Austin Housing Finance Corporation

AUSTIN HOUSING FINANCE CORPORATION

P.O. Box 1088, Austin, TX 78767-1088
(512) 974-3100 • Fax (512) 974-3161 • www.austintexas.gov/ahfc

DATE: November 5, 2014

TO: President Leffingwell and Board of Directors

FROM: Betsy Spencer, Austin Housing Finance Corporation, Treasurer

SUBJECT: November 6, 2014 AHFC Board Meeting Agenda Items #3, 4, 5, and 6: Proposed Partnership Process and Information related to Cesar Chavez Foundation

The purpose of this memorandum is to provide information regarding the process used by the Austin Housing Finance Corporation when proposing to enter into a partnership agreement such as the one related to the Austin Housing Finance Corporation (AHFC) agenda items referenced above. These items were presented to the AHFC Board at its August 7, 2014, meeting.

At that time, a postponement was requested so that additional information on the process could be provided to the AHFC Board as well as input could be sought from the Community Development Commission (CDC). The Community Development Commission took the following action at its October 14, 2014, meeting concerning 1034 Clayton Lane, the site of the proposed partnership between the AHFC and the Cesar Chavez Foundation:

> *"The CDC has reviewed and enthusiastically supports the proposed partnership and proposed development at 1034 Clayton Lane as presented by Austin Housing Finance Corporation staff and encourages more of these types of partnerships and affordability. The CDC also encourages that development opportunities like this be expanded into other areas of the City of Austin."*

The Community Development Commission offered input on the process, which has been included and/or enhanced due to the CDC's input (see attachment):

- Responsiveness to the City of Austin's **core values**: Long-term affordability, with a focus on affordability periods in perpetuity; deep affordability reaching levels 30% median family income (MFI) and below; as well as geographic dispersion, with the recognition for the need for affordable housing in high opportunity areas (Included on Page 1 under Principles of Partnership and on Page 2 under Scoring Criteria);
- Prioritization of development proposals that offer **"superior" benefits** to the community and clientele served. The proposals should exceed threshold requirements of the Housing Developer Assistance Program, Rental Housing Developer Assistance (Included on Page 6 under Evaluation of Proposed Partner);
- Specification of the importance of the **environmental considerations** for developments that will enable safe, decent and sanitary production and preservation of affordable housing (Included on Page 8);

- Clarification of **measures of accountability** and specifications of legal instruments that ensure enforcement mechanisms and compliance of affordability periods (Included on page 8) ;
- Inclusion of the **Rental Housing Developer Assistance Program guidelines** and scoring criteria for further clarification of information (Included on Pages 1-6).

The Role of Housing Finance Corporations

The Austin Housing Finance Corporation (AHFC) was incorporated in 1979 as a public non-profit corporation under Chapter 394 of the Texas Local Government Code. The purpose of establishing Housing Finance Corporations (HFCs) is "...to provide a means to finance the cost of residential ownership and development that will provide decent, safe, and sanitary housing at affordable prices for residents of local governments." The primary financing mechanism at that time was the issuance of bonds to partially finance the development of affordable housing.

Following passage of the federal Tax Reform Act of 1986, the Texas Legislature in 1987 expanded the authority and powers of HFCs to address local affordable housing needs. Over the years, the Boards of Directors of AHFC, collectively, have approved an expanded role in affordable housing development for AHFC that goes beyond issuing bonds. Two aspects of this are 1) the authority to enter into contracts and agreements, with respect to residential development, with any housing authority, nonprofit enterprise, or similar entity[1]; and 2) the authority to realize net corporate earnings and use those earnings to address the housing needs of low-income individuals and families.[2]

Reasons for Entering Development Partnerships

With the authority to enter into agreements with organizations to develop affordable housing and the authority to generate income for use in affordable housing programs, Development Partnerships offer one more "tool" to further AHFC's mission: "To generate and implement strategic housing solutions for the benefit of low- and moderate-income residents of the City of Austin." These partnerships are designed to help increase the supply of affordable rental housing and generate revenue for the corporation. By generating income, these partnerships help diversify AHFC's funding sources to further affordable housing initiatives.

In these partnerships, AHFC's liability is limited through the formation of subsidiary organizations as authorized by the AHFC Board. These AHFC subsidiaries are non-profit corporations and are the actual "partner" in the deal, not AHFC. The subsidiary non-profit will be a part owner of only the one property being developed under the partnership, thus limiting any liability to just that property and no others.

Proposal from the Cesar Chavez Foundation

In June of this year, AHFC staff was contacted by representatives of the non-profit Cesar Chavez Foundation (CCF) with a proposal to enter into a partnership on the acquisition and rehabilitation of the Timbers Apartments at 1034 Clayton Lane. The proposal was unlike any other AHFC has received in that, among other things, no AHFC funds were being requested, AHFC was being offered an ownership interest in the development as well as the opportunity to issue bonds to help finance the project. When AHFC issues bonds, there are certain fees AHFC receives both upon closing as well as annually for the life of the bonds.

---

[1] Texas Local Government Code, Section 394.032(d)

[2] *Ibid.*, Section 394.023(b)

Evaluation Process

The process AHFC employs to evaluate a partnership proposal is much like evaluating a funding application through the Housing Developer Assistance Program. However, an important distinction is a greater emphasis on evaluating the proposed partner. Staff provided the Development Partnership Evaluation Process to the Community Development Commission (CDC) at its October 14, 2014, meeting. Based on the input received from CDC, a revised version that document is attached.

Current AHFC Development Partnerships

- *Primrose at Shadow Creek, 1026 Clayton Lane.* A 176-unit affordable development for seniors. Development Partner: Southwest Housing. AHFC non-profit subsidiary: Arbors at Creekside Non-Profit Corporation. (2001).
    - Development financed with funding through the Private Activity Bond program; 4 percent Low Income Tax Credit Program through the Texas Department of Housing and Community Affairs (TDHCA); and HOME Investment Partnership Program (HOME) funds.
    - Community priority: 100 percent of the units are restricted to low incomes seniors.
- *Villas on Sixth, 2021 East Sixth Street.* A 160-unit mixed-income, mixed-use family development. Development Partner: Campbell-Hogue & Associates. AHFC non-profit subsidiary: Villas on Sixth Non-Profit Corporation. (2004)
    - Development financed with 9 percent Low Income Tax Credit Program funds through TDHCA; and Housing Trust Funds.
    - Community priority: Mixed-use, mixed income development combines commercial and residential use along the Metro Rail and within 1 mile to the Central Business District (CBD)
- *Retreat at North Bluff (formerly Village on Little Texas), 6212 Crow Lane.* A 240-unit mixed-income development. Development Partner: Captuity Investments Three. AHFC non-profit subsidiary: AHFC Village on Little Texas Non-Profit Corporation. (2009)
    - Developed financed with Private Lender Mortgage; Private Investor Equity and General Obligation Bond funds.
    - Mixed income development offers low to moderate income households with housing opportunities west of IH35 within walking distance to schools, serving families as well as teachers in the area.
    - The development also provides for permanent supportive housing for families coming out of homelessness.

I am available should have any questions.

cc: Marc A. Ott, AHFC, General Manager
Bert Lumbreras, City of Austin, Assistant City Manager

Attachment

AUSTIN HOUSING
FINANCE CORPORATION

Austin Housing Finance Corporation (AHFC)

Development Partnership Evaluation Process

AHFC Mission

The mission of the AHFC is to generate and implement strategic housing solutions for the benefit of low- and moderate-income residents of the City of Austin.

Background

Between 2001 and 2009 AHFC entered into agreements to create a formal partnership interest in three affordable rental developments. As any investor in a joint venture would expect, these partnerships typically offer a financial return, unlike most rental developments funded by AHFC.

Underlying Principles for Partnerships

- Demonstrate superior attributes to address the affordable housing core principles:
  - Long-term affordability
  - Deep affordability
  - Geographic dispersion of affordable housing
- Increase the supply of affordable housing.
- Generate revenue for the corporation to further affordable housing initiatives.
- Minimize AHFC's risk.

Process

I. **EVALUATION OF THE FUNDING APPLICATION**. The process AHFC employs includes several layers of evaluation including the first, which is the evaluation of the funding application through the Housing Developer Assistance Program. Below is a summary of the scoring criteria. More detail about the Housing Developer Assistance evaluation process can be found online at http://austintexas.gov/page/housing-application-center. The scoring criteria for the RHDA process is as follows:

REQUIRED INFORMATION:

1. Applicant Information ______
2a. Non-profit Required Items ______
OR
2b. For-profit Required Items ______
3. Project Description ______
4. Site Control/Value ______
5. Zoning ______
6. S.M.A.R.T. Housing ______
7. Development Team ______
8. Development Schedule ______
9. Developer Capacity ______
10. Accessible/Adaptable Units ______
11. Experience/Qualifications ______
12. Project Budget ______
13. Funds Proposal:
  a. Sources ______
  b. Uses ______
  c. Leveraging ______
  d. Operating Proforma ______
14. Good Neighbor Checklist ______

EVALUATION CRITERIA:

Applications for proposed projects will be reviewed and scored on a competitive basis per the evaluation criteria below. Applications must receive a minimum score of **150** points out of a maximum score of **240** points. PLEASE NOTE: A score above the minimum score does not guarantee funding.

CORE VALUES POINTS

(Affordable Housing Core Values: Deeper levels of affordability, long-term affordability, and geographic dispersion of affordable units throughout the City.)

1. **AFFORDABLE UNITS** (maximum 25 points)
   If development has a mix of 30%, 40%, and/or 50% MFI units, add the results for the percentage of units in each income category up to the maximum of 25 points. If the percentage of units at a given MFI level is not a multiple of 10, round up to the next closest multiple of 10 to get the score for that particular MFI level

	% of Affordable Units in Project (only count units reserved for 50% MFI and below)					
% MFI	10% of units	20% of units	30% of units	40% of units	50% of units	60% of units
50%	3	5	10	15	20	25
40%	5	10	15	20	25	
30%	10	15	20	25		

2. **AFFORDABILITY PERIOD** (25 points)

25 points: Affordability period is:

________ 99 years;

OR

________ 40 years, and project is applying for Low Income Housing Tax Credits.
Note: AHFC funding is contingent upon the award of Low Income Housing Tax Credits.

3. **GEOGRAPHIC DISPERSION** (maximum 25 points)

Project is located in an area identified according to the Kirwan Institute's Comprehensive Opportunity Map of Austin as having greater opportunity for low-income households.

25 points: Very High priority area
20 points: High priority area
15 points: Moderate priority area
10 points: Low priority area
5 points: Very Low priority area

INITIATIVES AND PRIORITIES POINTS

(Permanent Supportive Housing, Sustainability, Priority Locations, Accessible and Integrated, and Preservation of Affordable Housing)

4. PERMANENT SUPPORTIVE HOUSING (PSH) (maximum 25 points)

25 points: "Housing First" model. See Program Guidelines for detailed community description and definition.

15 points: Project will reserve units for PSH for the following populations:

- Chronically Homeless as established in the HEARTH Act (24 CFR Part 577)
- Have been in an institution for over 90 days
- Unaccompanied youth or families with children defined as homeless under other federal statutes
- Youth "aging out" of state custody or the foster care or the juvenile probation system

10 points: Project will reserve units for PSH for populations other than those listed above.

5. SINGLE-FAMILY RENTAL HOUSING, INCLUDING SECONDARY UNITS ("GREEN ALLEY INITIATIVE") (20 points)

20 points: Project consists of either new construction or rehabilitation of one or more single-family rental units, secondary units, or units compatible with the City's "Green Alley Initiative."

6. ACCESSIBILITY AND HOUSING FOR PERSONS WITH DISABILITIES (maximum 20 points)

________**10 points:** In multi-family developments, (i.e. 5 or more units) or for single-family rental housing (i.e., 1 to 4 units), 50% or more of the total number of units will be made accessible per the Uniform Federal Accessibility Standards (UFAS).

________**10 points:** Units to be designated for persons with disabilities as defined in the Fair Housing Act: for Multi-family developments, (i.e. 5 or more units), at least 25% of all units; for single-family rental housing (i.e., 1 to 4 units) 1 or more units.

7. PRIORITY LOCATION (10 points)

10 points: Project is:

________located in a Vertical Mixed-Use (VMU) Corridor; or
________a Planned-Unit Development (PUD); or
________located within a Transit-Oriented Development (TOD) area, or
________is located 0.25 miles (1,320 feet) or less from a transit stop.

8. PRESERVATION OF AFFORDABLE UNITS (10 points)

10 points: Project is the rehabilitation and preservation of existing affordable housing units, or new units are being constructed to replace existing affordable units at the same location on a one-to-one replacement basis or a greater than one-to-one replacement basis.

9. **TRANSITIONAL HOUSING** (10 points)
10 points: Project will be developed and operated exclusively as transitional housing.

UNDERWRITING POINTS

(EXPERIENCE, CAPACITY, DEVELOPMENT FEASIBILITY, OPERATIONAL FEASIBILITY, COMPATIBILITY WITH OTHER PROGRAM REQUIREMENTS)

10. **DEVELOPER EXPERIENCE AND QUALIFICATIONS** (maximum 15 points)

15 points:
Developer has recent, similar, and successful completion of a development similar in size and scope with income-restricted units.

10 points:
Developer has recent, similar, and successful completion of a development **smaller** in size and scope with income-restricted units.

8 points:
Consultant directly involved who has successfully completed a development similar in size and scope with income-restricted units.

5 points:
Developer has recent, similar, and successful completion of a development similar in size and scope **without** income-restricted units

11. **SOURCES & USES OF FUNDS** (maximum 10 points)

10 points:
All sources and uses of funds are clearly indicated and sufficient evidence of funding availability and/or commitments are included.

5 points:
All sources and uses of fund are clearly indicated, but evidence of funding availability or commitments are incomplete.

12. **DEBT COVERAGE RATIO (**maximum 10 points)

10 points:	DCR of 1.25 or greater or will be a debt-free development
6 points:	DCR between 1.21 - 1.24
4 points:	DCR between 1.15 - 1.20

13. **LEVERAGE** (maximum 10 points)

RHDA Program funding (including prior awards and the current request) divided by Total Project Costs equals:

10 points:	25% or less
8 points:	26% - 30%
6 points:	31% - 35%
4 points:	36% - 50%
2 points:	51% - 54%
0 points:	55% or greater

14. RHDA COST PER UNIT (maximum 10 points)

	Multi-Unit Structures	Single-Unit Structures
10 points	<$40,000/unit	<$50,000/unit
8 points	<$45,000/unit	<$60,000/unit
6 points	<$50,000/unit	<$70,000/unit
4 points	<$55,000/unit	<$80,000/unit
2 points	<$60,000/unit	<$90,000/unit
0 points	>$60,000/unit	>$90,000/unit

15. PROJECT READINESS (maximum 10 points)

New construction
2 points each; maximum 10 points
_______The project meets the normal eligibility requirements under the existing program guidelines.
_______The property is already owned by the developer.
_______The project has completed all necessary design work and received site plan approval.
_______All environmental reviews have been completed.
_______The project has firm commitments from all financing sources.

Acquisition and Rehab
2 points each; maximum 10 points
______The project meets the normal eligibility requirements under the existing program guidelines.
______All environmental reviews have been completed.
______The project has firm commitments from all financing sources.
______A General Contractor has been selected.
______Closing on the acquisition of the property can be achieved in less than 30 days.

Acquisition of Completed Units
2.5 points each; maximum 10 points (A total score of 2.5 points will be rounded to 3; a total score of 7.5 points will be rounded to 8.)
______The project meets the normal eligibility requirements under the existing program guidelines.
______All environmental reviews have been completed.
______The project has firm commitments from all financing sources.
______Closing on the acquisition of the property can be achieved in less than 30 days.

16. PROPERTY MANAGEMENT (maximum 10 points)

10 points:
Designated Property Management Entity has documented track record of success managing income-restricted properties of similar size and/or similar unit counts, and has the capacity to take on management of the proposed project.

8 points:
Designated Property Management Entity has a documented track record of success managing income- restricted properties of smaller size and/or fewer units, and has the capacity to take on management of the proposed project.

4 points:
Designated Property Management Entity has a documented track record of successful property management experience and has the capacity to take on management of the proposed project, but has not managed an income-restricted property.

17. SUPPORTIVE SERVICES (maximum 15 points)

15 points:

a. The developer has secured written agreements with organizations that will provide resident services, or has experienced and qualified staff (7 or more years of experience) able to provide the same services.
b. Funds have been identified for the operation of resident services programs.
c. A 3-year estimated operating budget for the operation of the resident services programs is provided.

10 points:

a. The developer has secured letters of intent from organizations that intend to provide resident services, or has experienced and qualified staff (3 to 6 years of experience) able to provide the same services.
b. Funds have been identified for the operation of the resident services programs.
c. A 3-year estimated operating budget for the operation of the resident services programs is provided.

5 points:

a. The developer has experienced and qualified staff (1 to 2 years of experience) able to provide the same resident services.
b. Funds have been identified for the operation of the resident services programs.
c. A 3-year estimated operating budget for the operation of the resident services programs is provided.

18. MBE/WBE PROJECT PARTICIPATION (5 points)

5 points: Development Team includes one or more certified City of Austin minority- or woman-owned business enterprises (M/WBE).

II. **EVALUATION OF THE PROPOSED PARTNER.** In addition to the provision that the developer must exceed the threshold requirements of the RHDA process, there is the greater emphasis placed on evaluating the proposed partner. The vetting process can take anywhere from 3-9 months, particularly if the developer is unknown to AHFC and/or a new identified potential partner to the Austin area.

- When evaluating a proposed partner, AHFC considers:
  - Superior Benefits:
    - In what ways does the partnership address the community's priorities and objectives to achieve affordable housing goals. The development partner should provide exceptional or superior outcomes around the affordable housing core values. (Examples could include: extremely low income households served; provision of opportunity area rationale; mechanisms to provide for permanent affordability).

- Experience: Are there recent examples (i.e., within the last 5 years) of successful, similar developments that are completed and operational? For each example:
  - What type of partnership structure was used?
  - Who else is partnering in the deal?
  - What is the principal developer's experience?
  - Who provided interim financing?
  - What type of permanent financing was used? Conventional mortgage, HUD-insured mortgage, investor(s), private activity bond financing?
  - Who is managing the property? How long has this management company been employed?
  - How many properties are in the organization's portfolio? Is the portfolio managed in-house?
  - What properties have been added to the portfolio within the last 3 years?

- Reputation/References;
  - Obtain references such as other funders and development partners.
  - If applicable, obtain with permission, HUD Real Estate Assessment Center (REAC) scores and copies of state agency monitoring reports for other properties owned/managed by developer.
    - Are there indications of ongoing management issues with respect to tenant files or property conditions?
  - If applicable, make inquiry with other municipalities about their experience with the developer if the municipality provided funding to a project.
  - If possible, check for code violations at properties
  - Inquire informally with others in the industry about the developer.

- Financial Capacity
  - For selected properties comparable to the proposed development:
    - The last 12 months of financial statements, looking for net income after all operating expenses and mortgage and/or investor payments have been made.
    - The most recent financial audits on the properties.
    - Consolidated financial reports for the parent company.
    - Do the projects have operating deficit guaranties, and if so, what are the guarantors' dollar amount limits on funding a deficit?
    - In the event a guarantor is required to fund an operating deficit, what is the interest rate on the funds loaned to the project?
    - Has a guarantor had to fund an operating deficit on any of these properties?
    - If so, how much did the guarantor have to provide, and how recent was this occurrence?

- Organizational structure
  - Who are the key players?
  - What are their respective roles?
  - What is their experience in developing and/or managing affordable rental property?

        - Is there a local representative of the company? A regional representative?

- When evaluating the proposed deal, the following are considered.

    - What are the environmental considerations, if any?
        - The proposal should demonstrate the ability to develop and maintain safe, decent and sanitary housing.
        - Federal guidelines offer a statutory checklist in which AHFC utilizes for this process.

    - What are the specific enforcement mechanisms to ensure long-term performance?
        - Legal instruments are designed to ensure accountability to include affordability period and levels of affordability. (Examples include a Restricted Covenant and ground lease.)
        - Property conditions to ensure maintenance of property are monitored through the long-term asset monitoring division. Instruments such as the deed of trust ensure accountability.

    - What is the type of housing being proposed and where would it be located?
        - The housing would need to meet the core values of deep affordability, long-term affordability, and geographic dispersion.

    - What levels of affordability can be achieved?
        - AHFC negotiates for more units to serve extremely low-income persons, recognizing that the units will be "subsidized" by the rents of higher-cost units.

    - What is being asked of AHFC?
        - Typically AHFC would be asked to take ownership of the land for the property tax exemption. AHFC may also be asked for a certain level of funding. This is another way to subsidize the cost of lower-income units because AHFC's funds typically will be provided as deferred-payment, zero percent interest loans.

    - What is the proposed partner bringing to the deal?
        - Experience, sources of capital, and willingness to take on the financial risk. Also, if AHFC owns the land and leases it back, the developer agrees to be responsible for all day-to-day operations, management and upkeep, and agrees to indemnify and defend AHFC against any claims made with respect to the development.

    - Is the deal feasible?
        - The proposal would be reviewed and evaluated according to the Rental Housing Developer Assistance (RHDA) application evaluation process, including meeting the scoring threshold.

    - What is AHFC getting in return? What is the Return in Investment (ROI)?
        - A cost benefit analysis will be conducted to ensure levels of community benefit are aligned with foregone tax revenue to the City of Austin. This analysis should

take into consideration community priorities and market data specific to the area and community at large.

- With affordable units being a primary objective, the development deal can also be negotiated such that AHFC can receive any or all of the following in the form of cash or equity:
  - a portion of the developer fee,
  - regular cash flow payments,
  - a of percentage ownership interest in the development.
  - an annual ground lease payment.
  - an annual monitoring fee.

III. Additional Needs

Another difference with partnerships is the added layer of legal work necessary to create a separate AHFC-related entity. The new entity will only be part of the new development which serves to limit AHFC's liability. Legal counsel is also needed to represent AHFC's interests when negotiating and developing a partnership agreement.

- Legal Representation
  - If moving forward, outside legal counsel is obtained to represent AHFC's interests in the partnership, review of all partnership documents, and evaluate the proposed partner's financial capacity, especially in the case of individuals acting as personal guarantors.
  - City of Austin Law Department assists with the formation of an AHFC-related non-profit corporation that typically acts as a General Partner in a Limited Partnership or acts as a Managing Member if a Limited Liability Company is formed.