from Federal income taxes, and the following requirements are met:

1. at least 90% of the net bond proceeds must be used for the development of a multi-family residential development or related and subordinate facilities (such as parking or recreational facilities for residents).
2. at least forty percent (40%) of the living units are occupied or reserved for occupancy by Lower-Income Tenants (60% MFI), or
3. at least twenty percent (20%) of the living units are occupied or reserved for occupancy by Very Low-income Tenants (50% MFI).

J. Other Requirements

1. The housing units in the multi-family residential development must be available for use by members of the general public. (For example: a building for use by employees of a particular corporation will not qualify).
2. Units may be located anywhere in the City.
3. The facilities of each living unit must be complete including kitchen facilities.
4. The multi-family residential development (or any part thereof) may not be converted to condominiums.
5. The limitations required by these Program Guidelines must be applicable for the Deed Restricted Qualified Project Period.

K. Household Income Requirements.

For the purposes of these Program Guidelines, occupancy requirements pertaining to household income will be governed by the following:

1. Household income will be determined by the landlord prior to initial occupancy of a unit.
2. The size of the household shall mean the total of all individuals residing in the unit, and household income shall mean the total annual income of all members of the household, determined in the manner prescribed by AHFC.
3. Any person claimed as a dependent for Federal income tax purposes by any person(s) residing at another address will be considered eligible if the adjusted annual income of the household claiming the dependent, combined with that of said dependent, does not exceed the income limitations set forth herein. However, this provision shall not apply to handicapped tenants.

V. APPLICATION REVIEW

In addition to the above mentioned project eligibility requirements, each multi-family residential development will be evaluated by AHFC based upon its overall desirability and conformance with the following general guidelines.

A. Review Responsibilities – AHFC Program Manager.

AHFC staff review the application for completeness and adherence to requirements. The Program Manager is responsible for conducting a site visit, zoning verification, ensuring neighborhood support documentation is on file as well as advising applicant of public notice to be posted on site before scheduling a TEFRA hearing for all bond financed projects.

B. Review Responsibilities – Financial Advisor.

AHFC's Financial Advisor (FA) reviews the project for economic feasibility and coordinates with the parties for required materials for review. The FA performs the required due diligence and sends a Letter of Determination of Financial Feasibility to AHFC staff.

C. Review Responsibilities – Bond Counsel.

Due to the complex and variable nature of securing bond document approval from the Texas Attorney General, the Bond Counsel assumes the primary responsibility for preparation of the Official Statement and works with the Financing Team along with Bond Counsel, Applicant, Applicant's Bond Financing Team and the Bond Manager to negotiate the terms composing the Official Statement submitted to the Texas Attorney General's Office for approval.

D. S.M.A.R.T. Housing.

All bond finance projects involving new construction must meet the S.M.A.R.T. Housing requirements. For more information on the S.M.A.R.T. Housing program and other incentives for the construction of reasonably-priced housing in Austin, contact the Program Manager, Gina Copic at 512-974-3180, or e-mail her at regina.copic@austintexas.gov

- E. **Private Activity Volume Cap (PAVC).** For PAVC projects, the S.M.A.R.T. Housing requirements need not be met until the project receives an allocation of PAVC. The Applicant can then move to secure the S.M.A.R.T. certification before the TEFRA hearing and submission of the project to the AHFC Board for approval of the issuance of the bonds.
- F. **Distribution of units.** If units are designated by the Applicant for occupancy by Low-income Tenants or Very Low-income Tenants, these must be distributed throughout the multi-family residential development and must be generally of the same sizes and configurations, quality of construction, furnishing, decor, and maintenance, as the other units of the multi-family residential development.
- G. **Zoning:** The Applicant must provide a Zoning Verification Letter from the City of Austin Planning and Zoning Department (PZD), verifying that the current zoning of the site for the proposed project is compatible with the anticipated use, or include documentation verifying that a request to change current zoning has been submitted to PZD.
Zoning Profile Report
- H. **Accessibility:** Proposed site locations shall conform to the requirements of the S.M.A.R.T. Housing Ordinance for accessibility to public transportation routes and Green Building requirements.
- I. **Temporary relocation of rehabilitation projects:** For rehabilitation projects, temporary displacement and relocation of tenants may be required while rehabilitation work is being performed in the residence. The developer should attempt to minimize temporary displacement. However, if temporary displacement of tenants is required, the Developer's written plan to address and reduce the effects of temporary displacement and relocation must be included in the Application for Multi-family Housing Bond Financing. No tenant shall be permanently displaced as the result the use of bond financing through AHFC. These Rules shall apply to all multi-family housing developments for which Inducement Resolutions are granted subsequent to the date of the acceptance of these Rules by the Board.
TDHCA Relocation Handbook

VI. SPECIAL RULES FOR 501(C)(3) FINANCING

For a 501(c)(3) Financing the following special rules will apply:

- A. At the closing the legal counsel to the Applicant or a Special Counsel retained by Applicant must provide a non-qualified 501(c)(3) opinion letter acceptable to AHFC and Bond Counsel.
- B. AHFC will not be required to obtain an allocation of authority under the state bond ceiling cap.

VII. FILING AND PROCEDURAL REQUIREMENTS

AHFC shall not issue obligations to provide financing for any multi-family residential development unless the Applicant has complied in full with the filing and procedural requirements set forth in Article VI of these Rules.

A. Preliminary Application.

The Applicant shall complete and file with AHFC the Application for Multi-family Housing Bond Financing, a completed copy of the TDHCA Pre-Inducement Questionnaire, and the non-refundable Application Fee.

TDHCA Pre-Inducement Questionnaire for Private Activity Bonds

B. Application Submission.

Two copies of the Application for Multi-family Housing Bond Financing and a market feasibility study, if applicable, shall be submitted to AHFC by mailing or delivery to the following address:

**Austin Housing Finance Corporation
Private Activity Bond Financing Program
Post Office Box 1088, Austin, Texas 78767-1088**

(Physical Address: 1000 East 11th Street, 2nd Floor, Austin, TX 78702)

Telephone: 512 / 974-3192

Fax: 512 / 974-3161

E-mail: james.may@austintexas.gov

One copy of the application each shall be delivered to the Bond Counsel, the AHFC Corporate Counsel and Financial Advisor, each of whose contact information is provided in the Definitions section above.

C. Requesting an Inducement Resolution.

The AHFC Program Manager submits to the AHFC Board a Request for Board Action (RBA) for passing an Inducement Resolution (Reimbursement Resolution) for approval to participate in the PAVC lottery. The following information is provided to the AHFC Board:

1. Project Summary
2. Applicant Description
3. Amount of Bond Issue
4. Lottery Priority
5. Number of Units/Composition
6. Rental Rates Range(s)
7. Project Cost Schedule

D. Preliminary Approval.

Within approximately sixty (60) days after receipt by AHFC of the Application for Multi-family Housing Bond Financing, the Board shall convene a meeting to consider such Application for

Multi-family Housing Bond Financing. The Board shall provide the Applicant with an opportunity to appear at such meeting for the purpose of making an oral presentation. If the Board determines to grant preliminary approval of the Application for Multi-family Housing Bond Financing, the Board shall adopt an Inducement Resolution. AHFC reserves the right to include in such Inducement Resolution any specific requirements pertaining to such multi-family residential development deemed necessary by the Board. An electronic copy of the Inducement Resolution, signed by the Board Secretary, will be provided to the Applicant. If the Board determines not to grant preliminary approval of an Application for Multi-family Housing Bond Financing, AHFC shall so advise the Applicant in writing at the address shown on the Application for Multi-family Housing Bond Financing.

E. Submission of Additional Information.

Following the adoption by the Board of an Inducement Resolution with respect to the multi-family residential development, the Applicant shall submit such additional materials as AHFC, its Bond Counsel, and/or its Financial Advisor may reasonably request in writing.

F. Bond Counsel.

Bond Counsel shall have primary responsibility for the preparation of the legal instruments and documents to be utilized in connection with the financing of any multi-family residential development by AHFC. No bonds or other obligations will be sold and delivered unless the legality and validity thereof shall have been approved by Bond Counsel. The Applicant and its legal counsel shall cooperate fully with AHFC's agents, Financial Advisor, Corporate Counsel and Bond Counsel in the preparation of such materials.

G. Staff Contact.

The primary point of contact between Applicant and AHFC is listed in the Definitions section.

H. Legal Contact.

For legal issues contact the AHFC Corporate Counsel office whose contact information is included in the Definitions section.

VIII. APPLICATION PROCESSING

A. Timing Consideration.

To ensure adequate time for review, public input, and discussion, the Applicant should expect that its Inducement Resolution will be considered by AHFC at its regular monthly meeting that may be no sooner than **six to eight weeks** from the date the application is received by AHFC in final form.

B. Board Action.

The Applicant shall work with AHFC/NHCD staff, AHFC Bond Counsel, and AHFC Corporate Counsel for scheduling requests for the Board to take four separate actions:

1. approve an inducement resolution;
2. set the date for a public hearing;

3. conduct the public hearing; and
4. approve issuing the bonds.

C. Applicant Responsibility.

Applicants should be aware that its own legal counsel has certain responsibility to ensure that the public hearing is properly and legally posted in sufficient time to make public comment possible prior to consideration of the Inducement Resolution.

D. Public Hearings.

1. **501(c)(3) Bonds.** One TEFRA Public Hearing is required prior to inducement on 501(c)(3) bond transactions.
2. **Private Activity Bonds.** One TEFRA Public Hearing is required prior to approval to issue the bonds on Private Activity Volume cap transactions.

E. Subsequent Filing.

The applicant may file with AHFC such additional documents or statements in support thereof as the Applicant considers relevant and appropriate or as requested by AHFC, including:

1. such additional information as shall be requested of the Applicant by AHFC and its legal and financial consultants;
2. such additional information, as may be necessary to demonstrate the Applicant's ability to comply with the preliminary approval requirements;

if any such material is to be so used, a pro-forma copy of the official statement, prospectus and any other offering memoranda, through the use of which the proposed obligations are to be offered, sold or placed with any lender, purchaser or investor, which offering, sales or placement material shall contain prominent disclosure substantially to the effect:

that neither AHFC nor NHCD has undertaken to review or has assumed any responsibility for the matters contained therein except solely as to matters relating to them and the description of the obligations being offered thereby; and/or that such obligations are payable solely from the funds and secured solely by funds or property furnished and to be furnished and provided by the Applicant and any guarantor and are not in any manner payable wholly or partially from any funds or properties otherwise belonging to AHFC or NHCD;

1. a copy of any "investment letter" is required to be delivered by the original purchaser of the obligations to AHFC, in addition to such legal opinions or other documents as shall be required by the Board;
2. proposed final legal documents, and documents authorizing and relating to the issuance of the proposed obligations and all loan agreements, purchase agreements or other documents related thereto; and
3. when deemed necessary or advisable by the Board, a market study demonstrating the feasibility of the multi-family residential development.

NOTE: Substantive changes, as judged by HFC Corporate Counsel and Bond Counsel, submitted after final approval by AHFC shall be resubmitted to AHFC and a \$1,000 penalty fee shall be charged to the Applicant.

F. Final Approval and Closing.

If the Board determines to grant final approval of an Application for Multi-family Housing Bond Financing, the Board shall adopt a resolution, in such form as may be recommended by Bond Counsel, authorizing the issuance of obligations to provide financing for the multi-family residential development described in such Application for Multi-family Housing Bond Financing. Such final approval shall be granted only upon:

1. the satisfaction of project eligibility requirements set forth in these Rules;
2. the recommendation of the financing by Bond Counsel and Financial Advisor; and
3. the satisfaction of any additional specific requirement imposed by AHFC with respect to such multi-family residential development.

Following such final Board and Texas Attorney General approval, AHFC, the Applicant, and other parties involved in the transaction shall proceed to close the financing at a time and place to be determined by AHFC.

IX. SUMMARY OF FEES AND COSTS

AHFC shall not issue obligations to provide financing for any multi-family residential development unless the Applicant has paid, or entered into satisfactory contractual arrangements agreeing to pay, the fees and costs described hereunder.

A. Application Fee.

The **non-refundable** fee charged each Applicant submitting an Application for Multi-family Housing Bond Financing. The fee shall be submitted to AHFC, along with the Application for Multi-family Housing Bond Financing and is:

1. in the amount of \$5,000; or
2. in the amount of \$2,000 for an assumption or transfer to a new Applicant. These fees are not credited against the Closing Fee or the Assumption and Transfer Fee, even if Bonds are issued.

B. Penalty Fee for Substantive Change.

After final approval by AHFC, any substantive change shall be resubmitted to AHFC and a \$1,000 penalty fee shall be charged to the Applicant.

C. Closing Fee.

The fee charged each Applicant submitting an Application for Multi-family Housing Bond Financing for which AHFC issues bonds to finance the Applicant's multi-family residential development. The fee shall be paid concurrently with the closing of the financing pursuant to an approved Application for Multi-family Housing Bond Financing, or at such other time as

AHFC may approve. The closing fee is a negotiable amount as set forth in the Inducement Resolution which takes into account the size and the complexity of the proposed Bond issuance and is not less than an amount equal to 0.005 times the amount of the Bonds issued by AHFC. This fee is in addition to the Application Fee and the Cost of Issuance Expenses.

D. Assumption and Transfer Fee.

Any assumption or transfer will require an Assumption and Transfer Fee to be paid in lieu of a Closing Fee and is charged to each subsequent owner applicant concurrently with the closing of any transfer of the multi-family residential development during the deed restricted Qualified Project Period. The fee is an amount not less than the greater of (a) .0025 times the amount of the Bonds outstanding immediately preceding the transfer, or (b) \$10,000.

E. Issuer Fee.

The fee paid to the issuer is one-half of one percent (.005) times the amount of bonds issued.

F. Administrative Fee.

One time fees charged by the Issuer on October 1st for all bond issues closed during the previous fiscal year ending on September 30, in an amount equal to the annual fee calculated as described in Section IX, subsection H of these guidelines.

G. Other Costs Paid at Closing.

Concurrently with the closing of any financing or refinancing pursuant to an approved Application for Multi-family Housing Bond Financing or any assumption or transfer of the property, the Applicant, from the proceeds of the obligations, shall pay the Cost of Issuance Expenses, which shall include, but not be limited to, the following professional fees and other costs.

1. the fees and expenses of Bond Counsel: currently one percent (.01) times the principal amount for the first \$10 million and one-half of one percent (.005) times the principal amount for amounts above \$10 million, plus expenses;
2. the fees and expenses of Financial Advisor: \$25,000 flat rate fee.
3. the fees and expenses of HFC Corporate Counsel, special legal counsel and feasibility consultant for services rendered to AHFC if and when deemed necessary by AHFC in connection with the multi-family residential development or the issuance of the obligations: fees to be determined based on hours billed plus expenses; and
4. the actual amount of any closing or acceptance fees of any trustee for the obligations, any fees and premiums for casualty and title insurance, any security filing costs, any fees for placing the obligations, any credit enhancement fees, any out-of-pocket expenses incurred by professionals acting on behalf of AHFC and any other costs and expenses, including issuance expenses, relating to the obligations, their security, and the multi-family residential development: fees to be determined.

The professional fees described above which are not under the control of AHFC are subject to change without notice.

H. Annual Fee.

The annual fee payable to the Issuer is the greater of: an amount equal to .0003 times the amount of the Bonds outstanding on Sep 30th, or \$12 times the number of units in the multi-family residential development, or a flat fee of \$1,200 and is charged during the first quarter of the calendar year.

I. Continuing Costs.

Each Applicant shall pay to AHFC, within thirty (30) days after receipt of a bill or statement, the following amounts:

1. any amount payable pursuant to any indemnity contract or agreement executed in connection with any financing hereunder; and
2. the amount allocable to each Applicant (whose financing has been completed) of costs and expenses incurred by AHFC in the administration of the agreement and the outstanding obligations, including an annual accounting and/or audit of the financing records and affairs of AHFC. The amount of costs or expenses paid or incurred by AHFC under this clause shall be divided and allocated equally among all Applicants whose financings have been completed.

J. Changes in Fees.

AHFC reserves the right at any time to change, increase or reduce the fees payable under these Rules. AHFC reserves the right to make any change in fees effective with respect to any Application for Multi-family Housing Bond Financing filed after the date of such change. All fees imposed subsequent to closing by AHFC under these Rules will be imposed in such amounts as will provide funds, as nearly as may be practical, equal to that amount necessary to pay the administrative costs of conducting the business and affairs of AHFC, plus reasonable reserves.

K. Additional Fees as required.

Fees of this type may be imposed by the Board as to any multi-family residential development deemed to require special post-closing monitoring or inspection. The Applicant will be notified of such fee after Board review of the multi-family residential development.

X. POST ISSUANCE COMPLIANCE REQUIREMENTS

A. Construction

The owner has to spend or be obligated to spend at least 5% of sale proceeds of the bonds within 6 months of the closing date, to commence the construction of project facilities.

B. Initial Tenant Occupancy

The Project Owner has to submit to the Trustee and the Issuer, a certificate certifying within 90 days thereof, the date on which 10% of the units in the project are first occupied and within 90 days thereof, the date on which 50% of units in each project are first occupied.

C. Tenant Protection

1. Tenant Leases

- i. The Property Owner must follow the provisions laid out in the Lease Addendum available as Exhibit E at the end of the Regulatory Agreement.
- ii. The Lease Addendum shall be incorporated into all tenant leases at the property regardless of whether the Addendum was executed by Property Owners or the Tenant.
- iii. Property Owners must provide a copy of the Lease and the Lease Addendum to the tenant in the language in which the Lease was negotiated.
- iv. Protected Tenants are third-party beneficiaries of this agreement and may enforce all provisions of this Section and the associated affordability requirements.
- v. Property owners must offer a lease term of at least 1 year, unless tenant and owner mutually agree to a shorter lease term.

2. Tenant Selection Policies and Procedures.

- i. Property owners must have written tenant selection procedures and policies that:
 - a. Are consistent with the purpose of providing housing for very low- and low-income families;
 - b. Are reasonable, and comply with applicable eligibility and acceptance requirements;
 - c. Meet the housing needs of families and recipients of Housing Choice Voucher Program assistance (formerly "Section 8");
 - d. Follow the Texas Criminal Background Screening Guide for Rental Housing Providers, published by the Austin/Travis County Reentry Roundtable to screen potential tenants:
 - Tenant selection and screening criteria will be available and posted to the property website.
 - Only criminal convictions will be taken into consideration in the criminal background screening process.
 - Criminal convictions will be screened from the date of conviction.
 - Criminal convictions will be clearly listed on the Housing Applicant Criminal Background Screening Addendum to the Lease Application. Criminal convictions shall have no overlap or catch-all category such as "unclassified offenses."
 - With the exception of criminal convictions that fall with the categories of conduct prohibited in federally funded housing, no felony conviction, or misdemeanor conviction involving violent crimes against persons, crimes against property, or for significant drug related or prostitution related offenses, shall have a look-back period exceeding seven years from the date of conviction. No other type of misdemeanor conviction shall have a look back period exceeding three years from the date of conviction.
 - Applicants shall be provided an opportunity for individualized review if the date of conviction is within the designated look-back period.

- Items for consideration during the individual review will be clearly delineated in the Housing Applicant Criminal Background Screening Addendum to the Lease Application.
- ii. In the event of a rejected application for rental housing, property owners must give prompt written notification of the rejection and the basis for the decision.
 - iii. Tenants must be selected from a written waiting list in chronological order, or in the case of units set aside for Continuum of Care accept referrals exclusively from the Coordinated Assessment system maintained by the Ending Community Homeless Coalition. If units set aside are not occupied for more than 30 days of notifying ECHO of the vacancy, they may be filled via a project waiting list for other low-income tenants.
 - iv. For projects including Continuum of Care units, include provisions for exercising discretion to waive certain screening criteria if and when the tenant can demonstrate the availability of case management services for a minimum of three months.

D. Property Standards

The owner must maintain the total project in compliance with federal Uniform Physical Condition Standards (UPCS) and the City of Austin Building and Property Maintenance Codes for the duration of the Affordability Period. AHFC/NHCD and/or TDHCA will periodically inspect the property to ensure compliance with this requirement.

E. Smoke Free Housing

The City of Austin encourages the development of smoke-free rental housing. Smoke-free housing protects the health of residents by decreasing exposure to harmful secondhand smoke. Also, apartment owners and managers reap the benefits of more efficient and less expensive unit turnovers, potentially lower insurance premiums, and reduced risk of fires. Smoke-free policies are legally permissible and can be a marketing advantage for attracting and retaining residents. More information is available at <http://www.livetobaccofreeaustin.org/owners.php>.

F. Compliance Monitoring Documentation

The Project Owner is required to submit a certified Compliance Monitoring Report and Occupancy Summary, in the format specified in Exhibit D of the Regulatory Agreement, on an annual basis to the Issuer and the Trustee, until the end of the Qualified Project Period.

G. 4% Tax Credits

Applicants choosing to participate in the Non-Competitive 4% Housing Tax Credit Program with TDHCA, are required to submit a copy of the Unit Status Report (USR) and the Annual Owners Compliance Report (AOCR) provided to TDHCA through CMTS (Compliance Monitoring and Tracking System, to AHFC. Contact information for AHFC's Program Manager is provided in the Definitions section of these program guidelines.

H. Site Inspection

The Project Owner must allow for representatives of the Issuer, Trustee to conduct site visits and inspect the books including Tenant Income documentation.

I. Annual Tenant Income Certification

The Owner will obtain a Tenant Income Certification from each tenant at least annually after initial occupancy and maintain a record of it.

J. Change in Ownership

The Project Owner will not conduct a sale or transfer of project without complying with provisions of Loan Agreement, Mortgage and Regulatory Agreement and without obtaining prior consent of the Issuer.

XI. MISCELLANEOUS

A. Unauthorized representations.

No applicant shall represent, directly or indirectly, to any lender, interim or otherwise supplier, contractor or other person, firm or entity that AHFC has agreed or is firmly committed to issue any obligations in relation to any multi-family residential development or application for multi-family housing bond financing until the Board has granted final approval with respect to such multi-family residential development.

B. Amendments, Waivers.

AHFC reserves the right at any time to amend these Rules to apply to any Application for Multi-family Housing Bond Financing filed subsequent to the effective date of any such amendment to these Rules.

Approved by:



Rosie Truelove
Treasurer, AHFC



Date