

**REQUEST FOR CITY OF AUSTIN RESOLUTIONS & OTHER REQUIREMENTS**  
for  
**2021 4% Low Income Housing Tax Credits**

This is the Application for developers requesting resolutions required by the Texas Department of Housing and Community Affairs (TDHCA) for 4% Low Income Housing Tax Credit applications in 2021. All resolutions being requested are subject to approval by the Austin City Council. This Application can also be used to request TEFRA approvals from the Austin City Council.

- Application Deadlines.** Applications will be accepted quarterly on the following dates. The respective Council dates for setting and conducting the public hearings for the 4% LIHTC resolution are noted. A full application (including the Project Summary Form) must be submitted in order to follow the requested timeline. Please select your desired application due date and timeline.

| Applicant Requests (please check): | Application Due Date | Council – Set Hearing | Council – Conduct Hearing |
|------------------------------------|----------------------|-----------------------|---------------------------|
|                                    | January 15, 2021     | March 4, 2021         | March 25, 2021            |
| X                                  | April 9, 2021        | May 20, 2021          | June 3, 2021              |
|                                    | July 23, 2021        | Sept. 2, 2021         | Sept. 30, 2021            |
|                                    | Sept. 10, 2021*      | Oct. 21, 2021         | Nov. 4, 2021              |

\*The September 10, 2021 4% application is limited only to developments that have applied to the Texas Bond Review Board August Collapse, or that have applied/will apply for traditional carryforward.

- Resolutions & TEFRA.** Please indicate each applicable resolution requested from the City of Austin. If a resolution will ultimately be needed from Council approving a TEFRA hearing for another bond issuer, please note so with the last item below.

\_\_\_\_\_ Resolution of No Objection from the Local Governing Body

\_\_\_\_\_ Twice the State Average Per Capita (will be provided to all applicants completing this form and providing all attachments)

X \_\_\_\_\_ One-Mile/Three-Year Rule

\_\_\_\_\_ Limitations on Developments in Certain Census Tracts

\_\_\_\_\_ Development is located within a census tract that has a poverty rate above 40% for individuals (subject to staff approval)

X \_\_\_\_\_ TEFRA Resolution Requested. The TEFRA hearing is tentatively scheduled for \_\_\_\_\_ March (month) \_\_\_\_\_ 2021 (year).

- Application Requirements.** For the Resolution request to be considered, please certify this Application and include the following information in the Application PDF:

- 1) A brief narrative overview of the proposed development, including specifying who the target population is as defined by TDHCA (Supportive Housing, elderly, or general).
  - 2) A complete Project Summary Form (completed in Excel) attached as a tab in the PDF. [The Project Summary Form is available on HPD's website.](#) **Please also submit the excel sheet when submitting your application.**
  - 3) S.M.A.R.T. Housing Certification Letter if located within the city's jurisdiction and if the development is new construction. Applications for S.M.A.R.T. Housing certification go through a separate review process. For more information on the [S.M.A.R.T. Housing Program](#), email Alex Radtke, Planner Senior, at [Alex.Radtke@austintexas.gov](mailto:Alex.Radtke@austintexas.gov).
  - 4) Provide an aerial map indicating the Development's location and the distance a resident would have to walk on a paved surface to get to the nearest transit stop. Attach the map to the Application behind the appropriate tab.
  - 5) Provide a flood plain map generated by [www.ATXFloodPro.com](http://www.ATXFloodPro.com) with the property parcel identified and the legend displayed showing the various types of FEMA Flood Plain zones, if any. Attach the map to the Application behind the appropriate tab.
  - 6) Provide information about the Developer's experience and development history. Attach this information to the Application behind the appropriate tab.
  - 7) If located in the ETJ, the application must include the resolution from the applicable county behind the appropriate tab.
  - 8) Provide the inducement resolution from the Issuer of bonds for the proposed development.
- 4) **How to Submit.** Applications should be sent by email to Patrick Russell at [patrick.russell@austintexas.gov](mailto:patrick.russell@austintexas.gov). **Please include the PDF with all the incorporated attachments and please include the excel version of the Project Summary as well.** If Requestors are unable to submit by email, Applications may be submitted to the Housing and Planning Department, 1000 East 11th Street, 2nd Floor, Austin, TX 78702 to the attention of Patrick Russell. For more information, contact Patrick Russell at 512-974-3141 or by e-mail at [patrick.russell@austintexas.gov](mailto:patrick.russell@austintexas.gov).

Development Name: The Matador

The undersigned hereby certifies that the information provided in this Application, including all attachments and supporting materials, is true and correct under penalty of law, including Chapter 37 of the Texas Penal Code titled Perjury and Other Falsification and is subject to criminal penalties as defined by the State of Texas. The undersigned also affirms understanding of Texas Government Code Chapter 552, Public Information Act, which gives the public the right to access government records through public information requests, and acknowledges that this submitted Application will be treated as a government record.

Applicant (Entity Name) to TDHCA LDG The Matador, LP

Authorized Representative Signature Jason Trevino

Authorized Representative Printed Name Jason Trevino

Authorized Representative Title Senior Development Coordinator

Date 3/29/2021

## **Attachment 1 - Project Narrative**

*A brief narrative overview of the proposed development. Specify the TDHCA Target Population, whether Supportive Housing, elderly, or general.*

# Project Narrative

LDG Development is pleased to present this application for a "One Mile/3 Year Rule" and "TEFRA" resolutions for "The Matador". The Matador is a 285-unit affordable, Class A multifamily development located on 3.39 acres in south Austin. The site is located at 5900 S. Congress Street, approximately 5 minutes from downtown Austin. The proposed development will serve the general population and cater to individuals and families making at or below 50%-70% of the Area Median Income (AMI). Projected project rents will range from \$860-\$1,226 for 1-BR's and \$1,036-\$1,476 for 4-BR's. Income restrictions are estimated to range from \$34,200 to \$54,670.

The development will be a podium-style construction. Residents will receive access to social services such as financial literary classes, food pantries, recreational activities, and on-site social events.

## **Attachment 2 – Project Summary**

*(Insert a PDF of the Excel Project Summary Form)*

**Project Summary Form****1) Development Name**

The Matador

**2) Project Type**

100% Affordable

**3) New Construction or Rehabilitation?**

New Construction

**4) Development Owner (as submitted in TDHCA Application)**

LDG The Matador, LP

**5) Developer Company**

LDG Development, LLC

**6) Location Description (address if available; if not, then, e.g., NEQ of intersection of Y and Z Streets in Austin, Texas, ZIP)**

5900 S. Congress Ave, TX 78745

**7) Mobility Bond Corridor**

South Congress Ave

**8) Census Tract**

24.02

**9) Council District**

District 2

**10) Elementary School**

Pleasant Hill EL

**11) Affordability Period**

40 Years

**12) Type of Structure**

Multi-family

**13) Occupied?**

Yes

**14) How will AHFC funds be used?****15) Bond Issuer (if applicable)**

Austin Affordable PFC

**16) HFC, PFC, or Nonprofit that will control General Partner or Managing Member (if applicable)**

Austin Affordable Housing Corporation

**17) Target Population**

General

**18) Summary of Rental Units by MFI Level**

| Income Level       | Efficiency | One Bedroom | Two Bedroom | Three Bedroom Unit | Four (+) Bedroom | Total      |
|--------------------|------------|-------------|-------------|--------------------|------------------|------------|
| Up to 20% MFI      |            |             |             |                    |                  | 0          |
| Up to 30% MFI      |            |             |             |                    |                  | 0          |
| Up to 40% MFI      |            |             |             |                    |                  | 0          |
| Up to 50% MFI      |            | 16          | 51          |                    |                  | 67         |
| Up to 60% MFI      |            | 94          | 57          |                    |                  | 151        |
| Up to 70% MFI      |            | 16          | 51          |                    |                  | 67         |
| Up to 80% MFI      |            |             |             |                    |                  | 0          |
| Up to 120% MFI     |            |             |             |                    |                  | 0          |
| No Restrictions    |            |             |             |                    |                  | 0          |
| <b>Total Units</b> | <b>0</b>   | <b>126</b>  | <b>159</b>  | <b>0</b>           | <b>0</b>         | <b>285</b> |

**19) Summary of Units for Sale at MFI Level**

| Income Level       | Efficiency | One      | Two      | Three    | Four (+) | Total    |
|--------------------|------------|----------|----------|----------|----------|----------|
| Up to 60% MFI      |            |          |          |          |          | 0        |
| Up to 80% MFI      |            |          |          |          |          | 0        |
| Up to 120% MFI     |            |          |          |          |          | 0        |
| No Restrictions    |            |          |          |          |          | 0        |
| <b>Total Units</b> | <b>0</b>   | <b>0</b> | <b>0</b> | <b>0</b> | <b>0</b> | <b>0</b> |

**20) Initiatives and Priorities (of the Affordable Units)**

| Initiative                                | # of Units | Initiative              | # of Units |
|---|------------|-------------------------|------------|
| Accessible Units for Mobility Impairments | 28         | Continuum of Care Units | 0          |
| Accessible Units for Sensory Impairments  | 7          |                         |            |

**Use the City of Austin GIS Map to Answer the questions below**

18) Is the property within 1/2 mile of an Imagine Austin Center or Corridor?

Yes

19) Is the property within 1/4 mile of a High-Frequency Transit Stop?

Yes

20) Is the property within 3/4 mile of Transit Service?

Yes

21) The property has Healthy Food Access?

Yes

22) Estimated Sources and Uses of funds

| <b><u>Sources</u></b>  |            |
|------------------------|------------|
| Debt                   | 43,779,000 |
| Third Party Equity     | 21,507,787 |
| Grant                  |            |
| Deferred Developer Fee | 6,919,642  |
| Other                  |            |
| Previous AHFC Funding  |            |
| Expected AHFC Request  |            |

**Total    \$        72,206,429**

| <b><u>Uses</u></b> |                   |
|--------------------|-------------------|
| Acquisition        | 6,287,015         |
| Off-Site           |                   |
| Site Work          | 4,275,000         |
| Site Amenities     | 425,000           |
| Building Costs     | 31,350,000        |
| Contractor Fees    | 7,167,750         |
| Soft Costs         | 6,972,787         |
| Financing          | 7,757,500         |
| Developer Fees     | 7,971,377         |
| <b>Total    \$</b> | <b>72,206,429</b> |

|                        |                      |             |                      |
|------------------------|----------------------|-------------|----------------------|
| <b>CRP Name</b>        | <input type="text"/> |             |                      |
| <b>CRP Ordinance 1</b> | <input type="text"/> | <b>Date</b> | <input type="text"/> |
| <b>CRP Ordinance 2</b> | <input type="text"/> | <b>Date</b> | <input type="text"/> |
| <b>CRP Ordinance 3</b> | <input type="text"/> | <b>Date</b> | <input type="text"/> |
| <b>CRP Ordinance 4</b> | <input type="text"/> | <b>Date</b> | <input type="text"/> |
| <b>CRP Ordinance 5</b> | <input type="text"/> | <b>Date</b> | <input type="text"/> |



### **Attachment 3 – S.M.A.R.T. Housing Certification Letter**

*(S.M.A.R.T. Housing Certification Letter for developments located in the city's jurisdiction and that are new construction. Applications for S.M.A.R.T. Housing certification go through a separate review process. For more information on the [S.M.A.R.T. Housing Program](#), email Alex Radtke, Planner Senior, at [Alex.Radtke@austintexas.gov](mailto:Alex.Radtke@austintexas.gov).*



# City of Austin

P.O. Box 1088, Austin, TX 78767  
[www.cityofaustin.org/housing](http://www.cityofaustin.org/housing)

## Neighborhood Housing and Community Development Department

July 16, 2020 (Revision to letter dated January 23, 2020)

S.M.A.R.T. Housing Certification  
**Texas Quad, LLC – The Matador - (ID 690)**

To Whom It May Concern:

Owner Texas Quad, LLC - (development contact: Meg Greenfield, ph: 425.802.9063; email: [mgreenfield@dunawayassociates.com](mailto:mgreenfield@dunawayassociates.com)) is planning to develop a **285-unit multi-family** development at 5900 South Congress Avenue, Austin TX 78745. Due to the applicant applying development bonuses under the City of Austin's Affordability Unlocked Program, these units will be subject to a 40-year affordability period. The units will comply with rental rates established annually by Neighborhood Housing and Community Development (NHCD).

**This letter revises the unit MFI-levels as detailed below. In addition, the project has also been certified under Affordability Unlocked as of July 16, 2020.**

Neighborhood Housing and Community Development (NHCD) certifies the proposed project meets the S.M.A.R.T. Housing standards at the pre-submittal stage. Since **30%** of the units (**86 units**) will serve households at or below **50% Median Family Income (MFI)**, **40%** of the units (**113 units**) will serve households at or below **60% MFI** and **30%** of the units (**86 units**) will serve households at or below **70% MFI** the development will be eligible for **100%** waiver of all fees listed in Land Development Code, Chapter 25-1-704, as amended or other fees waived under a separate ordinance except for Austin Water Utility (AWU) Capital Recovery Fees. **This development is not fully in accordance with the requirements under the Texas Local Government Code, Chapter 395.16(g) and 42 U.S.C. Section 12745 (A)(1) as it relates to how housing qualifies as affordable housing and therefore the 86 units at 70% MFI will not be eligible to receive Austin Water Utility Capital Recovery Fee (CRF) waiver.** The expected fee waivers include, but are not limited to, the following fees:

~~AWU Capital Recovery Fees~~  
Building Permit  
Concrete Permit  
Electrical Permit  
Mechanical Permit  
Plumbing Permit

Site Plan Review  
Misc. Site Plan Fee  
Construction Inspection  
Subdivision Plan Review  
Misc. Subdivision Fee  
Zoning Verification

Land Status Determination  
Building Plan Review  
Parkland Dedication (*by separate ordinance*)

### **Prior to issuance of building permits and starting construction, the developer must:**

- ◆ Obtain a signed Conditional Approval from the Austin Energy Green Building Program stating that the plans and specifications for the proposed development meet the criteria for a Green Building Rating. (Contact Austin Energy Green Building: 512-482-5300 or [greenbuilding@austinenergy.com](mailto:greenbuilding@austinenergy.com)).
- ◆ Submit plans demonstrating compliance with the required accessibility standards.

**Before a Certificate of Occupancy will be granted, the development must:**

- ◆ Pass a final inspection and obtain a signed Final Approval from the Green Building Program. (Separate from any other inspections required by the City of Austin or Austin Energy).
- ◆ Pass a final inspection to certify that the required accessibility standards have been met.
- ◆ An administrative hold will be placed on the building permit, until the following items have been completed: 1) the number of affordable units have been finalized and evidenced through a sealed letter from project architect and/or engineer, 2) a Restrictive Covenant stating the affordability requirements and terms has been filed for record at the Travis County Clerk Office.

The applicant must demonstrate compliance with S.M.A.R.T. Housing standards after the after the certificate of occupancy has been issued or repay the City of Austin, in full, the fees waived for this S.M.A.R.T. Housing certification.

Please contact me by phone 512.974.2108 or by email at [alex.radtke@austintexas.gov](mailto:alex.radtke@austintexas.gov) if you need additional information.

Sincerely,



Alex Radtke, Senior Planner  
Neighborhood Housing and Community Development

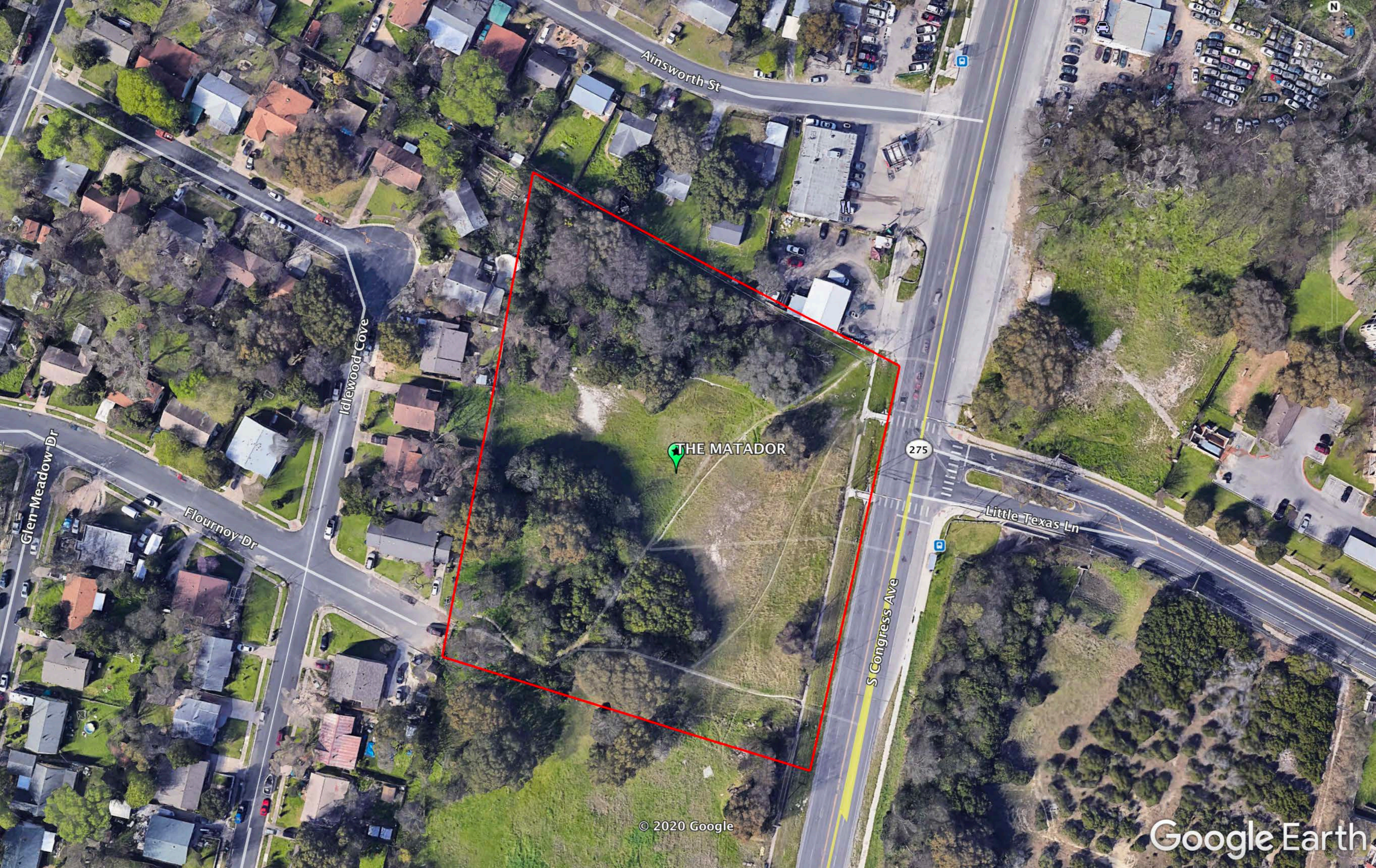
Cc: Kristin Martinez, AE  
Mashell Smith, ORES

Ellis Morgan, NHCD

Jonathan Orenstein, AWU

#### **Attachment 4 – Map and Nearest Transit Stop**

*(Insert a map indicating the property location and the distance a resident would have to walk on a paved surface to get to the nearest transit stop)*





- 5900 S Congress Ave, Austin, TX 78745
- Little Texas Station (NB), Austin, TX 787
- Add destination

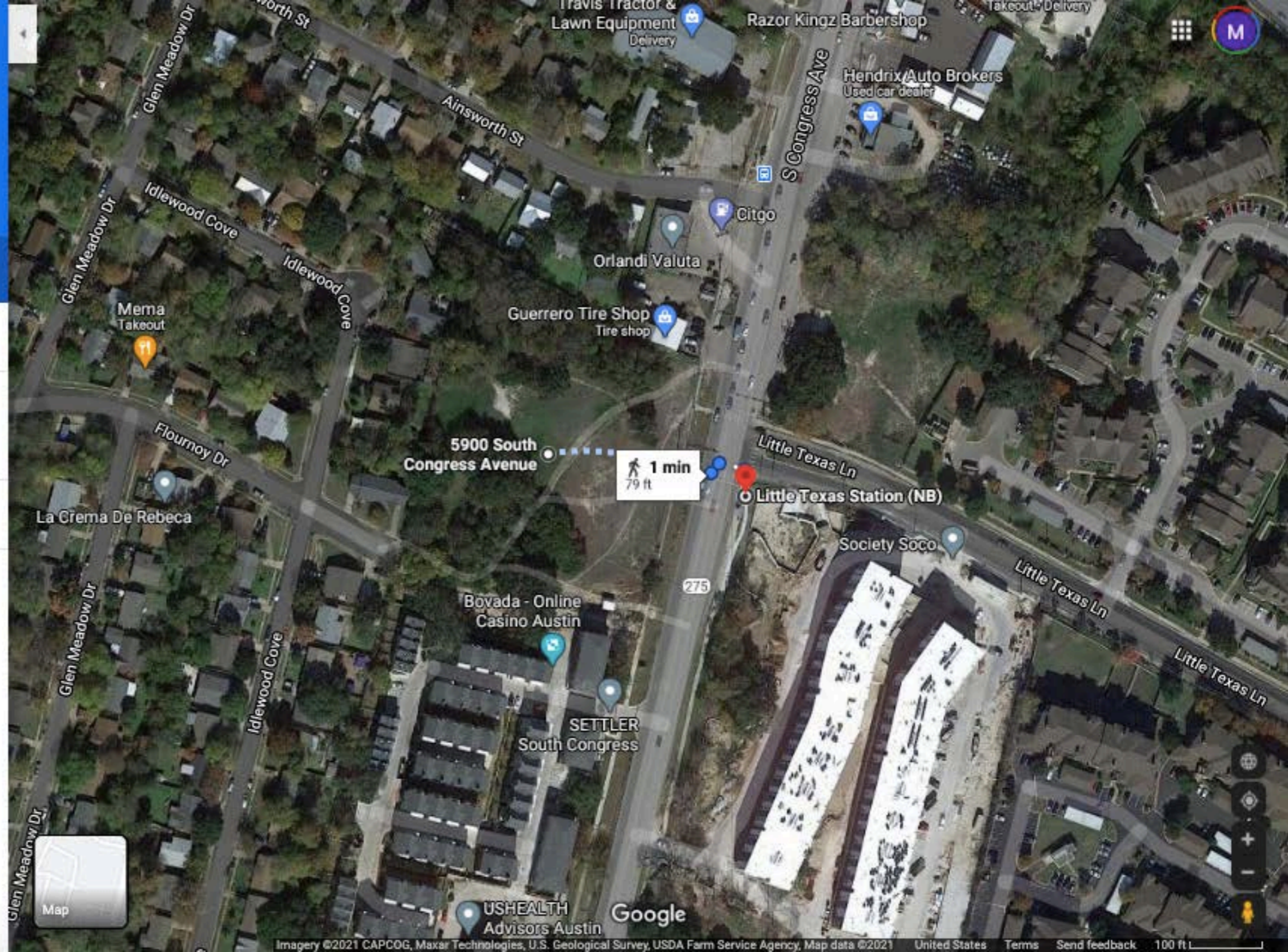
OPTIONS

Send directions to your phone

via S Congress Ave and Little Texas Ln 1 min 79 ft

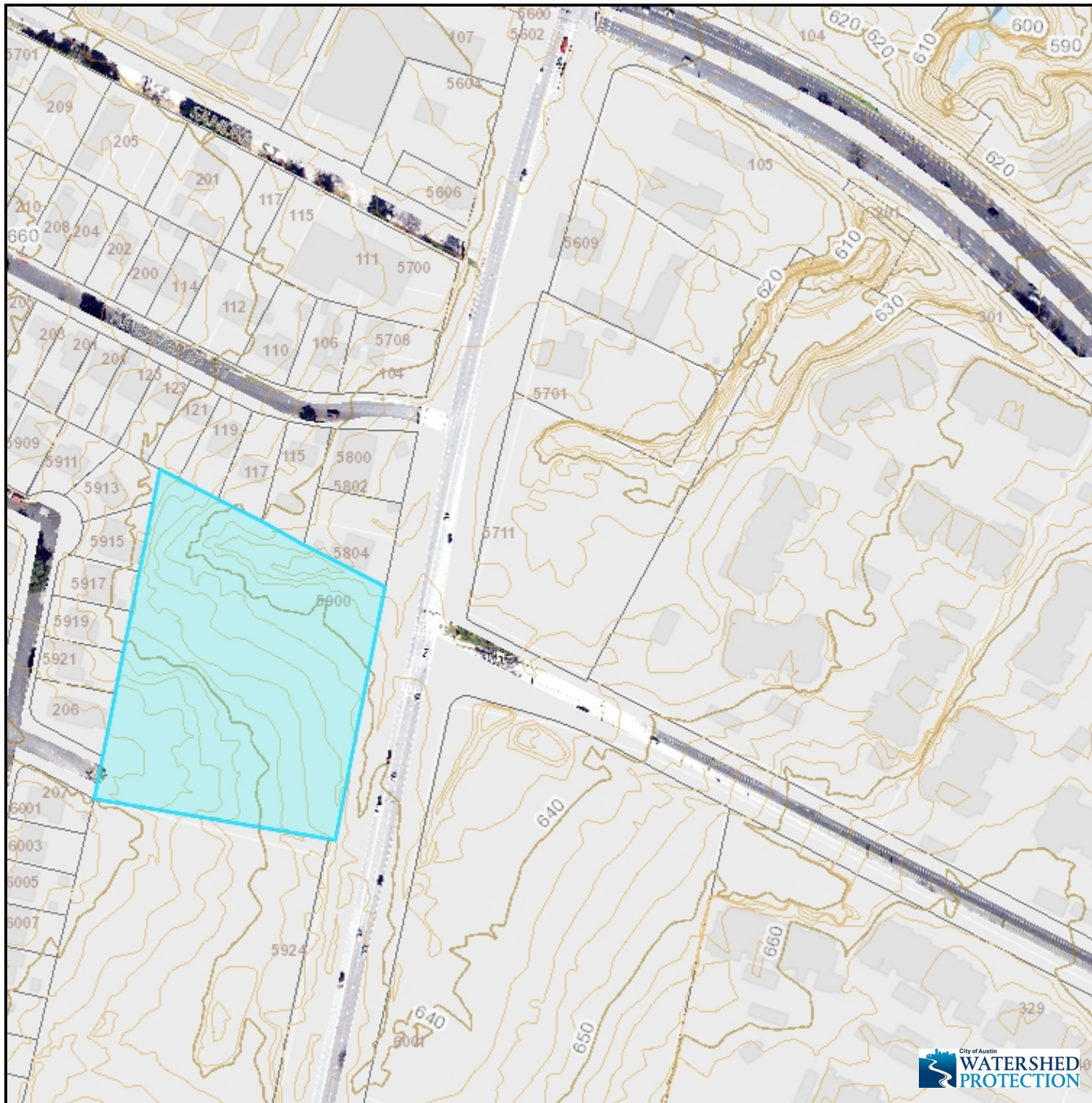
DETAILS

Mostly flat



### **Attachment 5 - Flood Plain Map**

*(Insert a map generated by [www.ATXFloodPro.com](http://www.ATXFloodPro.com) with the property parcel identified and the legend displayed showing the various types of FEMA Flood Plain zones, if any)*



# FEMA Floodplains

The City of Austin Watershed Protection Department produced this product for informational purposes. It is not intended for or suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative locations of property boundaries. No warranty is made by the City of Austin regarding specific accuracy or completeness. Final determination of the floodplain status for a property must be based on a topographic survey by a Texas registered professional. For regulatory purposes, 100-Year floodplain elevations must be determined from an engineering model created in accordance with the Drainage Criteria Manual and approved by the City of Austin.

0 200 400 Feet



Prepared: 3/25/2021

Address

Contour

Index

Intermediate

Parcel

FEMA Floodplain

100 Year (Detailed-AE)

100 year (Shallow-AO)

100 Year (Approx-A)

X Protected by Levee

500 Year

Outside Austin City Limits

## **Attachment 6 - Developer's Experience and Development Background**

*(Provide resumes and/or detailed narratives of the Development members' relevant experience, especially as it pertains to LIHTCs and affordable housing, and please provide a development experience summary, including the property names, their locations, number of units developed, populations served, years of placement in service, and the financing structures)*

# LDG CLOSED DEVELOPMENTS - ALL STATES

| #  | Development Name                | City          | State     | Units | Year Closed |
|----|---------------------------------|---------------|-----------|-------|-------------|
| 1  | Renaissance Housing             | Louisville    | Kentucky  | 27    | 1998        |
| 2  | Woods of Glen Hill Manor        | Louisville    | Kentucky  | 108   | 2002        |
| 3  | Elkhorn Creek                   | Georgetown    | Kentucky  | 44    | 2004        |
| 4  | Cambridge Station               | Indianapolis  | Indiana   | 200   | 2004        |
| 5  | Falcon Crest Apartments         | Louisville    | Kentucky  | 208   | 2004        |
| 6  | Elk River                       | Georgetown    | Kentucky  | 40    | 2004        |
| 7  | Elkhorn Creek II                | Georgetown    | Kentucky  | 48    | 2004        |
| 8  | Cambridge Fox Run               | Indianapolis  | Indiana   | 256   | 2005        |
| 9  | Harris Branch Apartments        | Austin        | Texas     | 248   | 2006        |
| 10 | Whispering Woods                | Louisville    | Kentucky  | 48    | 2006        |
| 11 | Santora Villas                  | Austin        | Texas     | 192   | 2007        |
| 12 | The Villas at Shaver            | Pasadena      | Texas     | 240   | 2007        |
| 13 | Park Place at Loyola            | Austin        | Texas     | 252   | 2007        |
| 14 | Gleaneagles Apartments          | Lexington     | Kentucky  | 184   | 2007        |
| 15 | Inwood Crossing                 | Wichita       | Kansas    | 260   | 2007        |
| 16 | Whispering Woods II             | Louisville    | Kentucky  | 50    | 2008        |
| 17 | Overlook Terrace                | Louisville    | Kentucky  | 144   | 2008        |
| 18 | Melbourne Senior                | Alvin         | Texas     | 110   | 2009        |
| 19 | The Muses                       | New Orleans   | Louisiana | 211   | 2009        |
| 20 | Floral Gardens                  | Houston       | Texas     | 100   | 2010        |
| 21 | The Muses II                    | New Orleans   | Louisiana | 52    | 2010        |
| 22 | Towne Commons                   | Elizabethtown | Kentucky  | 92    | 2010        |
| 23 | Cypress Gardens                 | Houston       | Texas     | 100   | 2011        |
| 24 | Steeplechase Farms              | Sherman       | Texas     | 156   | 2011        |
| 25 | Brookstone Senior               | Louisville    | Kentucky  | 56    | 2011        |
| 26 | Mallard Crossing                | Baton Rouge   | Louisiana | 192   | 2011        |
| 27 | Woodcrest Apartments            | Baton Rouge   | Louisiana | 48    | 2012        |
| 28 | Village Du Lac                  | Lafayette     | Louisiana | 140   | 2012        |
| 29 | Brookcreek Crossing             | Midlothian    | Virginia  | 70    | 2012        |
| 30 | Villas at Colt Run              | Houston       | Texas     | 138   | 2013        |
| 31 | Paddock at Norwood              | Austin        | Texas     | 228   | 2013        |
| 32 | Villages at Ben White           | Austin        | Texas     | 183   | 2014        |
| 33 | The Pointe at Ben White         | Austin        | Texas     | 250   | 2014        |
| 34 | Newport Village                 | Houston       | Texas     | 80    | 2014        |
| 35 | Harris Branch Senior            | Austin        | Texas     | 216   | Aug-15      |
| 36 | Port Royal                      | Baton Rouge   | Louisiana | 192   | Nov-15      |
| 37 | Stallion Pointe                 | Fort Worth    | Texas     | 264   | May-16      |
| 38 | Paddock at Grandview            | Nashville     | Tennessee | 240   | May-16      |
| 39 | Sansom Ridge                    | Sansom Park   | Texas     | 100   | Jul-16      |
| 40 | Sansom Pointe                   | Sansom Park   | Texas     | 216   | Jul-16      |
| 41 | Peach Orchard                   | Augusta       | Georgia   | 240   | Nov-16      |
| 42 | Riverport FSH & Acedemic Center | Louisville    | Kentucky  | 64    | Feb-17      |
| 43 | Riverport Senior                | Louisville    | Kentucky  | 108   | Feb-17      |

|    |                             |                |           |     |        |
|----|-----------------------------|----------------|-----------|-----|--------|
| 44 | Villas at Jeffersonville    | Jeffersonville | Indiana   | 264 | Feb-17 |
| 45 | Villages at Fiskville       | Austin         | Texas     | 172 | Mar-17 |
| 46 | Pointe at Crestmont         | Houston        | Texas     | 195 | Apr-17 |
| 47 | Riverport Family            | Louisville     | Kentucky  | 240 | Jun-17 |
| 48 | Bristol Bluffs              | Louisville     | Kentucky  | 216 | Sep-17 |
| 49 | Bridge at Cameron           | Austin         | Texas     | 264 | Dec-17 |
| 50 | Commons at Goodnight        | Austin         | Texas     | 304 | Dec-17 |
| 51 | Meadows at Nicholson        | Baton Rouge    | Louisiana | 204 | Dec-17 |
| 52 | Jefferson Grove             | Newnan         | Georgia   | 160 | Feb-18 |
| 53 | Springs Apartment           | Balch Springs  | Texas     | 221 | May-18 |
| 54 | Edgewood Place              | Longview       | Texas     | 74  | Jun-18 |
| 55 | Copper Pointe               | San Antonio    | Texas     | 252 | Jul-18 |
| 56 | MLK the Rail                | Austin         | Texas     | 235 | Jul-18 |
| 57 | Jefferson Green             | Louisville     | Kentucky  | 312 | Jul-18 |
| 58 | Le Jolliet                  | Lake Charles   | Louisiana | 264 | Aug-18 |
| 59 | Aria Grand                  | Austin         | Texas     | 76  | Sep-18 |
| 60 | Forestwood                  | Balch Springs  | Texas     | 220 | Oct-18 |
| 61 | Commons at Manor Village    | Manor          | Texas     | 172 | Nov-18 |
| 62 | Sansom Bluff                | Sansom Park    | Texas     | 296 | Nov-18 |
| 63 | Elysium Grand               | Austin         | Texas     | 90  | Dec-18 |
| 64 | Brook Point                 | Lafayette      | Louisiana | 192 | Dec-18 |
| 65 | Avoca Ridge                 | Louisville     | Kentucky  | 240 | Feb-19 |
| 66 | Patriot Pointe              | Fort Worth     | Texas     | 220 | Apr-19 |
| 67 | Manchaca Commons            | Austin         | Texas     | 240 | Apr-19 |
| 68 | Stallion Ridge              | Fort Worth     | Texas     | 204 | Apr-19 |
| 69 | Sunrise View (Indian Creek) | Dekalb         | Georgia   | 240 | May-19 |
| 70 | Union Landing               | Union City     | Georgia   | 240 | May-19 |
| 71 | The Oaks                    | Austin         | Texas     | 96  | Jun-19 |
| 72 | Frontgate                   | Louisville     | Kentucky  | 212 | Jul-19 |
| 73 | Buffalo Trail               | Nashville      | Tennessee | 240 | Jul-19 |
| 74 | Heritage Townhomes          | Stonecrest     | Georgia   | 240 | Aug-19 |
| 75 | Horizon Ridge               | Augusta        | Georgia   | 240 | Aug-19 |
| 76 | Bridge at Canyon View       | Austin         | Texas     | 215 | Dec-19 |
| 77 | Norwood Estates             | Austin         | Texas     | 228 | Dec-19 |
| 78 | Moonlight                   | Austin         | Texas     | 264 | May-20 |
| 79 | Riverstone                  | San Marcos     | Texas     | 336 | Jun-20 |

Total Closed Units 14,273

Total Closed Projects 79

**Attachment 7 – Resolution from County**

*(If the proposed development is located in the ETJ of Austin, please include the executed resolution from the applicable County Commissioners' Court, as required by TDHCA)*

**Not Applicable**

## **Attachment 8 – Inducement Resolution**

*(Attach the inducement resolution from the issuer of bonds for the proposed development)*

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**RESOLUTION NO. 00068**

**Resolution Declaring Intent to Issue Bonds to Provide Financing for a Multifamily Residential Rental Development for Persons of Low and Moderate Income (The Matador); Prescribing Certain Terms and Conditions of such Bonds; Authorizing the Filing of an Application for Allocation of Private Activity Bonds with the Texas Bond Review Board; and Containing Other Provisions Relating to the Subject**

**WHEREAS**, the Board of Commissioners of the Housing Authority of the City of Austin (the "**Unit**") has, pursuant to the Public Facility Corporation Act, Chapter 303, Texas Local Government Code, as amended (the "**Act**"), approved and created the Austin Affordable PFC, Inc., a nonprofit corporation (the "**Issuer**");

**WHEREAS**, on November 5, 2012, the Issuer's Certificate of Formation was filed with the Secretary of State of the State of Texas;

**WHEREAS**, the Issuer, on behalf of the Unit is empowered to issue bonds to finance, refinance, or provide one or more public facilities, as such term is defined in the Act, which projects will be within the Unit's boundaries, including Austin, Texas;

**WHEREAS**, LDG The Matador, LP, a Texas limited partnership, or such other limited partnership as the sole member of the general partner of the User designates (the "**User**"), has requested that the Issuer finance a low income multifamily housing project consisting of up to approximately 285 units to be located at approximately the southwest corner of South Congress Avenue and Little Texas Lane, Austin, Texas 78745 (the "**Project**"), and further that the Issuer adopt this Resolution with respect to the acquisition and construction of the Project;

**WHEREAS**, the User has advised the Issuer that a contributing factor which would further induce the User to proceed with providing for the acquisition and construction of the Project would be a commitment and agreement by the Issuer to issue revenue bonds pursuant to the Act (the "**Bonds**") to finance and pay for the Project;

**WHEREAS**, in view of a shortage of decent, safe and sanitary housing for persons and families of low income at prices or rentals that they can afford, it is considered essential that construction of the Project be completed at the earliest practicable date, but at the same time, the User wishes to begin construction of the Project after satisfactory assurances from the Issuer, subject to the conditions set forth herein, that the proceeds of the sale of the Bonds, or other obligations, of the Issuer in an amount necessary to pay the costs of the Project will be made available to finance the Project; and

**WHEREAS**, the Issuer finds, intends, and declares that this Resolution shall constitute its official action, subject to the conditions set forth herein, to issue Bonds, or other obligations, pursuant to the Act in an amount prescribed by the User not to exceed the maximum aggregate principal amount up to \$50,000,000 for tax-exempt obligations and to expend the proceeds thereof to acquire, construct, and install the Project and to pay all expenses and costs of the Issuer in connection with the issuance of the Bonds; and

**WHEREAS**, in order to finance and pay for the Project through the issuance of revenue bonds, the interest on which is excludable from the gross income of the holders thereof under the Internal Revenue Code of 1986,

as amended (the "**Code**"), the Issuer must submit an Application for Allocation of Private Activity Bonds or an Application for Carryforward for Private Activity Bonds (the "**Application**") to the Texas Bond Review Board (the "**TBRB**") for a reservation of state ceiling available to "**private activity bonds**" (as defined in the Code) for a calendar year;

**THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE AUSTIN AFFORDABLE PFC, INC. THAT:**

Section 1. Subject to the terms hereof, the Issuer agrees that it will:

(a) Issue the Bonds, and if the User and the Issuer agree, other evidences of indebtedness providing temporary financing of the Project, which will be issued after the date hereof and be refunded by the Bonds pursuant to the Act, or any other Texas legislation heretofore or hereafter enacted which may provide a suitable method of financing in addition to or in substitution for the Act.

(b) Cooperate with the User with respect to the issuance of the Bonds, and, if arrangements therefor satisfactory to the User and the Issuer can be made, the Issuer will take such action and authorize the execution of such documents and will take such further action as may be necessary or advisable for the authorization, execution, and delivery of any contracts or agreements deemed necessary or desirable by the User or the Issuer in connection with the issuance of the Bonds (collectively, the "**Contracts**"), providing among other things for payment of the principal of, interest on, redemption premiums, paying agents' charges, and Trustee's fees, if any, on the Bonds; payment of fees and charges of the Issuer or the Unit; acquisition, construction, and improvement of the Project or reimbursement of Project costs; and use, operation, and maintenance of the Project (and the execution of any appropriate and necessary guaranty agreements), all as shall be authorized, required, or permitted by law and as shall be mutually satisfactory to the Issuer, the Unit, and the User.

(c) If the proceeds from the sale of the Bonds are insufficient, take such actions and execute such documents as may be necessary to permit the issuance from time to time in the future of additional bonds on terms which shall be set forth therein, whether on a parity with other series of bonds or otherwise, for the purpose of paying the costs of completing the acquisition and construction of the Project, as requested by the User and within then applicable limitations.

(d) Take or cause to be taken such other actions as may be required to implement the aforesaid undertakings or as it may deem appropriate in pursuance thereof.

The Bonds shall specifically provide that neither the State of Texas, the Unit, nor any political issuer, subdivision, or agency of the State of Texas shall be obligated to pay the same or the interest thereon and that neither the faith and credit nor the taxing power of the State of Texas, the Unit, or any political issuer, subdivision, or agency thereof is pledged to the payment of the principal of, premium, if any, or interest on the Bonds.

The obligation of the Issuer to issue the Bonds is specifically subject to satisfaction of each of the following conditions:

(i) the receipt of a ruling from the Internal Revenue Service or an opinion from nationally recognized bond counsel, substantially to the effect that the interest on the Bonds is excludable from gross income tax purposes under existing law;

(ii) approval of the Bonds by all other governmental agencies required to approve the Bonds including, but not limited to, approval of the Bonds by the Mayor of the City of Austin, Texas, the Attorney General of the State

of Texas and any other applicable governmental authority; and

(iii) any other conditions reasonably imposed by the Issuer.

Section 2. The Issuer hereby authorizes the submission of an Application to the TBRB for a reservation of the state ceiling for "private activity bonds" for program year 2020 (or other available bond funds administered by the TBRB) and each subsequent calendar year at the User's request to finance the Project. Any officer of the Issuer is hereby authorized to execute and submit an Application to the TBRB in such form as may be approved by the TBRB for such purpose.

Section 3. It is understood by the Issuer and the Unit, and the User has represented to the Issuer, that in consideration of this Resolution and by filing the Application, and subject to the terms and conditions hereof, the User has agreed that:

(a) Prior to the sale of the Bonds in one or more series or issues from time to time as the Issuer and the User shall hereafter agree to in writing, the User will enter into the Contracts with the Issuer under the terms of which the User will obligate itself to pay to the Issuer (or to a Trustee, as the case may be) sums sufficient in the aggregate to pay the principal of, interest on, redemption premiums, paying agents' fees, and Trustee's fees, if any, on the Bonds, as and when the same become due and payable, with such contract to contain the provisions described in Section 1 hereof and such other provisions as may be required or permitted by law and to be mutually acceptable to the Issuer and the User.

(b) The User will (1) pay all Project costs which are not or cannot be paid or reimbursed from the proceeds of the Bonds and (2) at all times, indemnify and hold harmless the Issuer against all losses, costs, damages, expenses, and liabilities of whatsoever nature (including but not limited to attorneys' fees, litigation and court costs, amounts paid in settlement, and amounts paid to discharge judgments) directly or indirectly resulting from, arising out of or related to the issuance, offering, sale, or delivery of the Bonds, or the design, construction, operation, use, occupancy, maintenance, or ownership of the Project.

(c) The User will provide to the Issuer all information required to be submitted to the TBRB and any other governmental agencies for approval of the Project or the Bonds and will execute all necessary documents in connection therewith.

Section 4. The Issuer finds, determines, recites and declares that the issuance of the Bonds to provide financing for the Project will promote the public purposes set forth in Section 303 of the Act, including, without limitation, assisting persons of low and moderate income to obtain decent, safe and sanitary housing at rentals they can afford.

Section 5. Neither the User nor any other party is entitled to rely on this Resolution as a commitment to loan funds, and the Issuer reserves the right not to issue the Bonds either with or without cause and with or without notice, and in such event the Issuer shall not be subject to any liability or damages of any nature. Neither the User nor any one claiming by, through or under the User, nor any investment banking firm or potential purchaser of the Bonds shall have any claim against the Issuer whatsoever as a result of any decision by the Issuer not to issue the Bonds.

Section 6. It is recognized and agreed by the Issuer that the User may exercise its rights and perform its obligations with respect to the financing of the Project either through (i) itself in its own name; (ii) any of its wholly-owned subsidiaries; (iii) any "related person" as defined in Section 144(a)(3) of the Code; or (iv) any legal successor thereto, respectively, subject to approval of the Issuer's bond counsel and, provided that suitable guaranties necessary or convenient for the marketability of the Bonds shall be furnished, if required by the Issuer, and all references to the User shall be deemed to include the User acting directly through itself or

any such approved entities.

Section 7. This Resolution is affirmative of official action taken by the Issuer towards the issuance of the Bonds within the meaning of Sections 1.1038(a)(5)(i) and (ii) and 1.150-2, Title 26, Code of Federal Regulations, as amended, and applicable rulings of the Internal Revenue Service thereunder, to the end that Bonds issued to reimburse Project costs may qualify for the exemption provisions of Section 142(a)(7) of the Code and that the interest on the Bonds will therefore be excludable from the gross incomes of the holders thereof under the provisions of Section 103(a)(1) of the Code.

Section 8. The Issuer hereby authorizes the filing and any resubmission of an Application with the TBRB, and that Coats Rose, P.C. be designated as the authorized representative of the Issuer for purposes of an Application ("**Bond Counsel**"). Any officer of the Issuer is hereby authorized and directed to execute an Application on behalf of the Issuer and to take any and all other actions related to such Application or necessary or desirable to carry out the provisions of this Resolution, including any further revisions to this Resolution.

Section 9. Notwithstanding any other provision of this Resolution, the officers of the Issuer are each hereby authorized to make or approve such revisions to this Resolution and in the form of the documents hereby approved, in the opinion of Bond Counsel, as may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution; and approval of such changes by the Issuer shall be indicated by such officers' execution of the documents.

**PASSED, APPROVED AND ADOPTED** this 26th day of March, 2020.

**ATTEST:**

  
Michael G. Gerber, Secretary

  
Chairperson