

ORDINANCE 2019-10-31-0887

AMENDING THE CITY’S LOW-INCOME HOUSING TAX CREDITS POLICY TO UPDATE CRITERIA FOR THE ISSUANCE OF RESOLUTIONS OF SUPPORT OR NO OBJECTION FOR APPLICANTS SEEKING HOUSING TAX CREDITS FROM THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS.

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WHEREAS, the City of San Antonio (the “City”) is committed to providing increased housing opportunities affordable to low income households; and

WHEREAS, the Texas Department of Housing and Community Affairs (“TDHCA”) administers the Housing Tax Credit program which is one of the primary means of directing private capital toward the development and preservation of affordable rental housing for low income households; and

WHEREAS, on December 10, 2015 in Ordinance No. 2015-12-10-1048, the City Council adopted the City’s Affordable Housing Policy which included a written Low-Income Housing Tax Credit Policy (“Policy”) concerning the issuance of Resolutions of Support or No Objection for developers seeking Housing Tax Credits through TDHCA; and

WHEREAS, on December 14, 2017, the City Council adopted Ordinance No. 2017-12-14-1018 which, in part, modified the Policy by requiring additional information of the proposed development and adjusting the point scale, scoring criteria and scoring recommendation process concerning the issuance of the Resolutions of Support or No Objection for developers seeking Housing Tax Credits through TDHCA; and

WHEREAS, City staff proposes to update the Policy by changing the name to the “Housing Tax Credit Policy”, requiring additional information regarding proposed developments, adjusting scoring criteria, and adjusting the scoring recommendation process to align better with TDHCA’s requirements and the City’s priorities; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The revisions to the City’s Low-Income Housing Tax Credit Policy (“Policy”) concerning Resolutions of Support or No Objection, a copy of which is attached hereto and incorporated herein by reference as **Attachment I**, are hereby approved.

SECTION 2. The Policy shall take effect on December 3, 2019 and shall be applicable to all applications for Resolutions of Support or No Objection submitted thereafter. All applications that are currently pending or that are submitted before December 3, 2019 shall be considered under the existing policy that will remain in effect until December 3, 2019.

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SECTION 3. This Ordinance is effective immediately upon the receipt of eight affirmative votes; otherwise, it is effective ten days after passage.

PASSED AND APPROVED this 31st day of October, 2019.



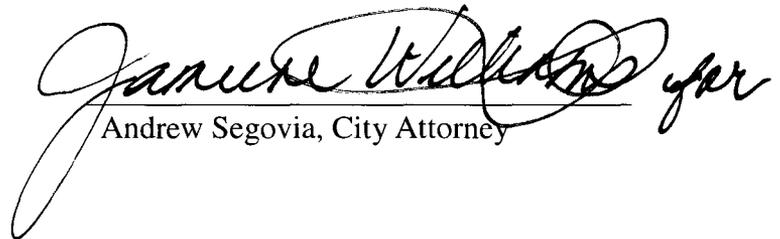
M A Y O R
Ron Nirenberg

ATTEST:



Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:



Andrew Segovia, City Attorney

Agenda Item:	19 (in consent vote: 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23A, 23B, 24A, 24B, 24C, 24D)						
Date:	10/31/2019						
Time:	10:12:36 AM						
Vote Type:	Motion to Approve						
Description:	Ordinance adopting a policy for the issuance of Resolutions of Support or No Objection for applicants seeking Competitive (9%) and non-competitive (4%) Low Income Housing Tax Credits from the Texas Department of Housing and Community Affairs. [Lori Houston, Assistant City Manager; Verónica R. Soto, Director, Neighborhood and Housing Services]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ron Nirenberg	Mayor		x				
Roberto C. Treviño	District 1		x			x	
Jada Andrews-Sullivan	District 2		x				x
Rebecca Viagran	District 3		x				
Adriana Rocha Garcia	District 4		x				
Shirley Gonzales	District 5		x				
Melissa Cabello Havrda	District 6		x				
Ana E. Sandoval	District 7		x				
Manny Pelaez	District 8		x				
John Courage	District 9		x				
Clayton H. Perry	District 10		x				

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Attachment I
Housing Tax Credit Policy

Housing Tax Credits Policy

This policy outlines the City of San Antonio's evaluation process for proposed Housing Tax Credit (HTC) developments. This policy aims to ensure developments that meet citywide goals receive the supporting documentation necessary for their Texas Department of Housing and Community Affairs (TDHCA) application. The City of San Antonio (the City) developed this policy as guidance for developers requesting HTC for rental housing development projects located in the city's limits or extraterritorial jurisdiction.

Staff will only recommend the City provide necessary Resolution(s) upon confirmation that the proposed development aligns with the City's housing goals and priorities as outlined in this policy. The main goal of the City is to ensure equitable and affordable housing opportunities are created for all residents, including individuals and families of all races/ethnicities and income levels, while preventing the direct displacement of any residents.

City Council may establish additional goals and priorities each fiscal year. When feasible, any additional goals and priorities will be released publically prior to the City's Request for Applications (RFA) for Competitive 9% HTC projects.

Background

Housing Tax Credits (HTC) are federal tax subsidies for the construction, rehabilitation, reconstruction, and adaptive reuse of rental properties for vulnerable populations including families, elderly residents, and other special populations with low incomes. HTCs are one of the primary means of directing private capital toward the development and preservation of affordable rental housing by offsetting a portion of the developer's federal tax liability. The Texas Department of Housing and Community Affairs (TDHCA) distributes the HTCs allotted to the state by the federal government. Each year, TDHCA is required to develop a Qualified Allocation Plan (QAP) to establish the procedures and requirements relating to the allocation of HTCs. The QAP is approved by the Office of the Governor in December and published in the Texas Register.

TDHCA administers two HTC programs, a Competitive 9% HTC program and a Non-Competitive 4% HTC program. The Competitive 9% HTC program has a single, annual application period and covers approximately 70% of development costs. The Non-Competitive 4% HTC program is available year round and covers roughly 30% of development costs.

City Actions

In the administration of its Housing Tax Credit (HTC) programs, the Texas Department of Housing and Community Affairs (TDHCA) determines eligibility and awards points based on actions taken by a municipality on behalf of a proposed development within the city's limits or extraterritorial jurisdiction. The City can impact an application to TDHCA's eligibility and score in the following ways:

- A Resolution from City Council expressly stating:
 - o The municipality supports the application or development (Competitive 9% HTC applicants only).
 - o The municipality has no objection to the application or development.
 - o The municipality objects to the application or development.
 - o The development contributes more than any other to a Concerted Revitalization Plan (Competitive 9% HTC applicants only).
 - o The municipality is allowing the development to be within one linear mile of another HTC development awarded in the last three years.

- The municipality acknowledges and is allowing the development to be built in a census tract with 20% or more of its total housing units supported by HTCs.
- The municipality acknowledges and is allowing the development to be built in a census tract with a poverty rate of 40% or more.

One Resolution will be issued per applicant whenever possible. TDHCA will accept a single Resolution addressing several of the provisions and waivers listed above.

- For Competitive 9% HTC applicants, a letter from an appropriate City official:
 - Expressing how the development contributes more than any other to the converted revitalization efforts of the municipality.
 - Confirming the City's contribution of \$500 to the development in the form of a loan, grant, or fee waiver.

City Timelines

For Competitive 9% Housing Tax Credit (HTC) applicants, the City will issue a Request for Applications (RFA) for Resolutions and other supporting documents in early December and will close the RFA in early January. Staff will score complete applications and bring recommendations to a Council Subcommittee (as appropriate) and City Council for consideration by mid-February. This schedule aligns with the Texas Department of Housing and Community Affairs (TDHCA) program calendar and is intended to provide applicants with supporting documentation by TDHCA's deadline.

For Non-Competitive 4% HTC applications, the City will accept applications on a rolling basis. Non-Competitive applications are subject to the same evaluation criteria as competitive applications. Staff recommendations will be brought to a Council Subcommittee (as appropriate) and City Council for consideration following confirmation that all application requirements have been met. Applicants should anticipate requests for a Resolution being presented to City Council approximately 55 business days after a complete application is received. Processing may take longer during the summer as City Council generally does not meet in July.

Criteria for Resolutions of Support and No Objection

The City has developed a self-scoring application in order to conduct a comprehensive, fair, and impartial evaluation of all applications received. Staff will analyze each application to determine overall responsiveness and qualifications under this policy. General eligibility and evaluation criteria used by staff as the foundation for recommending Resolutions are outlined below:

Eligibility for Resolution of Support:

- Application received is complete and includes all required supporting documentation;
- Application received by the deadline announced by staff; and,
- Application is for a 9% Competitive Housing Tax Credit (HTC) project and scores at least 75 points.

Eligibility for Resolution of No Objection:

- Application received is complete and includes all required supporting documentation;
- Applicant earns at least 7 of the 15 points available in the *Owner/General Partner/Property Management Experience* section; and,
- Application scores at least 60 points.

Up to 100 Total Points May be Awarded for the Following:

The exact specifications of how points will be awarded are detailed in the applications issued by the City.

- **Owner/General Partner/Property Management Experience (up to 15 points)** – Points are awarded to applicants demonstrating past experience owning, developing, and/or managing affordable multifamily housing developments for a minimum of three years.
- **Nonprofit Organization or SBEDA/HUB Participation (5 points)** – Points are awarded to applications demonstrating participation in the project by a qualified nonprofit organization, City of San Antonio certified Small Business Economic Development Advocacy (SBEDA) Program business, or state-certified Historically Underutilized Business (HUB), including either ownership of the development or other controlling interest.
- **Targeted Areas (up to 10 points)** – Points are awarded to developments located in City-designated reinvestment areas, such as SA Tomorrow Regional Centers, along Transportation Corridors, and Neighborhood Improvement Bond Areas. Eligible areas may change annually based on City goals and priorities.
- **Proximity to Jobs (up to 5 points)** – Points are awarded based on the number of jobs within a mile of the proposed development. The data used will be that available through US Census' OnTheMap tool. Qualifying jobs are limited to those based on the work area for all workers, and all primary jobs.
- **Project Feasibility & Readiness (up to 15 points)** – Points are awarded to applications demonstrating that the project will meet the Texas Department of Housing and Community Affairs (TDHCA) requirements for the HTC program, that site control has been achieved, the subject property is zoned appropriately for the proposed development type and density, that all other applicable requirements under the City's Unified Development Code have been met, and that appropriate environmental reviews and approvals have been initiated.
- **Project Amenities & Resident Services (up to 20 points)** – Points are awarded to applications that based on the amenities that will be provided or the development's proximity to desired amenities. Amenities will be selected from a menu of qualifying amenities. Points are also awarded based on the developer's agreement to provide resident services free of charge. Resident services will be selected from a menu of resident services. The menu for both amenities and resident services are specified in the application and may vary annually based on City goals and priorities.
- **Deeper Affordability (up to 20 points)** – Points are awarded to applications based on the percent of total units reserved for households at or below 50% of area median income.
- **Public Engagement (up to 10 points)** – Points are awarded to applications demonstrating evidence that the applicant took appropriate actions to inform the surrounding community of the proposed development, in the form of a project information package (letter) and developer-initiated public meeting. Applicants may earn five points for providing a project information package in both English and Spanish (letter), which includes the general scope of the development in accordance with the RFA, to Neighborhood Association and Community Organizations, located within one-half mile of the project site (as registered with the City) as well as all property owners within 200 linear feet of the development site. Applicants may also earn five points for holding a public meeting the following minimum requirements: (a) the meeting is

to be held at a publicly-accessible location within two miles of the subject property site; (b) the meeting is to be scheduled on a weeknight with a scheduled start time no earlier than 5:30 p.m. and no later than 7:30 p.m., on a Saturday with a scheduled start time no earlier than 9:00 a.m. and no later than 5:00 p.m., or on a Sunday with a scheduled start time no earlier than 11:00 a.m. and no later than 5:00 p.m.; (c) City staff, the respective City Council member's office, Neighborhood Associations, and Community Organizations located within one-half mile of the project site (as registered with the city), and property owners within 200 linear feet of the project site must receive written notice of the meeting at least seven calendar days in advance of the scheduled meeting date; (d) notice of the meeting must be posted on the subject property in the form of a sign measuring at least 36 inches wide by 24 inches tall and including all relevant meeting details; (e) information provided during the meeting must include the general scope of the development. The specific requirements for the both the project information packet and developer-initiated public meeting are outlined in the application. When an applicant indicates that they will seek public engagement points, staff will coordinate with the appropriate SA Tomorrow Planning Team Members to distribute the notification to the Planning Team. The Planning Team members will be provided the same information contained in other public notifications.

The exact specifications for what supporting documentation must be attached to complete applications will be detailed in the applications issued by the City.

Application Instructions

This policy is not intended to provide the exact instructions and program details for applicants, as they may change slightly from year to year. The exact criteria and instructions are found on the corresponding Competitive 9% HTC and Non-Competitive 4% HTC applications.

The respondent is expected to examine the applications carefully, understand the terms and conditions for providing the information, and respond completely. Failure to complete and provide any application requirements may result in the respondent's application being deemed non-responsive and therefore disqualified from consideration.

Criteria for Additional Resolution Provisions

An applicant can have the provisions in this section added to their Resolution of Support or No Objection as long as the following conditions are met:

- The applicant met the requirements for a Resolution of Support or No Objection.
- The applicant requested the provision(s) be included in their Resolution at the time of submission.
- Provides information/evidence specified below.

Contributing More to a Concerted Revitalization Plan

Competitive 9% Housing Tax Credit (HTC) applicants can earn points if the City specifically identifies the development as contributing more than any other proposed developments within a Concerted Revitalization Plan to the efforts of the plan.

If more than one proposed development is seeking points under the same Concerted Revitalization Plan, staff will recommend the development with the highest score on their City application have the appropriate verbiage included in their Resolution of Support or No Objection. If the applications receive the same score on their City application, the applicant with public housing or project based vouchers will be recommended to receive a Resolution with the appropriate verbiage. If neither or both developments

provide public housing or have a project based voucher, the applicant with a development located the greatest linear distance from the nearest HTC development serving the same population and awarded in the last 15 years will have the verbiage included in the Resolution.

The inclusion of the appropriate verbiage in a Resolution of Support or No Objection is subject to council approval.

One Mile Three Year Rule Waiver

The Texas Department of Housing and Community Affairs (TDHCA) prohibits New Construction or Adaptive Reuse developments being one linear mile or less from another development that:

- Serves the same target population (families, elderly, etc.).
- Received HTCs or bonds within the previous three years.
- Has not been withdrawn or terminated from the HTC program.

City Council can waive the rule via Resolution.

The applicant will provide a narrative identifying how the proposed development will address the unmet housing needs of the surrounding neighborhoods. In the narrative the applicant provides should include an explanation about how the proposed development will address the area's needs.

This waiver's inclusion in a Resolution of Support or No Objection is subject to council approval.

20% of Housing Units Supported by Housing Tax Credits Waiver

TDHCA requires an applicant proposing a New Construction or Adaptive Reuse development in a census tract with more than 20% of its total housing units supported by HTCs to submit a Resolution specifically allowing the development and stating the proposed development is consistent with the jurisdiction's obligation to affirmatively further fair housing.

The applicant will provide a narrative identifying how the proposed development will address the unmet housing needs of the census tract. In the narrative the applicant should include information about the number and types of housing units in the census tract along with what percent of housing units are currently supported by HTCs and what percent would be supported by HTCs upon completion of the project.

This waiver's inclusion in a Resolution of Support or No Objection is subject to council approval.

High Poverty Census Tract Waiver

If the development is in a census tract with a poverty rate of 40% or more, TDHCA allows the City Council to issue a Resolution acknowledging the high poverty rate and authorizing the development to move forward.

The applicant will provide a narrative describing the mitigation underway to address the high poverty rate. The narrative should include evidence of decreasing poverty trends, sustained job growth and employment opportunities, career training opportunities or job placement services, and evidence of gentrification in the area (including an increase in poverty values).

This waiver's inclusion in a Resolution of Support or No Objection is subject to council approval.

Additional Information

Decisions by the City will comply with federal Fair Housing laws that prohibit discrimination which could result in different or unequal treatment in housing programs because of race, color, sex, religion, national origin, familial status or disability. The City also prohibits discrimination based on an individual's veteran status, sexual orientation, or gender identity.

By submitting an application for a Resolution of Support or No Objection, the applicant agrees to accept, when practicable, Persons with Special Housing Needs. Persons with Special Housing Needs include households where one or more individuals have alcohol and/or drug additions, is a Colonia resident, a person with a disability, has Violence Against Women Act protections (domestic violence, dating violence, sexual assault, and stalking), HIV/AIDS, is experiencing homeless, is a veteran, or farmworker.

Resolutions and other documentation assisting in the application of either Competitive 9% HTC's or Non-Competitive 4% HTC's to the Texas Department of Housing and Community Affairs will be issued only to developers certifying they will not directly permanently displace residents without adequate relocation assistance, such as a housing choice voucher.

A rehabilitation project that temporarily displaces residents may receive a Resolution from the City only if a satisfactory plan is provided at the time an application. A satisfactory plan will include, at minimum:

- Certification that impacted residents will be informed of the temporary displacement and anticipated timeline for relocation at least 90 days before it begins.
- A budget including any necessary storage, moving, and boarding costs.
- The timeline for relocation.
- Certification that no affordable units will be lost as a result of the rehabilitation.

Restrictions on Communication

Respondents to the Competitive 9% HTC Request for Application (RFA) agree to observe the following restrictions on communication with 1) elected City officials and their staff and 2) City employees from the time the RFA is released until the agenda for the City Council meeting in which Resolutions will be issued is posted.

1. This restriction on communications does not apply to the project notification requirement under this Policy or to communications with City staff regarding zoning or re-zoning of property in connection with the project.
2. Respondents are permitted to answer questions about their project asked by elected City officials and their staff or City staff so long as Respondent's responses do not constitute or include advocacy or lobbying in support of the project.
3. Respondents may not discuss applications for projects submitted by other applicants with elected City officials and their staff or City staff or ask City officials and their staff or City staff to oppose another applicant's project.
4. Restrictions on communications prohibited by this Policy include "thank you" letters, phone calls, emails, or additional discussion about the project beyond the permissible communications set forth in this section.

Respondents may submit questions concerning this RFA to the Staff Contact Person listed below until 2:00pm, Central

Standard Time, on the Friday following the RFA's release. Questions received after the stated deadline may not be answered. All questions shall be sent by e-mail to:

Allison Shea
Senior Management Analyst, Neighborhood and Housing Services Department
HousingPolicy@sanantonio.gov

The City reserves the right to contact any Respondent to obtain additional information. Such contact initiated by City staff, shall not be considered a violation by Respondent of this section.

Violation of this provision by the Respondent may lead to disqualification of the application from consideration.

Irregularities

City staff will evaluate all of the items submitted with the signed application in order to formalize its recommendation to the City Council regarding the issuance of Resolutions. Regardless of points scored using the evaluation criteria herein, the City Council reserves the right to issue a Resolution of Support, a Resolution of No Objection, a Resolution of Objection, other Resolutions associated HTC's, or to not issue any Resolutions.

The City staff may waive informalities and irregularities in the applications received. The City staff also reserve the right to terminate an RFA and reissue a subsequent solicitation, and/or remedy technical errors in the RFA process.