

# OPERATIONS COMMITTEE MEETING MAY 20, 2021



**BOARD OF COMMISSIONERS**

Dr. Ana "Cha" Guzmán  
Chair

Jessica Weaver  
Vice Chair

Olga Kauffman  
Commissioner

Gabriel Lopez  
Commissioner

Ignacio Perez  
Commissioner

Ruth Rodriguez  
Commissioner

**INTERIM PRESIDENT & CEO**

Ed Hinojosa, Jr.

**SAN ANTONIO HOUSING AUTHORITY  
OPERATIONS COMMITTEE or  
\*\*SPECIAL BOARD MEETING  
TELECONFERENCE**

**Call In Phone Number: (346) 248-7799  
Meeting ID: 93839434337# Passcode: 654170#  
12:30 p.m., Thursday, May 20, 2021**

The Board of Commissioners will convene for a Committee, or Special Board meeting, by teleconference, for discussion on the following matters:

**MEETING CALLED TO ORDER**

1. The Board of Commissioners or its Committee may hold a closed meeting pursuant to Texas Government Code § 551.071-076 for consultation concerning attorney-client matters, real estate, litigation, personnel, and security matters. The Board or Committee reserves the right to enter into closed meeting at any time, during the course of the meeting.

**PUBLIC COMMENT**

2. Public Comment - Citizens are provided up to three minutes each to speak to any agenda items. Citizens wishing to speak to items posted on the agenda should access Phone Number: **(346) 248-7799** and enter Meeting ID: **93839434337#** and Passcode: **654170#**, prior to **12:30 p.m.** A Spanish/English translator will be available to citizens needing translation.

Now is the time for public comments. The Board asks the public to address concerns related to SAHA matters and policy and not include statements that may be considered defamatory of any individual. The Board encourages members of the public to direct specific concerns or problems to SAHA staff for more prompt resolution. The Board will not discuss the comments of speakers or respond to speakers during the public comment portion of the agenda.

**INDIVIDUAL ITEMS**

3. Consideration and appropriate action regarding Resolution 6136, amending and restating the Housing Authority of the City of San Antonio Employees' Money Purchase Pension Plan and Trust, and authorizing the Interim President and CEO to execute the amended and restated plan (Muriel Rhoder, Chief Administrative Officer; Janie Rodriguez, Director of Human Resources)
4. Consideration and appropriate action regarding Resolution 6147, in support of the removal of the Custodian of the Housing Authority of the City of San Antonio Employees' Money Purchase Pension Plan and Trust, and appointment of successor Custodian (Muriel Rhoder, Chief Administrative Officer; Janie Rodriguez, Director of Human Resources)

## **DISCUSSION ITEMS**

5. Discussion regarding Tax Credits Financing: Mixed Income Developments (Timothy E. Alcott, Chief Legal and Real Estate Officer)
6. Update and discussion regarding internet at SAHA communities (Jo Ana Alvarado, Director of Innovative Technology)
7. Discussion regarding SAHA recruitment and staffing update (Janie Rodriguez, Director of Human Resources)
8. Discussion regarding resident concerns
9. \*Closed Session  
**Consultation with Attorney**  
Deliberate and obtain legal advice regarding legal issues pursuant to Texas Government Code Sec. 551.071 (consultation with attorney)
  - Consultation with Attorney regarding HUD and CDC eviction moratoriums

## **REPORTS**

- Procurement Activity Report
  - Quarterly Demographic Procurement Report
  - FHP Quarterly Board Report [Jan-Mar]
10. Adjournment

\*Note: Whenever the Texas Open Meetings Act (Section 551.001 et seq. of the Texas Government Code) provides for a closed meeting in matters concerning legal advice, real estate, contracts, personnel matters, or security issues, the Board may find a closed meeting to be necessary. For convenience of the citizens interested in an item preceded by an asterisk, notice is given that a closed meeting is contemplated. However, the Board reserves the right to go into a closed meeting on any other item, whether it has an asterisk, when the Board determines there is a need and a closed meeting is permitted.

\*\*Note: If a quorum of the Board of Commissioners attends the Committee Meeting, this meeting becomes a Special Meeting of the Board, but no Board action will be taken other than recommendations to the full Board, unless the full Board is present.

**BOARD OF COMMISSIONERS  
Operations Committee**

**RESOLUTION 6136, AMENDING AND RESTATING THE HOUSING AUTHORITY OF THE CITY OF SAN ANTONIO EMPLOYEES' MONEY PURCHASE PENSION PLAN AND TRUST, AND AUTHORIZING THE INTERIM PRESIDENT AND CEO TO EXECUTE THE AMENDED AND RESTATED PLAN**

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*Ed Hinojosa Jr*  
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**Ed Hinojosa, Jr.**  
**Interim President and CEO**

DocuSigned by:  
*Muriel Rhoder*  
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**Muriel Rhoder**  
**Chief Administrative Officer**

DocuSigned by:  
*Janie Rodriguez*  
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**Janie Rodriguez**  
**Director of Human Resources**

**REQUESTED ACTION:**

Consideration and appropriate action regarding Resolution 6136, amending and restating the Housing Authority of the City of San Antonio Employees' Money Purchase Pension Plan and Trust, and authorizing the Interim President and CEO to execute the amended and restated plan.

**FINANCIAL IMPACT:**

None

**SUMMARY:**

On February 28, 2013, the Board of Commissioners (the "Commissioners") approved the most recent amendment and restatement of the Housing Authority of the City of San Antonio Employees' Money Purchase Pension Plan and Trust (the "Plan"), generally effective January 1, 2013; Section 9.1.a of the Plan provides that the Plan may be amended by the Housing Authority at any time, provided that any amendment which affects the rights, duties, or responsibilities of the Trustee of the Plan may be made only with the Trustee's written consent; and the Housing Authority has since approved five separate stand alone amendments to the Plan.

The recommended changes are to amend and restate the Plan in order to incorporate the prior amendments into a single document, as well as to make certain other changes, such as allowing participant direction of investments.

**STRATEGIC GOAL:**

SAHA employees thrive in career and professional development.

**ATTACHMENTS:**

Resolution 6136

Exhibit A: Housing Authority of the City of San Antonio Employees' Money Purchase Plan and Trust As Amended and Restated Effective July 1, 2021 (red-lined)

**San Antonio Housing Authority  
Resolution 6136**

**RESOLUTION 6136, AMENDING AND RESTATING THE HOUSING AUTHORITY OF THE CITY OF SAN ANTONIO EMPLOYEES' MONEY PURCHASE PENSION PLAN AND TRUST, AND AUTHORIZING THE INTERIM PRESIDENT AND CEO TO EXECUTE THE AMENDED AND RESTATED PLAN**

**WHEREAS**, the Housing Authority of the City of San Antonio has previously adopted and continues to maintain the Housing Authority of the City of San Antonio Employees' Money Purchase Pension Plan and Trust (the "Plan") for the benefit of its eligible employees and their beneficiaries; and

**WHEREAS**, the Board of Commissioners of the Housing Authority of the City of San Antonio most recently amended and restated the Plan effective January 1, 2013, which restatement has been amended five times subsequently; and

**WHEREAS**, under the terms of the Plan the Board of Commissioners retains the right to amend the Plan; and

**WHEREAS**, the Board of Commissioners desires to amend and restate the Plan in order to incorporate the prior amendments in a single document, as well as to make certain other changes, such as allowing participant direction of investments.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Commissioners of the Housing Authority of the City of San Antonio, hereby:

1. Approves Resolution 6136, in support of the amendment and restatement of the Housing Authority of the City of San Antonio Employees' Money Purchase Pension Plan and Trust.
2. Amends and restates the Plan, by adoption of the form presented to and considered by the Board of Commissioners as the Housing Authority of the City of San Antonio Employees' Money Purchase Pension Plan and Trust, which is attached hereto as Exhibit A, effective as of the date set forth therein.
3. Directs that the Interim President and CEO, and/or his delegate, take any or all actions that may be necessary or appropriate to accomplish the intent of the foregoing resolution, including (without limitation) the execution of the Housing Authority of the City of San Antonio Employees' Money Purchase Pension Plan and Trust.

**Passed and approved the 3rd day of June 2021.**

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**Ana M. "Cha" Guzman  
Chair, Board of Commissioners**

**Attested and approved as to form:**

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**Ed Hinojosa, Jr.  
Interim President and CEO**



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HOUSING AUTHORITY  
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# **EXHIBIT A**

**REDLINED**

**HOUSING AUTHORITY OF THE  
CITY OF SAN ANTONIO  
EMPLOYEES' MONEY PURCHASE  
PENSION PLAN AND TRUST**

**As Amended and Restated Effective July 1, 2021**



**Draft-Resolution6136-EMPP-RestatedPlan-Redlined-OPS-5.20.21**

~~*Compilation including Amendments 1 through 5*~~

**HOUSING AUTHORITY OF THE CITY OF  
SAN ANTONIO  
EMPLOYEES' MONEY PURCHASE  
PENSION PLAN AND TRUST**

**As Amended and Restated Effective July 1, 2021**



**HOUSING AUTHORITY OF THE  
CITY OF SAN ANTONIO  
EMPLOYEES' MONEY PURCHASE  
PENSION PLAN AND TRUST**

**As Amended and Restated Effective July 1, 2021**

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**HOUSING AUTHORITY OF THE CITY OF SAN ANTONIO  
EMPLOYEES' MONEY PURCHASE PENSION PLAN AND TRUST**

**As Amended and Restated Effective July 1, 2021**

**THIS AGREEMENT** (hereinafter referred to as the “Agreement”) is made and entered into by and between the Housing Authority of the City of San Antonio, a municipal housing authority created under Chapter 392 of the Texas Local Government Code (hereinafter referred to as the “Employer”), and ~~the Frost National Bank of San Antonio, N.A.~~ (hereinafter referred to as the “Trustee”):

**W I T N E S S E T H:**

**WHEREAS**, the Employer heretofore has established and maintained this money purchase pension plan and trust, effective June 7, 1948, known as the Housing Authority of the City of San Antonio Employees’ Pension Plan and Trust (hereinafter referred to as the “Plan”) in recognition of the contribution made to its successful operation by its employees and for the exclusive benefit of its eligible employees; and

**WHEREAS**, the terms and provisions of the aforesaid Plan were amended and restated, effective July 1, 1993, effective January 1, 1998, **effective January 1, 2008**, and again effective January 1, ~~2008~~**2013**, and the ~~2008~~**2013** restatement has been amended ~~four~~**five** times; and

**WHEREAS**, the Plan is a “public retirement system,” as defined in and authorized by Section 810.001 of the Texas Government Code, and the Employer intends to operate the Plan as a “governmental plan” within the meaning of Code Section 414(d); and

**WHEREAS**, under the terms and provisions of the Plan, the Employer has the ability to amend the Plan, provided that the Trustee joins in such amendment if the provisions of the Plan affecting the Trustee are amended.

**NOW, THEREFORE**, effective ~~January~~**July 1, 2013**2021**, except as otherwise provided **herein**, the Employer and the Trustee in accordance with the provisions of the Plan pertaining to amendments thereof, hereby amend the Plan in its entirety and restate the Plan to provide as follows:**

**ARTICLE 1**  
**CONTINUATION AND PURPOSE OF PLAN AND TRUST**

**1.1 CONTINUATION OF PLAN AND TRUST**

The Employer hereby amends, restates, and continues the Plan, upon and in accord with the terms and provisions provided herein. Except as otherwise specifically provided, the terms and provisions contained herein are effective ~~January 1, 2013~~ [~~“as of the Effective Date”~~]. Any employee who was a Participant in the Plan as of the Effective Date and has an Hour of Service after such Effective Date shall continue such participation in accord with the terms and provisions provided herein.

**1.2 NAME OF PLAN AND TRUST**

The plan amended, restated, and continued in accordance with the terms and provisions herein shall be known as the HOUSING AUTHORITY OF THE CITY OF SAN ANTONIO EMPLOYEES’ MONEY PURCHASE PENSION PLAN AND TRUST.

**1.3 GOVERNMENTAL PLAN**

It is the intent of the Employer that this Plan constitute a “public retirement system” within the meaning of Section 810.001 of the Texas Government Code, and a “governmental plan” within the meaning of Code Section 414(d) and ERISA Section 3(32). Consequently, it is the intent of the Employer that this Plan satisfy those provisions of the Code which apply to, or determine the qualification of, a governmental plan and its related trust, and that the Plan be exempt from the requirements of ERISA, as amended. To the extent that this Plan includes provisions not normally applicable to “governmental plans,” such inclusion shall not be deemed an election to be subject to any other requirements of ERISA or the Code which are not applicable to governmental plans.

**ARTICLE 2**  
**DEFINITIONS**

**2.1 “Administrator”** means the committee designated by the Employer pursuant to Section 3.2 to administer the Plan on behalf of the Employer.

**2.2 “Account” or “Accounts”** means, with respect to each Participant, all of the following accounts, as the context requires, which may be established and maintained on behalf of a Participant: Employer Contribution Account, Mandatory Contribution Account, Voluntary Contribution Account and Rollover Account.

~~**2.3 “Adjusted Account Balance”** means, with respect to each Participant, the aggregate balance of such Participant’s Accounts, as adjusted in accordance with Article 5, as of the applicable Anniversary Date or other Valuation Date.¶¶~~

~~**2.4 “Anniversary Date”**~~ means December 31.

**2.5 “Beneficiary”** means a person designated by a Participant who is, or may become, entitled to receive all or a portion of a deceased Participant’s Account, subject to the restrictions of Sections 78.2 and 78.6. Unless otherwise designated in accordance with Subsection 78.2.d, the Beneficiary of a married Participant shall be such Participant’s spouse.

**2.6 “Code”** means the Internal Revenue Code of 1986, as ~~it may be amended or replaced~~ from time to time.

**2.7 “Compensation”** means all of the Participant’s wages within the meaning of Code Section 3401(a) for the purposes of income tax withholding at the source, but shall be determined without regard to any rules under Code Section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(2)), and shall include the following: (1) elective contributions made by the Employer on behalf of Participants pursuant to salary reduction agreements and not includible in gross income of Participants under Code Sections 125, 132(f)(4), 402(e)(3), 402(h), 403(b) and 457, and Participant contributions described in Code Section 414(h)(2) and treated as Employer contributions; and (2) merit increases paid in lump sum form. For all purposes herein, however, the term “Compensation” shall exclude all items listed in Regulation Section 1.414(s)-1(c)(3) (even if includible in gross income of the Participant), as follows: reimbursements or other expense allowances, fringe benefits (cash and noncash), moving expenses, deferred compensation, and welfare benefits. For example, Compensation will exclude cashout of Sick Leave Buy Back Payments or Annual Leave Buy Back Payments, Employer payments of the Participant’s share of FICA, group term life insurance premiums attributable to coverage in excess of \$50,000, Employer contributions to nonqualified deferred compensation plans, and auto allowances.

The annual Compensation of each Participant taken into account in determining allocations for any Plan Year beginning after December 31, 2001, shall not exceed \$200,000, as adjusted for cost-of-living increases in accordance with Code Section 401(a)(17)(B). Annual Compensation means Compensation during the Plan Year or such other consecutive 12-month period over which Compensation is otherwise determined under the Plan (the determination period). The cost-of-living adjustment in effect for a calendar year applies to annual Compensation for the determination period that begins with or within such calendar year.

For any short Plan Year, the Compensation limit shall be an amount equal to the Compensation limit for the calendar year in which the Plan Year begins, multiplied by the ratio obtained by dividing the number of full months in the short Plan Year by 12.

**2.8 “Disability”** means, for purposes of the Plan, that a Participant has either (i) suffered a disability for purposes of the Employer’s Long Term Disability policy and is eligible for benefits thereunder, or (ii) suffered a disability, as determined by the Social Security Administration, under Title II of the Social Security Act and is eligible for benefits thereunder.

**2.9 “Effective Date”** with respect to this amended and restated Plan means ~~January~~ July 1, ~~2013~~ 2021.

**2.10 “Eligible Employee”** means any Employee who is a ~~“Regular Full Time Appointment Employee,”~~ **designated a regular full-time employee or full-time grant funded employee,** as defined in ~~Section 4.1 of the San Antonio Housing Authority Personnel Procedures Manual.~~ **Employer’s employee handbook (“Handbook”).** The term “Employee” excludes all other persons employed by the Employer, including, but not limited to:

**2.9.a** Any person who is designated a ~~“Temporary Appointment Employee” under the provisions of Section 4.4 of the San Antonio Housing Authority Personnel Procedures Manual;~~ **provisional employee, as defined in the Handbook (“Provisional Employee”);**

**2.9.b** Any person who is designated a ~~“Part Time Appointment Employee” under the provisions of Section 4.3 of the San Antonio Housing Authority Personnel Procedures Manual;~~ ¶

**2.9.c** ~~Any person who is designated a “Force Account Employee” under the provisions of Section 4.5 of the San Antonio Housing Authority Personnel Procedures Manual, including but not limited to those Employees hired to perform construction and/an intern or maintenance work on an resident employee, as needed basis under the Comprehensive Improvement Assistance Program (“C.I.A.P.”) and other maintenance and construction Employees designated “Force Account Employees” under the operating budget;~~ ¶

**2.9.d** ~~Any person employed as a “Security Employee” other than those who are designated as “Regular Full Time Appointment Employees” under the provisions of Section 4.1 of the San Antonio Housing Authority Personnel Procedures Manual~~ **defined in the Handbook;**

**2.9.e** Any person who is a “Leased Employee” of the Employer within the meaning of Code Sections 414(n)(2) or 414(o)(2). In general, the term “Leased Employee” shall mean any person who (1) performs services for the Employer pursuant to an agreement between the Employer and a leasing organization, (2) has performed such services for the Employer for a 12-month period, and (3) performs such services under the primary direction or control of the Employer; and

**2.9.f** All other persons employed by the Employer who are not designated ~~“Regular Full Time Appointment Employees” under Section 4.1 of the San Antonio Housing Authority Personnel Procedures Manual~~ **regular full-time employees or full-time grant-funded employees, as defined in the Handbook.**

Notwithstanding the above, with respect to any Leased Employee **or Provisional Employee** who subsequently becomes designated as a ~~“Regular Full Time Appointment Employee” under Section 4.1 of~~ **regular full-time employee or full-time grant-funded employee, as defined in the San Antonio Housing Authority Personnel Procedures Manual Handbook,** such ~~Leased Employee’s person’s~~ period of service as a Leased **Employee or Provisional Employee** shall be counted for purposes of Hours of Service and Years of Service, except to the extent that Code Section 414(n)(5) was satisfied with respect to such individual while he or she was a Leased Employee.



**2.11 “Employee”** shall mean any common-law employee of the Employer.

**2.12 “Employer”** means the Housing Authority of the City of San Antonio, any successor which may maintain this Plan, and any predecessor which has maintained this Plan. The Employer is a municipal housing authority created under Chapter 392 of the Texas Local Government Code with principal offices in the State of Texas.

**2.13 “Employer Contribution Account”** means the account established and maintained by the Administrator for a Participant with respect to his or her total interest under the Plan resulting from Employer Contributions made pursuant to Subsection 5.1.b.

**2.14 “Excess Compensation”** with respect to any Participant means the Participant’s Compensation which is in excess of the Taxable Wage Base.

**2.15 “Forfeiture”** means that portion of a Participant’s or Former Participant’s Account that is not Vested. A Forfeiture occurs upon the distribution of the entire Vested portion of a Participant’s or Former Participant’s Account. For purposes of this Section ~~2.15~~<sup>14</sup>, however, in the case of a Terminated Participant whose Vested benefit is zero percent (0%), such Terminated Participant shall be deemed to have received a distribution of his or her Vested Benefit upon termination of his or her employment. Moreover, restoration of Forfeitures which are deemed to have occurred pursuant to the provisions of this Section ~~2.15~~<sup>14</sup> shall be governed by the rules contained in Subsection ~~78~~<sup>4</sup>.d. Finally, the term Forfeiture shall also include amounts deemed to be Forfeitures pursuant to any other provision of this Plan, such as Sections 4.7 and ~~78~~<sup>10</sup>.

**2.16 “Former Participant”** means a person who has been a Participant, but who has ceased to be a Participant for any reason.

**2.17 “415 Compensation”** means compensation as defined in Subsection 5.4.b.

**1.1 “Hour of Service”** means (A) each hour for which an Employee is directly or indirectly compensated or entitled to compensation by the Employer for the performance of duties during the applicable computation period, (B) each hour for which an Employee is directly or indirectly compensated or entitled to compensation by the Employer (irrespective of whether the employment relationship has terminated) for reasons other than performance of duties such as vacation, holiday, sickness, jury duty, disability, lay off, military duty or leave of absence during the applicable computation period, and (C) each hour for which back pay is awarded or agreed to by the Employer without regard to mitigation of damages. These hours will be credited to the Employee for the computation period or periods to which the award, agreement or payment is made. The same Hours of Service shall not be credited both under (A) or (B) above, as the case may be, and under (C) above. Notwithstanding the above, however, the following rules shall apply for determining Hours of Service:

**2.17.a** no more than 501 Hours of Service are required to be credited to any Employee on account of any single continuous period during which the Employee performs no duties whether or not such period occurs in a single computation period;

**2.17.b** an hour for which an Employee is directly or indirectly paid, or entitled to payment, on account of a period during which no duties are performed is not required to



be credited to the Employee if such payment is made or due under a plan maintained solely for the purpose of complying with applicable worker's compensation, or unemployment compensation insurance laws; and

**2.17.c** no Hours of Service are required to be credited for a payment which solely reimburses an Employee for medical or medically related expenses incurred by the Employee.

For purposes of this Section 2.1817, a payment shall be deemed to be made by or due from the Employer regardless of whether such payment is made or due from the Employer directly, or indirectly through, among others, a trust fund, or insurer, to which the employer contributes or pays premiums and regardless of whether contributions made or due to the trust fund, insurer, or other entity are for the benefit of particular Employees or are on behalf of a group of Employees in the aggregate.

**1.2** **“Investment Fund”** means any of the pooled investment funds made available from time to time for investment of Accounts at the direction of Participants. For purposes of this Plan, guaranteed investment contracts, certificates of deposit and similar instruments shall be considered pooled investment vehicles.

**1.3** **“Investment Manager”** means an entity that has the power to manage, acquire or dispose of Plan assets, and acknowledges its fiduciary responsibility to the Plan in writing. Such entity must be a person, firm, or corporation registered as an investment adviser under the Investment Advisors Act of 1940, a bank, or an insurance company qualified to perform investment services under the law of more than one state.

**1.4** **“Late Retirement Date”** means the first day of the month coinciding with or following a Participant's actual Retirement Date that occurs after the Participant's Normal Retirement Date.

**1.5** **“Mandatory Contribution Account”** means the account established and maintained for a Participant with respect to his or her total interest under the Plan resulting from the Participant's Mandatory Contributions made pursuant to Subsection 5.1.a.

**1.6** **“Normal Retirement Date”-Age** means the ~~first day of the month coinciding with or next following the~~ Participant's 65<sup>th</sup> birthday ~~(“Normal Retirement Age”)~~. A Participant shall become fully Vested in his or her Accounts upon attaining Normal Retirement Age.

**1.7** **“Normal Retirement Date”** means the first day of the month coinciding with or next following the Participant's Normal Retirement Age.

**1.8** **“Participant”** means any Eligible Employee who participates in the Plan as provided in Section 4.2 and has not for any reason become ineligible to participate further in the Plan. Furthermore, and solely with respect to the provisions of this Plan concerning investment direction of Accounts, the term Participant shall include a Former Participant, Beneficiary and, for initial investment elections, an Eligible Employee who has not yet become a Participant.

**1.9** **“Plan”** means the money purchase pension plan amended, restated, and continued by the Employer in the form of this Agreement, and shall also refer to this Agreement.

**1.10 “Plan Year”** means the 12-month period commencing on January 1 of each year and ending the following December 31.

**1.11 “Regulation”** means the Income Tax Regulations as promulgated by the Secretary of the Treasury or his or her delegate, and as amended from time to time.

**1.12 “Retirement Date”** means the date as of which a Participant retires for reasons other than Disability, whether such retirement occurs on a Participant’s Normal Retirement Date or Late Retirement Date.

**1.13 “Taxable Wage Base”** means, with respect to any Plan Year, the contribution and benefit base in effect under Section 230 of the Social Security Act at the beginning of the Plan Year.

**1.14 “Terminated Participant”** means a person who has been a Participant, but whose employment has been terminated other than by death, Disability or retirement on the Participant’s Retirement Date.

**1.15 “Trust Fund”** means all property of every kind held or acquired by the Trustee under this Plan and Trust as the same shall exist from time to time.

**1.16 “Trustee”** means any person or entity appointed by the Employer to hold the assets of the Trust Fund.

**1.17 “USERRA”** means the Uniformed Services Employment and Reemployment Rights Act of 1994, as it may be amended from time to time.

**1.18 “Valuation Date”** means any day that the New York Stock Exchange is open for business.

**1.19 “Vested”** means the portion of a Participant’s benefits under the Plan that are nonforfeitable.

**1.20 “Voluntary Contribution Account”** means the account established and maintained for a Participant with respect to his or her total interest in the Plan resulting from his or her Voluntary Contributions made pursuant to Subsection 5.7.a.

**1.21 “Year of Service”** means a computation period of 12 consecutive months of completed service during which an Employee is credited with at least 1,000 Hours of Service.

For purposes of eligibility for participation, the computation period shall begin with the date on which the Employee first performs an Hour of Service. For vesting purposes, the computation period shall be the Plan Year, including periods prior to the Effective Date of the Plan. For all other purposes, the computation period shall be the Plan Year.

## **ARTICLE 2**

### **PLAN ADMINISTRATION**

#### **2.1 POWERS OF THE EMPLOYER**

The Employer shall be empowered to appoint and remove the Trustee and the Administrator from time to time as it deems necessary for the proper administration of the Plan to assure that the Plan is being operated for the exclusive benefit of the Participants and their Beneficiaries in accordance with the terms of the Plan, the Code, and Section 802.203 of the Texas Government Code. In addition, the Employer may from time to time appoint a non-discretionary Advisory Committee to assist the Administrator with its duties hereunder, including providing advice to the Administrator with respect to the investment of ~~all or a portion of the~~ Trust Fund ~~assets~~.

The Employer shall periodically review the performance of any fiduciary or other person to whom duties have been delegated or allocated by it under the provisions of this Plan or pursuant to procedures established hereunder. This requirement may be satisfied by formal periodic review by the Employer or by a qualified person specifically designated by the Employer, through day-to-day conduct and evaluation, or through other appropriate ways.

#### **2.2 DESIGNATION OF ADMINISTRATIVE AUTHORITY**

The Administrator of this Plan shall be the Employee Pension Administrative Committee, which shall be a committee of at least three and no more than five individuals (referred to collectively herein as the "Committee," and individually as "Committee Members"), one of whom shall be the Chief Financial Officer of the Employer, one of whom shall be the Chief Administrative Officer of the Employer, and one of whom shall be the President/Chief Executive Officer of the Employer (or, in each case, the person serving in that capacity). Any person, including, but not limited to the Employees of the Employer, shall be eligible to serve on the Committee. Any person so appointed shall signify his or her acceptance by filing written acceptance with the Employer. Members of the Committee shall serve at the pleasure of the Employer which, in its sole discretion, may remove members by delivery of written notice of removal, to take effect at a date specified therein, or upon delivery to the Committee Members if no date is specified. Committee Members may resign by delivery of written resignation to the Employer.

The Employer, upon the resignation or removal of a Committee Member, may promptly designate in writing a successor to the position. The Employer may also, in its sole discretion, appoint additional members to the Committee. If the Employer does not appoint any Committee Members, the Employer will function as the Administrator

#### **2.3 MAJORITY DECISION**

The decision of a majority of the Committee serving as Administrator shall be final and binding on all parties thereto. However, any member of such Committee who is also a Participant in the Plan shall refrain from voting in any matter that relates solely to himself or herself. Further, the Committee may adopt a policy requiring (a) the written approval of all

members of the Committee and/or (b) the holding of a meeting of all members of the Committee for certain changes in administrative rules and procedures affecting the Plan, and shall notify persons involved in administration of the Plan of any such policy.

## **2.4 POWERS AND DUTIES OF THE ADMINISTRATOR**

The Administrator is the “governing body” of the Plan and Trust, as that term is described in the Texas Government Code. As “governing body” of the Plan and Trust, the Administrator is responsible for the management and administration of the Trust Fund. In addition, the Administrator shall be responsible for the administration of the Plan for the exclusive benefit of the Participants and their Beneficiaries, subject to the specific terms of the Plan. The Administrator shall administer the Plan in accordance with its terms and shall have the power and discretion to construe the terms of the Plan and to determine all questions arising in connection with the administration, interpretation, and application of the Plan. Any such determination by the Administrator shall be conclusive and binding upon all persons. The Administrator may establish procedures, correct any defect, supply any information, or reconcile any inconsistency in such manner and to such extent as it may deem necessary or advisable to carry out the purpose of the Plan; provided, however, that any procedure, discretionary act, interpretation or construction shall be performed in a nondiscriminatory manner based upon uniform principles consistently applied and shall be consistent with the intent that the Plan continue to be deemed a qualified plan under the terms of Code Section 401(a) that apply to “governmental plans” within the meaning of Code Section 414(d). The Administrator shall have all powers necessary or appropriate to accomplish its duties under this Plan, including the authority to delegate its duties to Employees of the Employer, or appoint and remove Investment Managers from time to time as it deems necessary to manage the investments of the Trust Fund.

The Administrator shall establish a “written investment policy,” in accordance with Section 802.202 of the Texas Government Code, to determine the goals and objectives of the Trust Fund (e.g., whether the Plan has a short run need for liquidity or whether liquidity is a long run goal and investment growth is a more current need,) and the Investment Funds offered under the Plan, as applicable, or shall appoint a qualified person to do so. The Administrator or its delegate shall communicate such objectives and goals to the Trustee and/or any Investment Manager responsible for management of all or a portion of the Trust Fund, who shall coordinate such management of the Trust Fund with the Plan’s needs. The communication of such a “written investment policy” shall not, however, constitute a directive to the Trustee and/or any Investment Manager as to the specific investment of the Trust Fund.

In addition, the Administrator shall be charged with the duties of the general administration of the Plan, including, but not limited to, the following:

**3.4.a** the discretion to determine all questions relating to the eligibility of Employees to participate or remain a Participant hereunder and to receive benefits under the Plan;

**3.4.b** to compute, certify, and direct the Trustee with respect to the amount and the kind of benefits to which any Participant shall be entitled hereunder;

**3.4.c** to authorize and direct the Trustee with respect to all nondiscretionary or otherwise directed disbursements from the Plan;

**3.4.d** to maintain all necessary records for the administration of the Plan;

**3.4.e** to interpret the provisions of the Plan and to make and publish such rules for regulation of the Plan as are consistent with the terms hereof;

**3.4.f** to compute and certify to the Employer and to the Trustee from time to time the amount of the annual contribution to be made by the Employer or other sums of money necessary or desirable to be contributed to the Plan;

**3.4.g** to compute and certify to the Trustee the amount and kind of benefits payable to Participants, Former Participants, or their Beneficiaries, and to authorize all disbursements by the Trustee from the Plan;

**3.4.h** to consult with the Employer and the Trustee regarding the short and long-term liquidity needs of the Plan in order that the Trustee or Investment Manager can exercise any investment discretion in a manner designed to accomplish specific objectives, as applicable;

**3.4.i** to assist each Participant regarding his or her rights, benefits, or elections available under the Plan;

**3.4.j** to allow Participants to direct the investment of their Accounts;

**3.4.k** to identify and select a menu of Investment Funds to be offered under the Plan, with the assistance of the Plan's Investment Managers and other appropriate consultants;

**3.4.l** to establish and maintain means of electronic communication with the managers, vendors, and sponsors of Investment Funds and with custodians or trustees who hold legal title to such funds for the benefit of Participants and Beneficiaries; and

**3.4.m** to prepare periodic reports on the Investment Funds and the balance of Participants in the Plan and in each Investment Fund.

## **2.5 RECORDS AND REPORTS**

The Administrator shall keep accurate records of all actions taken and shall keep all other books of account, records, and other data that may be necessary for proper administration of the Plan and shall be responsible for supplying any required information and reports to the Internal Revenue Service, Participants, Beneficiaries or others as required by law.

## **2.6 APPOINTMENT OF ADVISERS**

The Administrator, or the Trustee with the consent of the Administrator, may retain the services of actuaries, attorneys, accountants, specialists, advisers, and other persons as the

Administrator or Trustee deems necessary or desirable to assist in connection with the administration of this Plan.

## **2.7 INFORMATION FROM EMPLOYER**

To enable the Administrator to perform its functions, the Employer shall furnish to the Administrator such information with respect to service, eligibility, compensation, termination, and other matters required or desirable for the purpose of enabling the Administrator to carry out its duties; and the Administrator shall advise the Trustee of such of the foregoing facts as may be pertinent to the Trustee's duties under the Plan. The Administrator may rely upon such information supplied by the Employer as being correct and shall have no duty or responsibility to verify such information.

## **2.8 EXPENSES, INDEMNITY**

**Subject to Section 6.5**, all expenses of administration shall be paid out of the Trust Fund to the extent not paid by the Employer. Such expenses shall include any expenses incident to the functioning of the Administrator, including, but not limited to, fees of accountants, counsel, and other specialists and their agents, and other costs of administering the Plan. Until paid, the expenses shall constitute a liability of the Trust Fund. The Employer may pay directly or reimburse the Trust Fund for any expense of administration which may be paid by a housing authority under applicable HUD Guidelines and/or with the approval of the appropriate HUD Field Office. If such expenses are initially paid by the Trust Fund, the Employer may reimburse the Trust Fund for any such administration expense incurred. Any administration expense paid to the Trust Fund as a reimbursement shall not be considered an Employer Contribution. The Employer may reimburse the Administrator directly for all necessary expenses incurred by the Administrator.

Each member of the Committee serving as Administrator shall be liable only for his or her own willful misconduct or gross negligence. The Employer shall indemnify and save harmless each Committee Member against all liabilities and costs including, without limitation, demands made by any individual claiming an interest under the Plan, which the Committee Member may incur in the lawful performance of his or her duties, including all actions taken at the direction of the Employer, whether or not such Employer-directed actions are authorized herein, except as to any liabilities arising from the Committee Member's willful misconduct or gross negligence.

## **2.9 CLAIMS PROCEDURE**

Claims for benefits under the Plan shall be made in writing and filed with the Administrator. An application for a distribution shall be made on forms supplied by the Employer or Administrator. Any other claims may be made by any written request. Any written notice of the disposition of a claim shall be furnished to the Claimant within 90 days after the application is filed unless special circumstances require an extension and written notice of the extension is provided to the Claimant. The notice will set forth the reasons for the denial, pertinent provisions of the Plan shall be cited, and, where appropriate, a description of any additional material and information needed in order for the Claimant to perfect the claim will be



provided. In addition, the claimant shall be informed of the Plan's claims review procedure. In the event that a written notice is not provided within the required period, the claim shall be deemed denied and eligible for the Plan's claims review procedure.

## **2.10 CLAIMS REVIEW PROCEDURE**

Any Claimant who has had a claim denied or deemed denied by the Administrator pursuant to Section 3.9 shall be entitled to request the Administrator to give further consideration to his or her claim by filing with the Administrator (on a form which may be obtained from the Administrator) a request for review. Such request, together with a written statement of the reasons why the Claimant believes his or her claim should be allowed, shall be filed with the Administrator no later than 60 days after receipt of the written notification of denial, or within 60 days of a deemed denial, in accordance with Section 3.9. Claimant's duly authorized representative may submit written arguments in support of his or her claim and may review pertinent Plan documents. The Administrator shall then re-examine all facts related to the appeal and make a final determination as to whether the denial of benefits is justified under the circumstances. A final decision as to the allowance or disallowance of the claim shall be made by the Administrator within 60 days of receipt of the appeal (unless there has been an extension of 60 days due to special circumstances, provided the delay and the special circumstances occasioning it are communicated to the Claimant within the 60 day period). A written notice of such final decision shall include specific reasons for the decision and specific references to the pertinent Plan provisions on which the decision is based. In the event that a final decision is not rendered within the required period, the claim shall be deemed denied on review.

## **ARTICLE 3 ELIGIBILITY**

### **3.1 CONDITIONS OF ELIGIBILITY**

Any Eligible Employee who has completed one Year of Service shall be eligible to participate in accordance with Section 4.2 as of the date he or she has satisfied such requirements. However, any employee who is a Participant in the Plan prior to the Effective Date of this restated Plan shall continue to participate in the Plan. An Eligible Employee shall cease to be eligible to participate in the Plan upon the termination of his or her employment with the Employer or if he or she ceases to be an Eligible Employee for any other reason. Notwithstanding the provisions of this Section and of Sections 2.3437 and 4.2, however, and effective for Employees hired before January 1, 2016, the President/Chief Executive Officer of the Employer shall have the authority to designate a participation commencement date earlier than the date described above ("Special Entry Date") for any Eligible Employee hired on or after August 1, 2002, provided that such Eligible Employee's name, Special Entry Date, and any other identifying information deemed necessary and desirable shall be reflected in an amendment to Appendix A, Special Entry Dates, attached to the Plan and made a part hereof. The President/Chief Executive Officer shall also have the authority to adopt and execute any such addition to Appendix A. Any such amendment shall be adopted by the President/Chief Executive Officer of the Employer solely in cases where, in the judgment of the President/Chief Executive Officer, the best interests of the Employer will be furthered by such amendment and designation. In the event, however, that the Eligible Employee for whom a Special Entry Date is

proposed is the President/Chief Executive Officer, the authority otherwise delegated to the President/Chief Executive Officer under this Section shall be exercised solely by the Board of Commissioners of the Employer. Effective for Employees hired after December 31, 2015, all Eligible Employees holding the title of "Director" or a higher title shall participate in the Plan as of the Eligible Employee's date of hire, and no further amendments to Appendix A shall be made. Furthermore, any Eligible Employees holding the title of "Director" or a higher title on May 5, 2016 shall begin participation in the Plan immediately after said date. The participation of any Eligible Employee who is assigned a Special Entry Date under this paragraph shall commence as of his or her Special Entry Date, and the designated Eligible Employee shall make Mandatory Employee Contributions as of such Special Entry Date.

In the event that an Eligible Employee was previously employed by a Local Public Agency (as defined by the United States Department of Housing and Urban Development) prior to being employed by the Employer, such Eligible Employee's Years of Service with such Local Public Agency shall be recognized solely for purposes of participation if the Administrator in its sole discretion determines, on a nondiscriminatory basis, that there is a business reason for counting such prior Years of Service. However, such Eligible Employee's Years of Service with his or her prior employer shall not be considered for vesting in Employer Contributions made under this Plan.

### **3.2 PARTICIPATION**

Upon an Eligible Employee's satisfaction of the eligibility requirements of Section 4.1, participation in the Plan is mandatory and is a condition of employment with the Employer. Except for an Eligible Employee assigned a Special Entry Date under Section 4.1 above, an Eligible Employee shall become a Participant effective as of the first day of January, April, July, or October which coincides with or next follows the date on which such Eligible Employee met the eligibility requirements of Section 4.1, and shall remain a Participant until he or she ceases to be eligible to participate. A Participant shall be eligible to receive allocations of Employer Contributions for purposes of Section 5.3 with respect to all periods during which such Participant makes Mandatory Employee Contributions in accordance with Subsection 5.1.a. Upon the acceptance of any benefits under this Plan, an Employee shall automatically be bound by the terms and conditions of the Plan and all amendments hereto.

### **3.3 LEAVES OF ABSENCE**

For purposes of determining the period of an Eligible Employee's Year of Service for purposes of this Article 4, an Eligible Employee shall be given credit for those hours he or she would have otherwise completed with the Employer had the Eligible Employee not been on an authorized leave of absence granted by the Employer. Such authorized leave of absence shall be for specific purposes such as sickness, disability, leave granted pursuant to the Family and Medical Leave Act, or any emergency taken with the advance approval of the Employer and during which the Eligible Employee worked for no other employer. In the event that the Eligible Employee does not return to the service of the Employer at the end of the authorized leave of absence, he or she shall be deemed to have terminated employment as of the earliest of the following dates: the date the leave expired, the first anniversary of the date the leave began, or the date of the Eligible Employee's resignation, discharge, or death.



Any Eligible Employee who is absent on account of military service with the armed forces of the United States shall be given full credit for those hours he or she would have completed with the Employer had the Eligible Employee not been in such service, provided he or she returns to active employment as an Eligible Employee at the time and under the circumstances required to entitle the Eligible Employee to reemployment rights under any state or federal law.

### **3.4 DETERMINATION OF ELIGIBILITY**

The Administrator shall determine the eligibility of each Eligible Employee for participation in the Plan based upon information furnished by the Employer. Subject to the Plan's claims and review procedures in Sections 3.9 and 3.10, the Administrator's determination of eligibility shall be conclusive and binding upon all persons.

### **3.5 PARTICIPATION UPON REEMPLOYMENT**

Participation in the Plan upon reemployment with the Employer shall be determined as follows:

**4.5.a** In the event a Former Participant whose employment terminates is subsequently reemployed as an Eligible Employee on or before the expiration of 12 months from the date his or her employment with the Employer terminated, such Former Participant shall reenter the Plan as a Participant on the date of such reemployment.

**4.5.b** In the event a Former Participant whose employment terminates is subsequently reemployed as an Eligible Employee after the expiration of 12 months from the date his or her employment with the Employer terminated, such Former Participant shall be considered a new Employee and shall become a Participant in the Plan in accordance with the provisions of Section 4.1.

**4.5.c** In the event a Former Participant ceases to be an Eligible Employee, but remains in the employ of the Employer and subsequently returns to the class of Eligible Employees, such Former Participant shall reenter the Plan as a Participant on the date of such return to the class of Eligible Employees.

**4.5.d** In the event an Employee who is not an Eligible Employee becomes an Eligible Employee, such Eligible Employee will participate immediately if such Eligible Employee has satisfied the requirements of Section 4.1 and would have otherwise previously become a Participant.

**4.5.e** In the case of the reemployment of a Former Participant and subsequent participation in accordance with Subsection 4.5.a or 4.5.b above, any intermittent or installment distributions under the Plan shall cease upon such Former Participant's reentry into the Plan as a Participant.

**4.5.f** ~~Effective December 12, 1994,~~ Notwithstanding anything to the contrary in this Plan, an Eligible Employee who is reemployed in accordance with the reemployment provisions of ~~the Uniformed Services Employment and Reemployment Rights Act of~~

~~1994 (“USERRA”)~~ following a period of qualifying military service (as determined under USERRA) shall reenter the Plan as a Participant immediately upon such reemployment.

### **3.6 OMISSION OF ELIGIBLE EMPLOYEE**

If, in any Plan Year, any Eligible Employee who should be included as a Participant in the Plan is erroneously omitted and discovery of such omission is not made until after a contribution by the Employer for the year has been made, the Employer shall correct the omission. A subsequent correcting Employer Contribution with respect to the omitted Eligible Employee (in the amount which the Employer would have contributed with respect to such omitted Eligible Employee had he or she not been omitted) shall also include reasonable earnings thereon.

### **3.7 INCLUSION OF INELIGIBLE EMPLOYEE**

If, in any Plan Year, any person who should not have been included as a Participant in the Plan is erroneously included and discovery of such incorrect inclusion is not made until after a contribution for the year has been made, the Employer shall not be entitled to recover the contribution made with respect to the ineligible person. In such event, the amount contributed with respect to the ineligible person shall constitute a Forfeiture for the Plan Year in which the discovery is made.

## **ARTICLE 4 CONTRIBUTION AND ALLOCATION**

### **4.1 DETERMINING EMPLOYEE AND EMPLOYER CONTRIBUTIONS**

**5.1.a Mandatory Employee Contributions:** As a condition of participation in the Plan, and as a condition of sharing in Employer Contributions, each Participant is required to make mandatory contributions to the Plan (referred to herein as “Mandatory Employee Contributions”). Such Mandatory Employee Contributions shall amount to five percent (5%) of such Participant’s Compensation and shall be credited to such Participant’s Mandatory Contribution Account. Such Mandatory Employee Contributions will be deducted, without any election on the part of the Participant, from each payment of Compensation made to the Participant and transmitted by the Employer to the Trustee within a reasonable time.

**5.1.a.1** Mandatory Employee Contributions shall be credited to the Mandatory Contribution Account created for each Participant and such account shall share in Trust fund earnings and losses.

**5.1.a.2** A Participant shall be fully Vested at all times in his or her Mandatory Contribution Account.

**5.1.a.3** Withdrawals from the Mandatory Contribution Account shall not be permitted prior to termination of employment.

**5.1.a.4** At Normal Retirement or such other date when the Participant or his or her Beneficiary shall be entitled to receive benefits, the Fair Market Value of the Mandatory Contribution Account shall be used to provide additional benefits to the Participant or to his or her Beneficiary.

**5.1.a.5** Pursuant to Resolution number 2437 (February 26, 1985), Mandatory Employee Contributions have been designated as “picked up” contributions within the meaning of Code Section 414(h)(2). Although deducted from the Participant’s pay, these Mandatory Employee Contributions shall be treated as contributions made by the Employer for federal income tax purposes.

~~5.1.a.6 Effective April 13, 2009, in lieu of the requirements imposed by Subparagraph 5.1.a above, the Employer shall make contributions on behalf of President/Chief Executive Officer Lourdes Castro Ramirez in the amount of five percent (5%) of such Employee’s Compensation, and the Employee shall be relieved of the obligations of Subparagraph 5.1.a. Such Employer contributions shall be deposited to the Employee’s Mandatory Contribution Account at the same time or times that the Employer deposits Mandatory Employee Contributions to the Plan, shall be fully Vested at all times, and shall be subject to all other provisions of the Plan that apply to Mandatory Employee Contributions, excepting only the provisions of Subparagraph 5.1.a.5. The provisions of this subparagraph shall not affect the Employee’s entitlement to additional Employer contributions made under Section 5.1.b below. ¶~~

~~5.1.a.7 Effective December 13, 2016, in lieu of the requirements imposed by Subparagraph 5.1.a above, the Employer shall make contributions on behalf of President/Chief Executive Officer David Nisivoccia in the amount of five percent (5%) of such Employee’s Compensation, and the Employee shall be relieved of the obligations of Subparagraph 5.1.a. Such Employer contributions shall be deposited to the Employee’s Mandatory Contribution Account at the same time or times that the Employer deposits Mandatory Employee Contributions to the Plan, shall be fully Vested at all times, and shall be subject to all other provisions of the Plan that apply to Mandatory Employee Contributions, excepting only the provisions of Subparagraph 5.1.a.5. The provisions of this subparagraph shall not affect the Employee’s entitlement to additional Employer contributions made under Section 5.1.b below. ¶~~

**5.1.b Employer Contributions:**

**5.1.b.1** The Employer shall make Contributions (“Employer Contributions”) on the following basis. For each Plan Year, the Employer shall contribute an amount which equals the sum of the following amounts on behalf of all Participants eligible to share in allocations for such Plan Year: (A) ~~10~~11% of the total Compensation of such Participant, ~~if hired by the Employer before July 1, 2017 and continuously employed by the Employer since such hire date, or 7% of the total Compensation of such Participant, if hired or rehired by the Employer on or after July 1, 2017~~ (the “Base Contribution”), plus (B) 5.7% of the Excess Compensation of such Participant (the “Excess Contribution”). ~~Effective for Compensation earned on or after July 9, 2000, however, the Employer shall~~

~~contribute an amount which equals the sum of the following amounts on behalf of all Participants eligible to share in allocations for the Plan Year: (A) 11% of the total Compensation of such Participant (the "Base Contribution"), plus (B) 5.7% of the Excess Compensation of such Participant (the "Excess Contribution").~~

**5.1.b.2** If an underpayment of the Employer's Contribution occurs for any Plan Year, the deficiency shall be corrected in the Plan Year the underpayment is discovered or disclosed, and a corresponding amount shall be added to the Employer Contribution made for the Plan Year of discovery or disclosure. For purposes of allocation under Section 5.3, the deficiency amount shall be added to the Employer Contribution otherwise made and shall be allocated in the same manner and among the same Participants as though it were part of the Employer Contribution made for the Plan Year of correction. If an overpayment of the Employer's Contribution occurs, the Employer shall not be entitled to recoup any part of the excess and such excess shall be placed in a suspense account and reallocated in the following year as if it were a Forfeiture.

**5.1.b.3** The Employer's Contribution with respect to an individual Participant shall be reduced by the amount, if any, by which such Employer Contribution would result in an excess annual addition under Code Section 415 with respect to such Participant. To the extent appropriate under the facts and circumstances, this reduction of the Employer Contribution with respect to an individual Participant shall occur after any adjustments of excess "annual additions" are made under Section 5.5.

**5.1.b.4** The Employer shall not contribute on behalf of any Participant who is not entitled to share in the allocation of the Employer's Contribution.

## **4.2 TIME OF PAYMENT OF EMPLOYER'S CONTRIBUTION**

The Employer shall pay to the Trustee its contribution to the Plan for each Plan Year as soon as administratively feasible following the end of the Plan Year. The Employer may but is not required to pay a portion of its contribution for a Plan Year during such Plan Year.

## **4.3 ACCOUNTING AND ALLOCATIONS**

**5.3.a.** ~~The assets of the Trust Fund shall constitute a single fund in which each Participant or Beneficiary shall have a proportionate, undivided interest as provided in this Plan. The Administrator shall establish and maintain Accounts in the name of each Participant, to which Accounts the Administrator shall credit as of each Anniversary Date all amounts allocated to each such Participant as set forth herein. Each Account shall reflect the credits and charges allocable thereto in accordance with the Plan.~~

**5.3.b.** The Employer shall provide the Administrator with all information required by the Administrator to make a proper allocation of the Employer's Contributions for each Plan Year. Within a reasonable period of time after the date of receipt by the

Administrator of such information, the Administrator shall allocate the Mandatory Employee Contributions and the Employer Contributions as follows:

**5.3.b.1 Mandatory Employee Contributions:** The Mandatory Employee Contributions made by each Participant shall be allocated to the Mandatory Contribution Account set up for such Participant.

**5.3.b.2 Employer Contributions:** The Employer Contribution (including the amount by which Forfeitures are used to reduce the Employer Contribution) shall be allocated to the Employer Contribution Account of each Participant eligible to share in allocations for a Plan Year, as follows: (A) ~~10% of the total Compensation of such Participant (the "Base Contribution"), plus (B) 5.7% of the Excess Compensation of such Participant (the "Excess Contribution"). Effective for Compensation earned on or after July 9, 2000, however, the Employer Contribution (including the amount by which Forfeitures are used to reduce the Employer Contribution) shall be allocated to the Employer Contribution Account of each Participant eligible to share in allocations for a Plan Year, as follows: (A)~~ 11% of the total Compensation of such Participant, ~~if hired by the Employer before July 1, 2017 and continuously employed by the Employer since such hire date, or 7% of the total Compensation of such Participant, if hired or rehired by the Employer on or after July 1, 2017 (the "Base Contribution"), plus (B) 5.7% of the Excess Compensation of such Participant (the "Excess Contribution").~~ (Notwithstanding the above, however, no portion of the Employer Contribution shall be allocated to a Participant's Employer Contribution Account to the extent such allocation would result in an excess annual addition under Code Section 415 with respect to such Participant. ~~Furthermore, the Base Contribution made on behalf of any Participant who is hired or rehired by the Employer on or after July 1, 2017, shall be 7% of the total Compensation of such Participant.)~~

5.3.c **Allocation of Earnings and Losses**

**5.3.c.1** Beginning on a recordkeeping conversion date occurring on or about or about September 1, 2011 (the "Conversion Date") and ending on June 30, 2021, each Participant's proportionate share of any earnings or losses (net appreciation or net depreciation) of the Trust Fund (excluding segregated accounts) ~~shall be~~ ~~was~~ allocated based on the proportionate value of each Participant's Accounts (excluding those which have been segregated pursuant to Subsections 5.6.d or 5.7.d, as applicable) as of the last Anniversary Date or other valuation date (referred to herein as the "each Valuation Date"), less any withdrawals since the last Valuation Date. Upon a recordkeeping conversion date occurring, which beginning on or about September 1, 2011 ("the Conversion Date"), the Administrator shall cause Participants' Accounts to be valued on ~~was~~ every day that the financial markets ~~are~~ ~~were~~ open. ~~Until the Conversion Date, however, for purposes of allocation of earnings and losses pursuant to this Subsection 5.3.c,~~ The adjusted value of each Participant's Accounts ~~shall include one half~~ ~~included~~ ~~all~~ of the Mandatory Employee Contributions, Employer Contributions and Voluntary Contributions credited to the Participant's Accounts since the previous

Valuation Date, less any withdrawals since the last Valuation Date. ~~Beginning after the Conversion Date, the adjusted value of each Participant's Accounts shall include all of the Mandatory Employee Contributions, Employer Contributions and Voluntary Contributions credited to the Participant's Accounts since the previous daily Valuation Date, less any withdrawals since the last daily Valuation Date. Each segregated account, if any, maintained on behalf of a Participant shall be~~ ~~was~~ credited or charged only with its separate earnings and losses. ~~Until the Conversion Date, any non-segregated assets transferred from other qualified plans as described in Section 5.6, shall, to the extent invested as a part of the general Trust Fund, be credited with investment earnings and losses in proportion to the number of days that such assets have been invested as a part of the general Trust Fund since the last Valuation Date.~~

5.3.c.2 As of the Effective Date, each Investment Fund's gains or losses shall be allocated as of each Valuation Date. The Administrator (or its delegate) shall, before taking into account the contributions and the Forfeitures for the period since the last preceding Valuation Date, as set forth in Subsection 5.3.d below, determine the then market value of each Investment Fund. At each such date, all income, gain and appreciation shall be credited to, and all loss and depreciation shall be charged to, the various Accounts maintained by the Plan for its Participants and Beneficiaries, subject to Section 6.5. Such credits and charges shall be made in proportion to the value of the respective Participant's and Beneficiary's Accounts to the extent invested in such Investment Fund as of the preceding Valuation Date (after recording all credits and charges which would otherwise be made based on Account balances as of the preceding Valuation Date). For purposes of the foregoing allocation, the Administrator shall adjust in a nondiscriminatory and consistent manner the credits and charges which would otherwise be made based on Account balances as of the preceding Valuation Date to reflect transfers between Investment Funds, contributions, Forfeitures, or any other transactions occurring since the preceding Valuation Date.

**5.3.d** As of each Anniversary Date, any amounts which became Forfeitures since the last Anniversary Date shall first be credited to and shall reduce the Employer Contribution under Subsection 5.1.b.1. The remaining Forfeitures, if any, shall then be used to reinstate previously forfeited account balances of Former Participants, if any, in accordance with Subsection ~~78~~.4.d.2, and then shall be used to satisfy any contribution that may be required pursuant to Subsection 5.1.b.2 or Section ~~78~~.10.

**5.3.e** A Participant's Accounts shall be debited for any annuity contract premiums paid on behalf of the Participant.

**5.3.f** For the purposes of this Section 5.3, "415 Compensation" shall be limited to \$200,000 (unless adjusted in such manner as permitted under Code Section 415(d)) for Plan Years beginning on or after January 1, 1989. Notwithstanding the preceding sentence, however, the dollar limitation on "415 Compensation" shall be \$150,000 (as adjusted pursuant to Code Section 415(d)) for all Plan Years beginning on or after July 1, 1994.



5.3.g All of the computations required to be made under the provisions of this Article 5, when made, shall be conclusive with respect thereto and shall be binding upon all the Participants, Beneficiaries, and all other persons ever having an interest in the Trust Fund.

**4.4 LIMITATION ON ANNUAL ADDITIONS:**

**5.4.a Incorporation by Reference:** ~~For “limitation years” beginning on or after July 1, 2007,~~ Notwithstanding anything contained in the Plan to the contrary, the Plan shall at all times comply with the provisions of Code Section 415 and the Regulations thereunder, the terms of which are specifically incorporated herein by reference. For all purposes of this Plan, the maximum dollar limitation shall be automatically increased as permitted by Regulations under Code Section 415(c)(1)(A). For the purposes herein, the “limitation year” shall be the Plan Year.

**5.4.b Timing Rules for 415 Compensation:** For purposes of this Section, the following timing rules shall apply.

**5.4.b.1 Payment during the “limitation year”.** Except as otherwise provided in this Subsection b, in order to be taken into account for a “limitation year,” “415 Compensation” must be actually paid or made available to the Participant (or, if earlier, includible in the gross income of the Participant) within the “limitation year”. For this purpose, compensation is treated as paid on a date if it is actually paid on that date or if it would have been paid on that date but for an election under Code Section 125, 132(f)(4), 401(k), 408(k), 408(p)(2)(A)(i), or 457(b).

**5.4.b.2 Payment Prior to Severance from Employment.** Except as otherwise provided in this Subsection b, in order to be taken into account for a “limitation year,” “415 Compensation” must be paid or treated as paid to the Participant (in accordance with the rules of paragraph b.1. above) prior to the Participant’s severance from employment (as defined in Regulation Section 1.415(a)-1(f)(5)) with the Employer.

**5.4.b.3 Certain Minor Timing Differences.** Notwithstanding the provisions of paragraph c.1 of this Section, “415 Compensation” for a “limitation year” includes amounts earned during that “limitation year” solely because of the timing of pay periods and pay dates if:

- A ~~A:~~ These amounts are paid during the first few weeks of the next “limitation year”;
- B ~~B:~~ The amounts are included on a uniform and consistent basis with respect to all similarly situated Employees; and
- C ~~C:~~ No compensation is included in more than one “limitation year.”

**5.4.b.4 Compensation Paid after Severance from Employment.**

**A** ~~A.~~ In General. Any compensation described in paragraph b.4.B. of this Section does not fail to be “415 Compensation” merely because it is paid after the Participant’s severance from employment with the Employer, provided the compensation is paid by the later of 2½ months after severance from employment with the Employer or the end of the “limitation year” that includes the date of severance from employment with the Employer.

**B** ~~B.~~ Regular Pay after Severance from Employment. An amount is described in this paragraph b.4.B. if:

- i** ~~i.~~ The payment is regular compensation for services during the Participant’s regular working hours, or compensation for services outside the Participant’s regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and
- ii** ~~ii.~~ The payment would have been paid to the Participant prior to a severance from employment if the Participant had continued in employment with the Employer.

**C** ~~C.~~ Other Post-Severance Payments. Any payment that is not described in paragraph b.4.B. of this Section is not considered compensation under paragraph b.4.A. of this Section if paid after severance from employment with the Employer, even if it is paid within the period described in paragraph b.4.A. of this Section. Thus, “415 Compensation” does not include severance pay, or parachute payments within the meaning of Code Section 280G(b)(2), if they are paid after severance from employment with the Employer.

**5.4.b.5** Salary Continuation Payments for Military Service. The rule of paragraph b.2. of this Section does not apply to payments to an individual who does not currently perform services for the Employer by reason of qualified military service (as that term is used in Code Section 414(u)(1)) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer rather than entering qualified military service.

#### **4.5 ADJUSTMENT FOR EXCESS ANNUAL ADDITIONS**

Notwithstanding any other provision in this Plan, if any “annual addition” under this Plan would cause the maximum “annual additions” to be exceeded for any Participant, the Administrator shall, to the extent necessary, take corrective action available under the Employee Plans Compliance Resolution System, as set forth in Revenue Procedure 2008-50 and subsequent guidance. For purposes of applying the limitations of Code Section 415, “annual additions” means the sum credited to a Participant’s Account for any “limitation year” of (1) Employer Contributions, (2) Employee Contributions (both Mandatory Employee Contributions and



Voluntary Contributions), (3) Forfeitures, and (4) any other amounts required to be treated as “annual additions” under Code Section 415(c)(2).

#### **4.6 TRANSFERS FROM QUALIFIED PLANS**

**5.6.a** With the consent of the Administrator, the Plan may accept a “rollover” made by an Eligible Employee (including an Eligible Employee who has not completed one Year of Service and is not otherwise eligible to participate in the Plan pursuant to Section 4.1), provided the “rollover” will not jeopardize the tax-exempt status of the Plan. The Administrator shall refuse to accept such transfers from other plans unless it reasonably concludes that the amounts to be rolled over to this Plan meet the requirements of this Section. The amounts rolled over shall be set up in a separate account herein referred to as a “Participant’s Rollover Account.” Such account shall be fully Vested at all times and shall not be subject to Forfeiture for any reason. Any transfer pursuant to this Subsection 5.6.a shall be in cash or its equivalent.

**5.6.b** For purposes of this Section, the term “rollover” means a “direct rollover” of an “eligible rollover distribution” from an “eligible retirement plan” (as the latter terms are defined in Section 78.12). In addition, the Plan will accept an Eligible Employee’s contribution of an eligible rollover distribution from a qualified plan described in Code Section 401(a); an annuity plan described in Code Section 403(a); an annuity contract described in Code Section 403(b); an eligible plan under Code Section 457(b) which is maintained by a state, political subdivision of a state; or any agency or instrumentality of a state or political subdivision of a state; an individual retirement account described in Code Section 408(a); or an individual retirement annuity described in Code Section 408(b) (other than an endowment contract), provided that the amounts are transferred to this Plan within 60 days of the Employee’s receipt thereof. The Plan will also accept amounts transferred to this Plan from a conduit individual retirement account provided that the amounts were deposited in the conduit individual retirement account within 60 days of the Employee’s receipt thereof. The Plan shall accept an Eligible Employee rollover that includes after-tax employee contributions and shall separately account for the portion of such rollover which is includible in gross income and the portion of such rollover which is not so includible. However, the Plan shall not accept any portion of an eligible rollover distribution that is attributable to payments or distribution from a designated Roth account as defined in Code Section 402A.

**5.6.c** Amounts in a Participant’s Rollover Account shall be held by the Trustee pursuant to the provisions of this Plan and shall be, ~~subject to Subsection 5.6.c,~~ distributed at the same times and in the manner set forth in Article 78.

**5.6.d** At Normal Retirement Date, or such other date when the Participant or his or her Beneficiary is entitled to receive benefits, the fair market value of the Participant’s Rollover Account shall be used to provide additional benefits to the Participant or his or her Beneficiary.

**5.6.e** **To the extent applicable,** the Administrator may direct that employee transfers made after a Valuation Date be segregated into a separate account for each Participant in

a federally insured savings account, certificate of deposit in a bank or savings and loan association, money market certificate, or other short term debt security acceptable to the Trustee until such time as the allocations pursuant to this Plan have been made, at which time they may remain segregated or be invested as part of the general Trust Fund, to be determined by the Administrator.

#### **4.7 VOLUNTARY EMPLOYEE CONTRIBUTIONS**

**5.7.a** In order to allow Participants the opportunity to increase their retirement income, each Participant may elect to voluntarily contribute to the Trust Fund in any Plan Year, on an after-tax basis, a portion of his or her Compensation for that Plan Year (referred to herein as “Voluntary Contributions”). Voluntary Contributions shall be held in a Participant’s Voluntary Contribution Account, shall be fully Vested at all times, and shall not be subject to Forfeiture for any reason.

**5.7.b** A Participant who has elected to make Voluntary Contributions may suspend his or her Voluntary Contributions at any time by giving advance written notice to the Administrator on a form provided by the Administrator.

**5.7.c** At Normal Retirement Date, or such other date when the Participant or his or her Beneficiary is entitled to receive benefits, the Fair Market Value of the Voluntary Contribution Account shall be used to provide additional benefits to the Participant or his or her Beneficiary. Amounts in the Participant’s Voluntary Contribution Account shall be held by the Trustee pursuant to the provisions of this Plan and shall be distributed at the same time and in the same manner set forth in Article 78.

**5.7.d** To the extent applicable, the Administrator may direct that Voluntary Contributions made after a Valuation Date be segregated into a separate account for each Participant in a federally insured savings account, certificate of deposit in a bank or savings and loan association, money market certificate, or other short term debt security acceptable to the Trustee until such time as the allocations pursuant to this Plan have been made, at which time they may remain segregated or be invested as part of the general Trust Fund, to be determined by the Administrator.

#### **4.8 SPECIAL RIGHTS FOR VETERANS**

If an Eligible Employee is reemployed in accordance with the reemployment provisions of USERRA following a period of qualifying military service (as determined under USERRA), the following rules shall apply upon the Eligible Employee’s reentry into the Plan as a Participant in accordance with Subsection 4.5.f:

**5.8.a** Such Participant shall be permitted to make up Mandatory Employee Contributions missed during the period of qualifying military service. The period of time during which the Participant is permitted to make any such make-up contributions begins on the date of the Participant’s reemployment with the Employer following his or her period of qualifying military service (as determined under USERRA) and will end upon

the expiration of the lesser of (1) 3 times the Participant's period of qualifying military service, and (2) 5 years.

**5.8.b** If the Participant elects to make up Mandatory Employee Contributions in accordance with Subsection 5.8.a, such make-up Mandatory Employee Contributions are hereby designated as picked-up contributions within the meaning of Code Section 414(h)(2), provided, however, that such Participant enters into an irrevocable salary reduction agreement with the Employer to accomplish the make up of Mandatory Employee Contributions. In such a case, although deducted from the Participant's pay, the make-up Mandatory Employee Contributions shall be treated as contributions made by the Employer for federal income tax purposes.

**5.8.c** Upon a Participant's contribution of make-up Mandatory Employee Contributions in accordance with Subsection 5.8.a, regardless of whether such contributions are made through an irrevocable salary reduction agreement in accordance Subsection 5.8.b, the Employer shall make any Employer Contributions that would have been made on behalf of such Participant had the Participant made such Mandatory Employee Contributions during the period of qualifying military service.

**5.8.d** For purposes of this Section 5.8, including determining the amount of any Employer Contribution made under this Section 5.8, the Participant shall be treated as having received Compensation from the Employer based upon the rate of Compensation the Participant would have received during the period of qualifying military service, or if that rate is not reasonably certain, on the basis of the Participant's average rate of Compensation during the 12-month period immediately preceding such period.

**5.8.e** Notwithstanding the foregoing, the Employer shall not credit earnings with respect to any make-up Mandatory Employee Contributions or Employer Contributions made under this Section 5.8 before such contributions are actually made, and shall not make up any allocations of forfeitures the Participant would have otherwise received with respect to the period of qualifying military service.

**5.8.f** If a Participant makes make-up Mandatory Employee Contributions and/or has Employer Contributions made on his or her behalf in accordance with this Section 5.8, such contributions shall be taken into account in applying the limitations under Code Section 415 solely with respect to the Participant in the Plan Year to which such contributions relate and only in accordance with any regulations prescribed by the Internal Revenue Service in accordance with Code Section 414(u).

## **ARTICLE 5**

### **~~DIRECTED INVESTMENT ACCOUNT~~ OF CONTRIBUTIONS**

#### **5.1 ~~No Participant~~ INVESTMENT FUNDS**

**As of the Effective Date, the Administrator shall be permitted to select and make Investment Funds available to Participants through the Trust Fund, so that such persons may direct the Trustee as to the investment of all or any portion of his their Accounts. The same**

Investment Manager (including the Trustee or its affiliates) may provide services to more than one such Investment Fund.

6.1.a Each Investment Fund may have such particular investment objectives, styles, characteristics, provisions, restrictions and attributes as the Administrator shall approve at the time such Investment Fund is selected. Each Investment Fund may be suspended, removed and liquidated by the Trustee at the discretion of the Administrator.

6.1.b The Administrator shall cause to be maintained a set of accounts for each Investment Fund. The accounts for each Investment Fund shall indicate separately the dollar amounts of all contributions made to such Investment Fund by or on behalf of each Participant from time to time.

6.1.c The Administrator shall communicate the identity of each Investment Fund to the Participants. Neither the Administrator, Trustee, nor any Investment Manager shall have any duty to advise Participant or Former Participants on the suitability of any Investment Fund. The Administrator shall make available to them any materials received by it from any Investment Manager or adviser to an Investment Fund with respect to any such fund, but shall not be responsible for the content of such materials.

6.1.d If, as a result of the deposit of cash, the sale of any assets of an Investment Fund, the payment of dividends and interest, the forfeiture of a portion of an Account or for any other reason the Trust obtains cash which cannot immediately be transferred to an Investment Fund, such cash may be transferred to one or more default investment funds selected by the Administrator.

## **5.2 PARTICIPANT DIRECTION OF INVESTMENTS** ~~her individual account balances~~

Each Participant may direct the Plan to allocate moneys held in such Participant's Accounts among the Investment Funds designated in accordance with Section 6.1. Such direction shall be provided in accordance with any standard procedures adopted by the Administrator, including any minimum amount or percentage to be directed. Such direction must state the percentage of the Participant's Accounts to be invested in one or more of the Investment Funds available under the Plan. Such direction shall apply equally to all of the Participant's Accounts. Once made, such investment direction shall continue until changed pursuant to Section 6.3 or until the Investment Fund selected by the Participant is no longer available under the Plan. The Trustee, the Administrator, and any third party service providers that assist with maintenance of the Investment Funds may rely on all investment directions given to it by each Participant with respect to any Investment Fund and shall not be liable or responsible for any losses resulting from such investment directions. If a Participant fails to make an investment direction in accordance with the Administrator's procedures, then such Participant's Accounts will be invested in the default investment fund(s) provided for under Section 6.4.

## **5.3 CHANGES TO INVESTMENT DIRECTIONS**

A Participant may change any prior investment direction made under Section 6.2, or make an initial investment direction, as of any Valuation Date by directing the investment of the Participant's Accounts in any one or more Investment Fund(s) available under the Plan. Such change shall be made by providing investment directions through such means as may be approved by the Administrator, including telephonic or electronic communication, and subject to standard procedures adopted by the Administrator. Such a change may be made applicable either to the Participant's existing Account balance or to contributions made after the changed investment direction becomes effective, or both, as directed by the Participant.

#### **5.4 DEFAULT INVESTMENT FUND**

The Administrator may designate one or more Investment Funds ("Default Investment Fund") for deposit of any amounts paid to the Trust Fund on behalf of a Participant for which there is not, for any reason, a valid investment direction from the Participant to be applied by the Plan. The Administrator shall inform Participants of the existence and identity of such Default Investment Fund. To the maximum extent permitted by law, the investment of all or a portion of a Participant's Accounts in a Default Investment Fund as set forth in this Section 6.4 shall be deemed to have been elected by such Participant, and neither the Administrator, the Employer, the Trustee, any service provider to the Plan, nor any of their employees or agents shall be responsible for the decision to invest any amount in such Default Investment Fund. In the event that a Participant fails to timely modify any direction which conflicts with any of the requirements set forth in this Article 6, such Participant shall be deemed to have failed to provide investment direction to the Plan.

#### **5.5 ALLOCATION OF EXPENSES, GAINS AND LOSSES**

Any expenses, fees or other charges associated with a Participant's direction of investments under this Article 6 may be allocated to such person's interest in the Participant's Accounts in such manner as may be determined by the Administrator from time to time. Similarly, any investment gain or loss on the Participant's Accounts resulting from such Participant's investment directions shall be allocated solely to that Participant's Accounts. However, a Participant shall not have any right to dividends, interest or other earnings received by the Plan with respect to such Participant's Accounts after the person has received an otherwise complete distribution of the Participant's Accounts. Any such additional amounts shall be treated as Forfeitures and may be applied in any manner that a Forfeiture may be used under the Plan, in accordance with applicable law.

#### **5.6 ADOPTION OF ADDITIONAL RULES AND PROCEDURES**

The Administrator may establish such additional rules and procedures as it deems appropriate for the maintenance of individually-directed Accounts. All investments directed by Participants shall be subject to such rules and procedures.

## **ARTICLE 6**

### **VALUATIONS**

#### **6.1 VALUATION OF THE TRUST FUND**

The Administrator shall direct the Trustee, as of each ~~Anniversary Date, and at such other date or dates deemed necessary by the Administrator, herein called "Valuation Date,"~~ **Valuation Date**, to determine the net worth of the assets comprising the Trust Fund as it exists on the ~~"such Valuation Date"~~, prior to taking into consideration any contribution to be allocated for that Plan Year. In determining such net worth, the Trustee shall value the assets comprising the Trust Fund at their fair market value as of the ~~"Valuation Date"~~ and shall deduct all expenses for which the Trustee has not yet obtained reimbursement from the Employer or the Trust Fund. **The Trustee's determination of the current value of the assets in the Trust Fund and the Administrator's charges or credits to the individual Accounts with respect to Participants, Former Participants, and Beneficiaries as provided under the Plan shall be final and conclusive on all persons ever interested hereunder.**

#### **6.2 METHOD OF VALUATION**

In determining the fair market value of securities held in the Trust Fund which are listed on a registered stock exchange, the Administrator shall direct the Trustee to value the same at the prices they were last traded on such exchange preceding the close of business on the ~~"Valuation Date."~~ If such securities were not traded on the ~~"Valuation Date,"~~ or if the exchange on which they are traded was not open for business on the ~~"Valuation Date,"~~ then the securities shall be valued at the prices at which they were last traded prior to the ~~"Valuation Date."~~ Any unlisted security held in the Trust Fund shall be valued at its bid price next preceding the close of business on the ~~"Valuation Date,"~~ which bid price shall be obtained from a registered broker or an investment banker. In determining the fair market value of assets other than securities for which trading or bid prices can be obtained, the Trustee may appraise such assets itself, or in its discretion, employ one or more appraisers for that purpose and rely on the values established by such appraiser or appraisers.

#### **6.3 CORRECTION OF PARTICIPANT ACCOUNTS**

**If an error or omission is discovered in the Accounts of a Participant, Former Participant, or Beneficiary, or in the amount distributed to such person, the Administrator shall make such equitable adjustments in the records of the Plan as may be necessary or appropriate to correct such error or omission as of the Plan Year in which such error or omission is discovered. Further, the Employer may, in its discretion, make a special contribution to the Plan which shall be allocated to the Accounts of a Participant, Former Participant, or Beneficiary as is necessary to correct such error or omission.**



## ARTICLE 7

### DETERMINATION AND DISTRIBUTION OF BENEFITS

#### 7.1 DETERMINATION OF BENEFITS UPON RETIREMENT

Every Participant may terminate his or her employment with the Employer and retire for purposes hereof on his or her Normal Retirement Date, provided, however, that such Participant actually separates from service with the Employer. Upon such Normal Retirement Date, all amounts credited to such Participant's Account shall become distributable. However, a Participant may postpone the termination of his or her employment with the Employer to a later date, in which event the participation of such Participant in the Plan including the right to receive allocations under Section 5.3, shall continue until his or her Late Retirement Date. Upon a Participant's Retirement Date, or as soon thereafter as is practicable, the Trustee shall, in accordance with Section 78.5, distribute all amounts credited to such Participant's Account.

#### 7.2 DETERMINATION OF BENEFITS UPON DEATH

**8.2.a** 100 Percent Vesting upon Death. Upon the death of a Participant before his or her Retirement Date or other termination of his or her employment, all amounts credited to such Participant's Account shall become fully Vested. The Administrator shall direct the Trustee to distribute, in accordance with the provisions of Sections 78.6 and 78.8, the value of the deceased Participant's Accounts to the Participant's Beneficiary. ~~For deaths occurring on or after January 1, 2007, and~~ For purposes of vesting upon death under this Subsection, a Participant who dies while performing "qualified military service" shall be treated as if the Participant had resumed employment with the Employer and then terminated employment on account of death. For purposes of this provision, "qualified military service" means any service in the uniformed services of the United States by any individual if such individual is entitled to reemployment rights under ~~the Uniformed Services Employment and Reemployment Rights Act of 1994~~ **USERRA** with respect to such service.

**8.2.b** Distributions upon Death. Upon the death of a Former Participant, the Administrator shall direct the Trustee to distribute, in accordance with the provisions of Sections 78.6 and 78.8, any remaining amounts credited to the accounts of a deceased Former Participant to such Former Participant's Beneficiary.

**8.2.c** Proof of Death. The Administrator may require such proper proof of death, marriage, or any other evidence of the right of any person to receive payment of the value of the account of a deceased Participant or Former Participant as the Administrator may deem desirable. The Administrator's determination of death and of the right of any person to receive payment shall be conclusive upon any person having or claiming any right to benefits as a consequence of the death of a Participant or Former Participant.

**8.2.d** ~~7.2.d~~ Designation of Beneficiaries. Each Participant shall have a right to designate one or more Beneficiaries to receive benefits that may become payable upon such Participant's death by filing with the Administrator the forms specified for this purpose. For a Participant who is married, the Beneficiary of at least one-half of the

Participant's benefits is the Participant's spouse, except that the Participant may designate a Beneficiary other than his or her spouse for such half if:

**8.2.d.1** ~~7.2.d.1~~ The Participant's spouse has waived his or her right to be the Participant's Beneficiary, or

**8.2.d.2** ~~7.2.d.2~~ The Participant is legally separated or has been abandoned (within the meaning of local law) and the Participant has a court order to such effect (and there is no "qualified domestic relations order" as defined in Section 804.003 of the Texas Government Code which provides otherwise), or

**8.2.d.3** ~~7.2.d.3~~ The Participant no longer has a spouse, or

**8.2.d.4** ~~7.2.d.4~~ The spouse cannot be located.

Furthermore, the Participant may designate, without spousal consent, a non-spouse Beneficiary for the portion of the Participant's benefit which is not required to be distributed to the spouse. In either event, the designation of a Beneficiary (and any spouse's waiver of such spouse's right to be a Participant's Beneficiary) shall be made on a form (or forms) satisfactory to the Administrator. A Participant may at any time revoke his or her designation of a Beneficiary or change his or her Beneficiary by filing written notice of such revocation or change with the Administrator. However, the Participant's spouse must again consent in writing to any change in Beneficiary unless the original consent acknowledged that the spouse had the right to limit consent only to a specific Beneficiary and that the spouse voluntarily elected to relinquish such right. In the event that no valid designation of Beneficiary exists at the time of the Participant's death, or if any of the Participant's Beneficiaries predecease the Participant, the Participant's benefit or the affected portion thereof (including the portion of the Participant's benefit which is not required to be distributed to the Participant's spouse) shall be payable to such Participant's spouse or, if the Participant has no spouse at the time of death, to the following persons in order of priority: (1) the Participant's children and descendants of deceased children, per stirpes (by right of representation); (2) the Participant's parents; (3) the Participant's brothers and sisters and their descendants, per stirpes (by right of representation); and (4) the Participant's heirs at law. In the event that a Beneficiary dies after the Participant's death but before complete distribution of that Beneficiary's share of the Participant's benefit, the Beneficiary shall be treated as having predeceased the Participant with respect to any undistributed portion.

### **7.3 DETERMINATION OF BENEFITS IN EVENT OF DISABILITY**

In the event of a Participant's Disability prior to his or her Retirement Date or other termination of employment, all amounts credited to such Participant's Account shall become fully Vested. In the event of a Participant's Disability, distribution of such Participant's Account shall be made on the occurrence of an event which would otherwise result in the distribution under the terms of this Plan (e.g., the Participant's death, termination of employment or Normal Retirement). However, at the election of the Participant, the Administrator shall direct the



Trustee to cause the entire balance credited to the Participant's Account to be distributed, as soon as administratively feasible, to such Participant as though he or she had retired.

## **7.4 DETERMINATION OF BENEFITS UPON TERMINATION**

**8.4.a Segregated Accounts on Termination of Employment.** On or before the Anniversary Date coinciding with or subsequent to the termination of a Participant's employment for any reason other than death, Disability, or retirement, the Administrator may direct the Trustee to segregate the amount of the Vested portion of such Terminated Participant's Account and invest the aggregate amount thereof in a separate, federally insured savings account, certificate of deposit, common or collective trust fund of a bank or a deferred annuity. In the event the Vested portion of a Participant's Account is not segregated, the amount shall remain in a separate account for the Terminated Participant and shall share in allocations under Section 5.3 until such time as a distribution is made to the Terminated Participant in accordance with the following:

**8.4.a.1 Distribution Upon Termination.** Distribution of the Vested portion of a Terminated Participant's Account shall be made on the occurrence of an event which would result in the distribution had the Terminated Participant remained in the employ of the Employer (e.g., upon the Participant's death or Normal Retirement). However, at the election of the Participant, the Administrator shall direct the Trustee to cause the entire Vested portion of the Terminated Participant's Account to be distributed to such Terminated Participant as soon as administratively feasible following completion of all necessary valuation and accounting for the Plan Year or period in question. Any distribution under this paragraph shall be made in a manner which is consistent with and satisfies the provisions of Section 78.5, including, but not limited to, any consent requirements.

**8.4.a.2** For purposes of this Section 78.4, if the value of a Terminated Participant's Vested Benefit is zero, the Terminated Participant shall be deemed to have received a distribution of his or her entire Vested benefit in full satisfaction and release of all further rights of the Participant and his or her Beneficiaries to receive any benefits under the Plan, and the non-Vested portion shall be treated as a Forfeiture in accordance with Section 2.1514.

**8.4.a.3 Involuntary Cashout.** If the value of a Terminated Participant's Vested benefit does not exceed \$1,000, the Administrator may, in accordance with a uniform, non-discriminatory policy, direct the Trustee to cause the entire Vested benefit to be distributed to such Terminated Participant in a single lump sum in full satisfaction and release of all further rights of the Participant and his or her Beneficiaries to receive any benefits under the Plan, and the non-Vested portion, if any, shall be treated as a Forfeiture in accordance with Section 2.1514.

**8.4.b Vesting Schedule.** The Vested portion of any Participant's Account shall be the sum of: (1) 100% of such Participant's Mandatory Contribution Account, plus (2) 100% of such Participant's Voluntary Contribution Account, plus (3) 100% of any benefits held

in such Participant's Rollover Account representing assets transferred from another qualified plan, plus (4) a percentage of the total amount credited to his or her Employer Contribution Account resulting from Employer Contributions, on the basis of the Participant's number of completed Years of Service, ~~according to~~. **Effective for Participants who are credited with an Hour of Service after December 31, 2005, Employer Contributions will vest in accordance with** the following schedule:

**VESTING  
SCHEDULE**

<u>Ye ars of Service</u>	<u>ercentage</u>
1	0%
2	0%
3	0%
4	0%
5	00%

~~Effective for Participants who are credited with an Hour of Service after December 31, 2005, however, Employer Contributions shall vest in accordance with the following schedule: ¶~~

~~**8.4.c**~~ **100 Percent Vesting.** Notwithstanding the Vesting Schedule above, upon termination of the Plan in accordance with Section ~~9~~**10.3** or upon a complete discontinuance of contributions under the Plan (as described in pre-ERISA Code Section 401(a)(7)), all amounts credited to the account of any affected Participant shall become 100% Vested and shall not thereafter be subject to Forfeiture.

**8.4.d** Vesting Upon Reemployment. The following rules shall apply with respect to Former Participants who become reemployed and reenter the Plan in accordance with Subsections 4.5.a or 4.5.b:

**8.4.d.1** Rights on Reemployment. If any Former Participant reenters the Plan as a Participant in accordance with Subsections 4.5.a or 4.5.b, such Former Participant shall have the right to have restored, upon reentering the Plan as a Participant in accordance with Subsections 4.5.a or 4.5.b, any amounts forfeited in accordance with Subsection ~~2.15.a (concerning Forfeitures 14~~ based on the distribution of all or a portion of the Vested interest of a Participant's or Former Participant's Account). In order to have such Forfeitures restored, however, the Participant or Former participant must (1) notify the Administrator in writing within 90 days of the date of reemployment, and (2) the amount of any distribution of all or a portion of the Vested interest of such Former Participant's Account must be repaid in full within 60 days after providing the Administrator with the written notice required above.

**8.4.d.2 Restoration of Forfeitures.** In the event a Former Participant repays the full amount of any distribution of all or a portion of the Vested interest of such Former Participant's Account in accordance with Subsection 78.4.d.1 above, amounts forfeited with respect to such Former Participant in accordance with Subsection 2.15.a.14 shall be restored in full, unadjusted by any gains or losses occurring subsequent to the date such amount was forfeited. The source for such reinstatement shall be any Forfeitures occurring during the year of reinstatement. However, if such source is insufficient, then the Employer shall contribute an amount which, when added to Forfeitures available for such reinstatement, is sufficient to restore any such forfeited amount.

**8.4.d.3 Vesting on Reemployment Within 5 Years.** If any Former Participant reenters the Plan as a Participant in accordance with Subsections 4.5.a or 4.5.b, and prior to the expiration of 5 years after the date his or her employment with the Employer terminated, Years of Service for purposes of determining the Vested interest in such Former Participant's Account which accrues after the Participant reenters the Plan as a Participant shall include Years of Service prior to the date his or her employment with the Employer terminated. However, if such Former Participant had an amount forfeited in accordance with Subsection 2.15.a.14, then his or her Years of Service shall not include Years of Service prior to the date his or her employment with the Employer terminated, for purposes of determining the Vested interest in such Former Participant's Account which accrues after the Participant reenters the Plan as a Participant, unless such Former Participant repays the full amount of any distribution of all or a portion of the Vested interest of such Former Participant's Account in accordance with Subsection 78.4.d.1 above.

**8.4.d.4 Vesting on Reemployment After 5 Years.** With respect to any Former Participant who reenters the Plan as a Participant in accordance with Subsection 4.5.b after the expiration of 5 years after the date his or her employment with the Employer terminated, Years of Service prior to the date his or her employment with the Employer terminated shall not be included for purposes of determining the Vested interest in such Former Participant's Account which accrues after the Participant reenters the Plan as a Participant in accordance with Subsection 4.5.b.

**8.4.d.5 USERRA Rights.** Notwithstanding anything to the contrary in this Subsection 78.4.d, Former Participants who are reemployed under USERRA shall have all repayment rights provided by applicable law and regulations.

**8.4.e Service Prior to Age 18.** In determining Years of Service for purposes of Vesting under the Plan, Years of Service prior to the vesting computation period in which an Employee attained his or her eighteenth birthday shall be excluded.

**8.4.f Special Rule for Military Service.** Notwithstanding anything to the contrary in this Section 78.4, if an Eligible Employee is reemployed in accordance with the reemployment provisions of USERRA following a period of qualifying military service (as determined under USERRA) and reenters the Plan as a Participant in accordance with

Subsection 4.5.f, such period of qualifying military service shall constitute service with the Employer for purposes of determining the Vested portion of the Participant's Account.

## **7.5 DISTRIBUTION OF BENEFITS**

**8.5.a Normal Form of Payment.** Unless otherwise elected in accordance with the rules under this Subsection ~~7~~8.5.a, the normal method of payment of a Participant's benefits shall be a Joint and Survivor Annuity, in the case of a married Participant, or a Life Annuity, in the case of a Participant who is not married.

**8.5.a.1 Married Participants.** If a Participant is married at the date payments of his or her benefits under the Plan are to commence, the Vested portion of his or her Accounts shall be payable in the form of a Joint and Survivor Annuity unless the Participant, with the consent of his or her spouse, makes an election to waive payments in the form of a Joint and Survivor Annuity. The Joint and Survivor Annuity is an annuity contract purchased with the Vested portion of the Participant's Accounts and shall be the amount of benefit that can be purchased with the Adjusted Balance of the Participant's Account that is Vested at the time such Participant's benefits under the Plan are to commence. Such Joint and Survivor Benefits following the Participant's death shall continue to the spouse during the spouse's lifetime at a rate equal to 50% of the rate at which such benefits were payable during the life of the Participant. This Joint and 50% Survivor Annuity shall be considered the automatic form of payment for the purposes of this Plan. However, the Participant may elect to receive, without the consent of his or her spouse, a smaller annuity benefit during the Participant's life with continuation of payments to the spouse at a rate of seventy-five percent (75%) or one hundred percent (100%) of the rate payable to the Participant during his or her lifetime, which alternative Joint and Survivor Annuity shall be the amount of benefit that can be purchased with the Adjusted Balance of the Participant's Account that is Vested at the time such Participant's benefits under the Plan are to commence.

**8.5.a.2 Waiver of Normal Form of Payment.** Any election to waive the Joint and Survivor Annuity must be made by the Participant in writing during the election period and, with respect to the portion of the Participant's benefits that the spouse has a right to have paid in the form of a Joint and Survivor Annuity, must be consented to, in writing, by the Participant's spouse. If the spouse is legally incompetent to give consent, the spouse's legal guardian, even if such guardian is the Participant, may give consent. Such spouse's consent shall be irrevocable and be witnessed by a Plan representative or a notary public. Such consent shall not be required if it is established to the satisfaction of the Administrator that the required consent cannot be obtained because there is no spouse, or the spouse cannot be located, or the Participant is legally separated or has been abandoned (within the meaning of local law) and the Participant has a court order to such effect (and there is no "qualified domestic relations order" as defined in Section 804.003 of the Texas Government Code which provides otherwise). Any consent

by the spouse to the Participant's waiver of the Joint and Survivor Annuity hereunder shall be deemed to be a waiver of the spouse's right to be designated as the Participant's Beneficiary with respect to at least one-half of the Participant's benefits, provided that the waiver and consent designates an alternate Beneficiary (or Beneficiaries). With respect to the portion of the Participant's benefits as to which the spouse has a right to be designated as the Participant's Beneficiary, the designation of an alternate Beneficiary (or Beneficiaries) may not be changed without further spousal consent (unless the consent of the spouse expressly permits designations by the Participant without the requirement of further consent by the spouse). However, the election made by the Participant and consented to by his or her spouse may be revoked by the Participant in writing at any time during the election period. The number of revocations shall not be limited. Any new election must comply with the requirements of this Subsection 78.5.a.2. A former spouse's consent shall not be binding on a new spouse.

**8.5.a.3 Election Period to Waive Normal Form.** The election period to waive the Joint and Survivor Annuity shall be obtained in writing within the 90-day period ending on the earliest date with respect to which payments to the Participant may commence (excluding benefits that commence by reason of Subsection 78.7, relating to "Required Minimum Distributions").

**8.5.a.4 Explanation of Normal Form, Waiver of 30-day Period.** No less than 30 days and no more than 90 days before the date payments of a Participant's benefits under this Plan are to commence, the Administrator shall provide a written explanation of: (A) the terms and conditions of the Joint and Survivor Annuity; (B) the Participant's right to make, and the effect of, an election to waive the Joint and Survivor Annuity; (C) the right of the Participant's spouse to consent to any election to waive the Joint and Survivor Annuity, and the effect of such consent; (D) the right of the Participant to revoke such election; and (E) the effect of such revocation. However, the Administrator may provide such explanation less than 30 days (but in no event less than 7 days) prior to the commencement of benefits if the Participant waives the 30-day notice requirement.

**8.5.a.5 Unmarried Participants.** An unmarried Participant shall receive the value of his or her benefit in the form of a Life Annuity (an annuity payable to the Participant for his or her life). An unmarried Participant, however, may elect in writing to waive the Life Annuity. The election must comply with the provisions of this Section as if it were an election to waive the Joint and Survivor Annuity by a married Participant, but without the spousal consent requirement. The Life Annuity form of distribution shall be the amount of benefit that can be purchased with the Adjusted Balance of the Participant's Account that is Vested at the time such Participant's benefits under the Plan are to commence.

**8.5.b Alternate Forms of Payment.** In the event a married Participant duly elects pursuant to Subsection 78.5.a.2 not to receive his or her benefit in the form of a Joint and Survivor Annuity, or if such Participant is not married, in the form of a Life Annuity, the Administrator, pursuant to the election of the Participant, shall direct the Trustee to

distribute to a Participant or his or her Beneficiary any amount which he or she is entitled under the Plan in one or more of the following methods:

**8.5.b.1.** A lump-sum distribution (or more than one partial lump sum distribution) in cash or its equivalent;

**8.5.b.2.** Payments over a period certain in monthly, quarterly, semiannual, or annual installments. In order to provide such installment payments, the Administrator may:

A. segregate the aggregate amount thereof in a separate, federally insured savings account, certificate of deposit in a bank or savings and loan association, money market certificate or other liquid short-term security; or

B. Purchase a nontransferable annuity contract for a term certain (with no life contingencies) providing for such payment. The period over which such payment is to be made shall not exceed the Participant's life expectancy (or the joint life expectancy of the Participant and his or her designated Beneficiary).

**8.5.b.3.** Purchase of an annuity. However, such annuity may not be in any form that will provide for payments over a period extending beyond either the life of the Participant (or the lives of the Participant and his or her designated Beneficiary) or the life expectancy of the Participant (or the life expectancy of the Participant and his or her designated Beneficiary).

**8.5.c** Involuntary Cashout. The present value of a Participant's Joint and Survivor Annuity or Life Annuity derived from the Vested portion of his or her Accounts may not be paid without his or her written consent if the Vested portion of such Accounts exceeds \$1,000 (including his or her Rollover Account). If the Vested portion of the Participant's Accounts does not exceed such amount, the Administrator may immediately distribute the Participant's entire Vested interest without such Participant's consent. No distribution may be made under the preceding sentence after the commencement of benefits unless the Participant and, if married, his or her spouse consent in writing to such distribution as provided in Subsection 78.5.d, below.

**8.5.d** Consent to Distribution. Any distribution to a Participant who has a Vested interest in his or her Account which exceeds the amount described in subparagraph 78.5.c above shall require such Participant's consent if such distribution commences prior to his or her Normal Retirement Age. With regard to this required consent, the following rules shall apply:

**8.5.d.1** No consent shall be valid unless the Participant has received a general description of the material features and an explanation of the relative values of the optional forms of benefit available under the Plan.



**8.5.d.2** The Participant must be informed of his or her right to defer receipt of the distribution. If a Participant fails to consent, it shall be deemed an election to defer the commencement of payment of any benefit. However, any election to defer the receipt of benefits shall not apply with respect to distributions which are required under Subsection 78.7.

**8.5.d.3** Notice of the rights specified under this Subsection 78.5.d shall be provided no less than 30 days and no more than 90 days before the date which such Participant's benefits are to commence. However, the Participant may waive the 30-day requirement.

**8.5.d.4** Written consent of the Participant to the distribution must not be made before the Participant receives the notice and must not be made more than 90 days before the date which such Participant's benefits are to commence.

## **7.6 DISTRIBUTION OF BENEFITS UPON DEATH**

**8.6.a** Normal Form of Benefit on Participant's Death Before Retirement. If a Participant dies before the date payments of his or her benefits under the Plan are to commence, and has a surviving spouse, at least 50 percent of the Adjusted Balance of the Participant's Account shall be payable to the surviving spouse in the form of an annuity for the life of the surviving spouse ("Surviving Spouse's Annuity") unless the Participant, with the consent of the spouse, elects to waive payment in the form of a Surviving Spouse's Annuity in accordance with the requirements of Subsection 78.6.b, below. A Surviving Spouse's Annuity shall be provided by means of the purchase of an annuity contract with 50 percent or 100 percent, as directed by the Participant in a properly executed Beneficiary designation form, of the Participant's Adjusted Balance at the time of such purchase. The surviving spouse may direct that payment of the Surviving Spouse's Annuity commence within a reasonable period after the Participant's death. If the spouse does not so direct, payment of such benefit shall commence to the spouse at the time the Participant would have attained his or her Normal Retirement Age, unless the spouse elects a later commencement date. Any distribution to the Participant's spouse, however, shall be subject to the rules specified in Subsection 78.7, relating to "Required Minimum Distributions."

**8.6.b** Waiver of Normal Form of Benefits on Participant's Death. Any election to waive payment of at least 50 percent of a married Participant's Account in the form of a Surviving Spouse's Annuity must be made by the Participant, with the consent of the spouse, within the period described in Subsection 78.6.c. The spouse's consent must be irrevocable and shall be made in the same manner provided for in Subsection 78.5.a.2. Any consent by the spouse to the Participant's waiver of the Surviving Spouse's Annuity shall be deemed to be a waiver of the spouse's right to be the Beneficiary of at least 50 percent of the Participant's benefits, provided that the waiver designates an alternate Beneficiary(ies) and/or alternate form of payment. With respect to the portion of the Participant's benefits as to which the spouse has a right to be the Participant's Beneficiary, the designation of an alternate Beneficiary(ies) may not be changed without further spousal consent (unless the consent of the spouse expressly permits designations



by the Participant without the requirement of further consent by the spouse). However, the election made by the Participant and consented to by his or her spouse may be revoked by the Participant in writing at any time prior to his or her death. The number of revocations shall not be limited. Any new election must comply with the requirements of this Subsection 78.6.b. A former spouse's consent shall not be binding on a new spouse.

**8.6.c** Timing of Waiver. An election to waive the Surviving Spouse's Annuity may be made at any time prior to the Participant's death. In addition, to the extent not previously waived prior to the Participant's death, a Participant's surviving spouse may elect to waive payment in the form of the Surviving Spouse's Annuity and receive the designated portion of the Adjusted Balance of the Participant's Account in an optional form permitted under Subsection 78.6.f.

**8.6.d** Explanation of Surviving Spouse's Annuity Benefit. With regard to the election, the Administrator shall provide each Participant, within a reasonable period after the individual becomes a Participant, a written explanation of the Surviving Spouse's Annuity containing comparable information to that required pursuant to Subsection 78.5.a.4.

**8.6.e** Involuntary Cashout. Notwithstanding the above, if the Adjusted Balance of a deceased Participant's Account (excluding his or her Rollover Account) does not exceed \$5,000, the Administrator shall direct the immediate distribution of the Adjusted Balance of the Participant's Account (including his or her Rollover Account) as directed by the Participant in a properly executed Beneficiary designation form, provided that at least 50 percent of the Adjusted Balance of the Participant's Account shall be payable to the Participant's surviving spouse unless the surviving spouse has waived such rights in accordance with the Plan. No distribution may be made under the preceding sentence after the commencement of benefits unless the spouse or Beneficiary consents in writing. If the Adjusted Balance of a deceased Participant's Account (excluding his or her Rollover Account) exceeds \$5,000, an immediate distribution of all or any portion of the Adjusted Balance of the Participant's Account (including his or her Rollover Account) may not be made to any particular Beneficiary (including the surviving spouse) unless such Beneficiary consents in writing to such distribution. Any written consent required under this Subsection 78.6.e must be obtained not more than 90 days before commencement of the distribution and shall be made in a manner consistent with Subsection 78.5.a.2.

**8.6.f** Alternate Methods of Payment. To the extent that the death benefit is not paid in the form of the Surviving Spouse's Annuity, it shall be paid to the Participant's surviving spouse or other Beneficiary by either of the following methods, as elected by the Participant (or if no election has been made prior to the Participant's death, by his or her surviving spouse or other Beneficiary), subject to the rules specified in Subsection 78.7 (relating to "Required Minimum Distributions").

**8.6.f.1** One lump-sum payment (or more than one partial lump sum distribution) in cash or in property; **or**

**8.6.f.2** Payment in monthly, quarterly, semi-annual, or annual cash installments over a period to be determined by the Participant or his or her Beneficiary. After periodic installments commence, the Beneficiary shall have the right to direct the Trustee to reduce the period over which such periodic installments shall be made, and the Trustee shall adjust the cash amount of such periodic installments accordingly.

Any election of the above methods of payment pursuant to this Subsection ~~78.6.f~~ shall be deemed a consent for purposes of Subsection ~~78.6.e~~, relating to amounts in excess of \$5,000. In the event the death benefit payable pursuant to Section ~~78.2~~ is payable in installments, then, upon the death of the Participant, the Administrator may direct the Trustee to segregate the death benefit into a separate account, and the Trustee shall invest such segregated account separately, and the funds accumulated in such account shall be used for the payment of the installments.

## **7.7 REQUIRED MINIMUM DISTRIBUTIONS**

~~7.7.a.~~ Plan provisions to the contrary notwithstanding, commencement of distribution of a Participant's interest in the Plan shall not occur at a time or in a manner inconsistent with the provisions of Code Section 401(a)(9) and (to the extent applicable to this governmental plan) Treasury regulations thereunder and shall in no event occur after the Participant's Required Beginning Date, which means the April 1 of the calendar year following the later of: (1) the calendar year in which such Participant attains age seventy and one-half, or (2) the calendar year in which such Participant retires from employment with the Employer. The provisions of Code Section 401(a)(9) are incorporated herein by reference.

~~7.7.b~~ ~~The requirements of Subsection 7.7.a above shall not apply to the Plan for calendar year 2009. However, the Required Beginning Date of any Participant shall be determined without regard to this Subsection 7.7.b for calendar years after 2009. If the "five-year rule" of Treasury regulations under Code Section 401(a)(9) applies to any person, the five-year period therein described shall be determined without regard to calendar year 2009.~~

## ~~7.8~~ **TIME OF SEGREGATION OR DISTRIBUTION**

Except as limited by Sections ~~78.5~~, ~~78.6~~, and ~~78.7~~, whenever the Trustee is to make a distribution or to commence a series of payments on or as of an Anniversary Date or other Valuation Date, the distribution or series of payments may be made or begun on such date or as soon thereafter as is practicable.

## **7.9 DISTRIBUTION FOR MINOR OR INCOMPETENT BENEFICIARY**

In the event a distribution is to be made to a Beneficiary who is a minor (as defined by applicable state law or an applicable Transfers to Minors Act) or a legally incompetent person, then the Administrator may, in its sole discretion, direct that such distribution be made for the benefit of such Beneficiary to such Beneficiary's legal representative, to a relative of such Beneficiary or to a custodian of such Beneficiary under the Uniform Transfers to Minors Act, Transfers to Minors Act, or similar statute in effect in the Participant's, the Beneficiary's, or the

custodian's state of residence, if such statute so permits. The Administrator may also in its discretion direct the Trustee to use such distribution directly for the support, maintenance or education of such Beneficiary. A payment under this Section to the legal representative, relative, or custodian of such person shall fully discharge the Trustee, Employer, and Plan from further liability on account thereof.

#### **7.10 LOCATION OF PARTICIPANT OR BENEFICIARY UNKNOWN**

In the event that all or any portion of the benefits payable under this Plan to a Participant, Former Participant, or a Beneficiary, at the expiration of five years after becoming payable, remains unpaid solely by reason of the inability of the Administrator, after sending a registered letter, return receipt requested, to the last known address of such individual, and after further diligent effort, to ascertain the whereabouts of such Participant, Former Participant, or Beneficiary, the amount so distributable shall be treated as a Forfeiture pursuant to the Plan. In the event that a Participant, Former Participant, or Beneficiary is located subsequent to such Forfeiture, such benefit shall be restored.

#### **7.11 QUALIFIED DOMESTIC RELATIONS ORDERS**

Notwithstanding anything to the contrary contained in the Plan, the Employer hereby adopts the rules contained in Chapter 804 of the Texas Government Code, relating to "qualified domestic relations orders." For purposes of this Section 78.11, the term "qualified domestic relations order" shall have the meaning set forth under Section 804.001 of the Texas Government Code. All rights and benefits, including elections, provided to a Participant in this Plan shall be subject to the rights afforded to any "alternate payee" under a "qualified domestic relations order" in accordance with Section 804.003 of the Texas Government Code. Furthermore, a distribution to an alternate payee shall be permitted if such distribution is authorized by such a "qualified domestic relations order," even if the affected Participant has not reached the earliest retirement age under the Plan. In accordance with Section 804.101 of the Texas Government Code, the death of an "alternate payee" shall terminate the interest of such "alternate payee" in the Plan except as otherwise provided in the Plan. All provisions of this Plan relating to involuntary cashouts of amounts not exceeding \$5,000 in value shall apply separately to the interest of an "alternate payee" under a "qualified domestic relations order." For purposes of this Section and with respect to distributions made after December 31, 2001 to alternate payees whose "qualified domestic relations orders" were accepted at any time, the value of an alternate payee's interest shall be determined without regard to that portion of the interest that is attributable to rollover contributions (and earnings allocable thereto) within the meaning of Code Sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), and 457(e)(16). If the value of the alternate payee's interest as so determined is \$5,000 or less, the Plan may immediately distribute the alternate payee's entire interest without the "alternate payee's" consent.

#### **7.12 DIRECT ROLLOVER**

Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the Administrator, to have any portion of an "eligible rollover distribution" paid directly to an "eligible retirement plan" specified by the distributee in a "direct rollover."

**8.12.a** An “eligible rollover distribution” is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee’s designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Code Section 401(a)(9); ~~effective for distributions made after December 31, 2001,~~ any distribution which is made upon hardship of a distributee; and the portion of any distribution that is not includible in gross income, except to the extent such portion consists of after-tax employee contributions which are not includible in gross income and are to be transferred to an individual retirement account or annuity described in Code Section 408(a) or (b) or to a qualified defined contribution plan described in Code Section 401(a) or 403(a) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

**8.12.b** An “eligible retirement plan” is any of the following that accepts the “distributee’s” “eligible rollover distribution”: a qualified trust described in Code Section 401(a); an annuity plan described in Code Section 403(a); an annuity contract described in Code Section 403(b); an individual retirement account described in Code Section 408(a); an individual retirement annuity described in Code Section 408(b); an eligible plan under Code Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan; and a Roth IRA described in Code Section 408A. The Administrator shall not be responsible for determining the eligibility of any “distributee” to make a rollover to a Roth IRA. ~~Effective For distributions made after December 31, 2009~~ to a non-spouse Designated Beneficiary, an “eligible retirement plan” is limited to an individual retirement account described in Code Section 408(a) and an individual retirement annuity described in Code Section 408(b).

**8.12.c** A “distributee” includes an Employee or former Employee. In addition, the Employee’s or former Employee’s surviving spouse and the Employee’s or former Employee’s spouse or former spouse who is the alternate payee under a Qualified Domestic Relations Order, as defined in Code Section 414(p), are distributees with regard to the interest of the spouse or former spouse. ~~Effective for distributions made after December 31, 2009,~~ A “distributee” also includes a non-spouse Designated Beneficiary.

**8.12.d** A “direct rollover” is a payment by the Plan to the eligible retirement plan specified by the distributee.

~~7.12.a Effective for distributions made after December 31, 2007 and before January 1, 2010, a non-spouse Beneficiary may elect, at the time and manner prescribed by the Administrator, to have any portion of any otherwise “eligible rollover distribution” paid directly to an individual retirement account that is treated by the Beneficiary as an inherited individual retirement account described in Code Section 402(e)(11) specified by the distributee in a direct~~

~~trustee to trustee transfer. The direct trustee to trustee requirements of Code Section 401(a)(31), the notice requirements of Code Section 402(f) and the mandatory withholding requirements of Code Section 3405(c) shall not apply to a rollover described in this subsection. ¶~~

## ~~ARTICLE 8~~ TRUSTEE

### 8.1 BASIC RESPONSIBILITIES OF THE TRUSTEE

The Trustee shall have the following categories of responsibilities:

**9.1.a** Consistent with any “written investment policy” ~~determined by the Employer described in Section 3.4,~~ to invest, reinvest, manage, and control the Plan assets subject, however, to the direction of an Investment Manager, if appointed, with respect to all or a portion of the assets of the Plan;

**9.1.b** At the direction of the Administrator, to pay benefits required under the Plan to be paid to Participants, or, in the event of their death, to their Beneficiaries;

**9.1.c** To maintain records of receipts and disbursements and furnish to the Employer and/or Administrator for each Plan Year a written annual report in accordance with Section ~~8~~9.6; and

**9.1.d** If there shall be more than one Trustee, they shall act by a majority of their number, but may authorize one or more of them to sign papers on their behalf.

### 8.2 INVESTMENT POWERS AND DUTIES OF THE TRUSTEE

**9.2.a.** ~~Subject to Section 9.1.a,~~ the Trustee shall invest and reinvest the Trust Fund to keep the Trust Fund invested without distinction between principal and income and in such securities or property, real or personal, wherever situated, as the Trustee shall deem advisable, including, but not limited to, stocks, common or preferred, bonds and other evidences of indebtedness or ownership, and real estate or any interest therein. The Trustee shall at all times in making investments of the Trust Fund consider, among other factors, the short and long-term financial needs of the Plan on the basis of the “written investment policy” furnished by the Administrator. In making such investments, the Trustee shall not be restricted to securities or other property of the character expressly authorized by the applicable law for trust investments; however, the Trustee shall give due regard to any limitations imposed by the Code so that at all times, the Plan may qualify as a qualified governmental plan and trust within the meaning of Code Section 414(d).

**9.2.b.** The Trustee, if a bank, ~~shall~~may serve as custodian of the assets of the Trust Fund, and this Agreement shall constitute a custody account agreement required by Section 802.205 of the Texas Government Code. If, however, the Trustee is not a bank ~~or the Employer desires to retain a separate custodian for the assets of the Trust Fund,~~ the Employer shall designate a bank or depository trust company to serve as custodian of the assets of the Trust Fund, and shall enter into a custody account agreement under which

the duties of such bank or trust company shall be of a custodial, clerical and record-keeping nature. In no event, however, may an Investment Manager that is not a bank serve as custodian of the assets of the Trust Fund.

**9.2.c.** The Trustee may, upon approval of the Administrator, ratably apply for, own, and pay premiums on life insurance contracts on the lives the Participants. If a life insurance policy is to be purchased for a Participant, the aggregate premium for ordinary life insurance for each Participant must be less than 50% of the aggregate of the contributions and Forfeitures to the credit of the Participant at any particular time. If term insurance is purchased with such contributions, the aggregate premium must be less than 25% of the aggregate contributions and Forfeitures allocated to a Participant's Account. If both term insurance and ordinary life insurance are purchased with such contributions, the amount expended for term insurance plus one-half of the premium for ordinary life insurance may not in the aggregate exceed 25% of the aggregate contributions and Forfeitures allocated to a Participant's Account. The Trustee must convert the entire value of the life insurance contracts at or before retirement into cash or provide for a periodic income so that no portion of such value may be used to continue life insurance protection beyond retirement, or distribute the contracts to the Participant. In the event any conflict between the terms of this Plan and the terms of any insurance contract purchased hereunder, the Plan provisions shall control.

**9.2.d.** In making and supervising investments of the Trust Fund, the Trustee shall, in accordance with Section 802.203 of the Texas Government Code, discharge its duties solely in the interest of Participants and Beneficiaries for the exclusive purposes of providing benefits to Participants and their Beneficiaries and defraying reasonable expenses of administering the Plan, and at all times shall act in accordance with the requirements of Section ~~1011.10~~, relating to fiduciary responsibilities.

**9.2.e.** Notwithstanding anything to the contrary in this Article 9, as of the Effective Date, assets of the Trust Fund will be invested in accordance with the provisions of Article 6.

### **8.3 OTHER POWERS OF THE TRUSTEE**

Subject to Section 9.2.e, the Trustee, in addition to all powers and authorities under common law, statutory authority, and other provisions of the Plan, shall have the following powers and authorities, to be exercised in the Trustee's sole discretion, **except as otherwise provided herein**:

**9.3.a** To purchase or subscribe for, any securities or other property and to retain the same. In conjunction with the purchase of securities, margin accounts may be opened and maintained;

**9.3.b** To sell, exchange, convey, transfer, grant options to purchase, or otherwise dispose of any securities or other property held by the Trustee, by private contract or at public auction. No person dealing with the Trustee shall be bound to see the application



of the purchase money or to inquire into the validity, expediency, or propriety of any such sale or other disposition, with or without advertisement;

**9.3.c** To vote upon any stocks, bonds, or other securities; to give general or special proxies or powers of attorney with or without power of substitution; to exercise any conversion privileges, subscription rights or other options, and to make any payments incidental thereto; to oppose, or to consent to, or otherwise participate in, corporate reorganizations or other changes affecting corporate securities, and to delegate discretionary powers, and to pay any assessments or charges in connection therewith; and generally to exercise any of the powers of an owner with respect to stocks, bonds, securities, or other property;

**9.3.d** To cause any securities or other property to be registered in the Trustee's own name or in the name of one or more of the Trustee's nominees, and to hold any investments in bearer form, but the books and records of the Trustee shall at all times show that all such investments are part of the Trust Fund;

**9.3.e** To borrow or raise money for the purposes of the Plan in such amount, and upon such terms and conditions, as the Trustee shall deem advisable; and for any sum so borrowed, to issue a promissory note as Trustee, and to secure the repayment thereof by pledging all, or any part, of the Trust Fund; and no person lending money to the Trustee shall be bound to see the application of the money lent or to inquire into the validity, expediency, or propriety of any borrowing;

**9.3.f** To keep such portion of the Trust Fund in cash or cash balances as the Trustee may, from time to time, deem to be in the best interests of the Plan;

**9.3.g** To accept and retain for such time as the Trustee may deem advisable any securities or other property received or acquired as Trustee hereunder, whether or not such securities or other property would normally be purchased as investments hereunder;

**9.3.h** To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

**9.3.i** To settle, compromise, or submit to arbitration any claims, debts, or damages due or owing to or from the Plan, to commence or defend suits or legal or administrative proceedings, and to represent the Plan in all suits and legal and administrative proceedings;

**9.3.j** **Subject to the requirements of Section 3.6,** to employ suitable agents and counsel and to pay their reasonable expenses and compensation, and such agent or counsel may or may not be agent or counsel for the Employer;

**9.3.k** To apply for and procure from responsible insurance companies, to be selected by the Administrator, as an investment of the Trust Fund such annuity, or other life insurance contracts (on the life of any Participant) as the Administrator shall deem proper; to exercise, at any time or from time to time, whatever rights and privileges may be granted



under such annuity, or other contracts; to collect, receive, and settle for the proceeds of any such annuity or other contracts as and when entitled to do so under the provisions thereof;

**9.3.l** To invest funds of the Trust in time deposits or savings accounts bearing a reasonable rate of interest;

**9.3.m** To invest in Treasury Bills and other forms of United States government obligations;

**9.3.n** To invest in shares of investment companies registered under the Investment Company Act of 1940;

**9.3.o** To sell, purchase and acquire put or call options if the options are traded on and purchased through a national securities exchange registered under the Securities Exchange Act of 1934, as amended, or, if the options are not traded on a national securities exchange, are guaranteed by a member firm of the New York Stock Exchange;

**9.3.p** To deposit monies in federally insured savings accounts or certificates of deposit in banks or savings and loan associations;

**9.3.q** To pool all or any of the Trust Fund, from time to time, with assets belonging to any other qualified employee pension benefit trust created by the Employer, and to commingle such assets and make joint or common investments and carry joint accounts on behalf of this Plan, and such other trust or trusts, allocating undivided shares or interests in such investments or accounts or any pooled assets of the two or more trusts in accordance with their respective interests; **and**

**9.3.r** To do all such acts and exercises all such rights and privileges, although not specifically mentioned herein, as the Trustee may deem necessary to carry out the purposes of the Plan.

## **8.4 DUTIES OF THE TRUSTEE REGARDING PAYMENTS**

At the direction of the Administrator, the Trustee shall, from time to time, in accordance with the terms of the Plan, make payments out of the Trust Fund. The Trustee shall not be responsible in any way for the application of such payments.

## **8.5 TRUSTEE'S COMPENSATION AND EXPENSES AND TAXES**

The Trustee shall be paid such reasonable compensation as shall from time to time be agreed upon in writing by the Employer and the Trustee. An individual serving as Trustee who already receives full-time pay from the Employer shall not receive compensation from the Plan. In addition, the Trustee shall be reimbursed for any reasonable expenses, including reasonable counsel fees incurred by it as Trustee. Such compensation and expenses shall be paid from the Trust Fund unless paid or advanced by the Employer. All taxes of any kind and all kinds whatsoever that may be levied or assessed under existing or future laws upon, or in respect of, the Trust Fund or the income thereof, shall be paid from the Trust Fund.

## **8.6 ANNUAL REPORT OF THE TRUSTEE**

Within a reasonable period of time after the later of the Anniversary Date or receipt of the Employer's Contribution for each Plan Year, the Trustee shall provide to the Employer and the Administrator a written Statement of Account with respect to the Plan Year for which such Contribution was made setting forth:

- 9.6.a** The net income, or loss, of the Trust Fund;
- 9.6.b** The gains, or losses, realized by the Trust Fund upon sales or other disposition of the assets;
- 9.6.c** The increase, or decrease, in the value of the Trust Fund;
- 9.6.d** All payments and distributions made from the Trust Fund; and
- 9.6.e** Such further information as the Trustee and/or Administrator deems appropriate.

## **8.7 AUDIT**

If an audit of the Plan's records is required by Section 802.102 of the Texas Government Code for any Plan Year, the Administrator shall direct the Trustee to engage on behalf of all Participants and Beneficiaries an independent certified public accountant for that purpose. Such accountant shall, after an audit of the books and records of the Plan in accordance with generally accepted auditing standards, within a reasonable period after the close of the Plan Year, furnish to the Administrator and the Trustee a report of his or her audit. All auditing and accounting fees shall be paid as provided in Section 3.8.

## **8.8 RESIGNATION, REMOVAL AND SUCCESSION OF TRUSTEE**

- 9.8.a** The Trustee may resign at any time by delivering to the Employer, at least thirty (30) days before its effective date, a written notice of resignation.
- 9.8.b** The Employer may remove the Trustee by mailing by registered or certified mail, addressed to such Trustee's last known address, at least thirty (30) days before its effective date, a written notice of removal.
- 9.8.c** Upon the death, resignation, incapacity, or removal of any Trustee, a successor may be appointed by the Employer; and such successor, upon accepting such appointment in writing and delivering same to the Employer, shall, without further act, become vested with all the estate, rights, powers, discretions, and duties of the predecessor Trustee with like respect as if such successor Trustee were originally named as a Trustee herein. Until such a successor Trustee is appointed, the remaining Trustee or Trustees shall have full authority to act under the terms of the Plan.
- 9.8.d** The Employer may designate one or more successors prior to the death, resignation, incapacity, or removal of a Trustee. In the event a successor is so designated by the Employer and accepts such designation, the successor shall, without further act,

become vested with all the estate, rights, powers, discretions, and duties of the predecessor Trustee with the like effect as if such successor were originally named as Trustee herein immediately upon the death, resignation, incapacity, or removal of the predecessor Trustee.

**9.8.e** If a Trustee ceases to serve as Trustee, such Trustee shall provide the Employer and the Administrator a written Statement of Account with respect to the portion of the Plan Year such Trustee served as Trustee. This Statement shall be either (1) included as part of the Annual Statement of Account for the Plan Year required under Section 89.6, or (2) set forth in a special Statement. Any such special Statement of Account should be rendered no later than the due date of the Annual Statement of Account for the Plan Year. No successor to the Trustee shall have any duty or responsibility to investigate the acts or transactions of any predecessor Trustee who has rendered all Statements of Accounts required by Section 89.6 and this Subsection 89.8.e.

## **ARTICLE 9**

### **AMENDMENT, TERMINATION AND MERGERS**

#### **9.1 AMENDMENT**

**10.1.a** The Employer shall have the right at any time to amend the Plan, subject to the limitations of this Section 910.1. The Employer hereby delegates to its President/Chief Executive Officer the authority to amend the Plan (1) as described in Section 4.1 and (2) in any respect when the amendment is required by applicable law or is determined by the President/Chief Executive Officer to have no adverse financial effect upon the Employer. Any amendment which affects the rights, duties or responsibilities of the Trustee, however, may be made only with the Trustee's written consent. Any amendment shall become effective as provided therein upon its execution. The Trustee shall not be required to execute any such amendment unless the Trust provisions contained herein are a part of the plan and the amendment affects the duties of the Trustee hereunder.

**10.1.b** No amendment to the Plan shall be effective if it authorizes or permits any part of the Trust Fund (other than such part as is required to pay taxes and administration expenses) to be used for or diverted to any purpose other than for the exclusive benefit of the Participants or their Beneficiaries.

**10.1.c** No Plan amendment or transaction having the effect of a Plan amendment (such as a merger, plan transfer or similar transaction) shall be effective if it operates to decrease the Vested interest in a Participant's Accounts, determined without regard to the amendment.

#### **9.2 NO OBLIGATION TO CONTINUE PLAN**

The Employer has established this Plan and Trust with the bona fide intention and expectation that it will be continued indefinitely, but the Employer is not and shall not be under any obligation or liability whatsoever to continue its contribution or to maintain the Plan for any given length of time, and may, in its sole discretion, discontinue such contributions and terminate

the Plan in accordance with Section 910.3 at any time without any liability whatsoever for such termination.

### **9.3 TERMINATION**

**10.3.a** The Employer shall have the right at any time to terminate the Plan by delivering to the Trustee and Administrator written notice of such termination. Upon such termination, all amounts credited to the affected Participants' Accounts shall become 100% Vested as provided in Subsection 78.4.c and shall not thereafter be subject to forfeiture, and all unallocated amounts shall be allocated to the accounts of all Participants in accordance with the provisions hereof.

**10.3.b** Upon the termination of the Plan, the Employer shall direct the ultimate distribution of the assets of the Trust Fund to Participants in a manner which is consistent with and satisfies the provisions of Section 78.5.

### **9.4 MERGER OR CONSOLIDATION**

This Plan and Trust may be merged or consolidated with, or its assets and/or liabilities may be transferred to any other plan and trust only if the benefits which would be received by a Participant of this Plan, in the event of a termination of the Plan immediately after such transfer, merger or consolidation, are at least equal to the benefits the Participant would have received if the Plan had terminated immediately before the transfer, merger or consolidation.

## **ARTICLE 10 MISCELLANEOUS**

### **10.1 PARTICIPANT'S RIGHTS**

This Plan shall not be deemed to constitute a contract between the Employer and any Participant or to be a consideration or an inducement for the employment of any Participant or Employee. Nothing contained in this Plan shall be deemed to give any Participant or Employee the right to be retained in the service of the Employer or to interfere with the right of the Employer to discharge any Participant or Employee at any time regardless of the effect which such discharge shall have upon him or her as a Participant of this Plan.

### **10.2 ALIENATION**

**11.2.a** Subject to the exceptions provided below, no benefit which shall be payable out of the Trust Fund to any person (including a Participant or his or her Beneficiary) shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, or charge the same shall be void; and no such benefit shall in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements, or torts of any such person, nor shall it be subject to attachment, execution, or legal process for or against such person, and the same shall not be recognized by the Trustee, except to such extent as may be required by law.

**11.2.b** This provision shall not apply to a “qualified domestic relations order” as defined in Section 804.001 of the Texas Government Code. The Administrator shall establish a written procedure to determine the qualified status of domestic relations orders and to administer distributions under such qualified orders. Further, to the extent provided under a “qualified domestic relations order,” a former spouse of a Participant shall be treated as the spouse or surviving spouse for all purposes under the Plan.

Notwithstanding this Subsection ~~1011~~.2.b, however, a court does not have jurisdiction over the Plan with respect to a divorce or other domestic relations action in which an alternate payee’s right to receive all or a portion of the benefits payable to a Participant is established unless a domestic relations order which constitutes a “qualified domestic relations order” within the meaning of Section 804.001 of the Texas Government Code is issued in such divorce or other domestic relations action. Any party to such an action who attempts to make the Plan a party to such an action contrary to the provisions of Section 804.003(c) of the Texas Government Code shall be liable to the Plan for its costs and attorney’s fees.

### **10.3 CONSTRUCTION OF PLAN**

This Agreement and the Plan and Trust created hereby shall be construed and governed in all respects under and by the laws of the State of Texas.

### **10.4 GENDER AND NUMBER**

Wherever any words are used herein in the masculine, feminine or neuter gender, they shall be construed as though they were also used in another gender in all cases where they would so apply, and whenever any words are used herein in the singular or plural form, they shall be construed as though they were also used in the other form in all cases where they would so apply.

### **10.5 LEGAL ACTION**

In the event any claim, suit, or proceeding is brought regarding the Trust and/or Plan established hereunder to which the Trustee or the Administrator may be a party, and such claim, suit, or proceeding is resolved in favor of the Trustee or Administrator, they shall be entitled to be reimbursed from the Trust Fund for any and all costs, attorney’s fees and other expenses pertaining thereto incurred by them for which they shall have become liable and to the extent that they are not reimbursed by the Employer pursuant to Section 3.8.

### **10.6 PROHIBITION AGAINST DIVERSION OF FUNDS**

Except as provided below and otherwise specifically permitted by law, it shall be impossible by operation of the Plan or of the Trust, by termination of either, by power of revocation or amendment, by the happening of any contingency, by collateral arrangement or by any other means, for any part of the corpus or income of any trust fund maintained pursuant to the Plan or any funds contributed thereto to be used for, or diverted to, purposes other than for the exclusive benefit of Participants or their Beneficiaries.

## **10.7 INVALIDITY OF CERTAIN PROVISIONS**

If any provisions of this Plan and Trust are ever held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision. This Plan and Trust shall be construed and enforced as if such invalid or unenforceable provision had been excluded.

## **10.8 RECEIPT AND RELEASE FOR PAYMENT**

Any payment to any Participant, his or her legal representative, Beneficiary, or to any guardian, custodian or committee appointed for such Participant or Beneficiary in accordance with the provisions of the Plan, shall, to the extent thereof, be in full satisfaction of all claims hereunder against the Trustee and the Employer, either of whom may require such Participant, legal representative, Beneficiary, guardian, custodian or committee, as a condition precedent to such payment, to execute a receipt and release thereof in such form as shall be determined by the Trustee or Employer.

## **10.9 ACTION BY THE EMPLOYER**

Whenever the Employer under the terms of the Plan is permitted or required to do or perform any act or matter or thing, it shall be done and performed by a person duly authorized by its legally constituted authority.

## **10.10 FIDUCIARIES AND ALLOCATION OF RESPONSIBILITY**

The fiduciaries of this Plan are the Administrator, the Trustee and, with respect to the assets of the Trust Fund under the control of an Investment Manager appointed hereunder, such Investment Manager. The fiduciaries shall have only those specific powers, duties, responsibilities, and obligations as are specifically given them under the Plan. Pursuant to Section 114.003 of the Texas Property Code, the authority to direct the making or retention of an investment is reserved and vested, to the exclusion of the Employer, with the Administrator, the Trustee or, to the extent an Investment Manager is appointed hereunder, with such Investment Manager. Each fiduciary warrants that any directions given, information furnished, or action taken by it shall be in accordance with the provisions of the Plan, authorizing or providing for such direction, information or action. Furthermore, each fiduciary may rely upon any such direction, information or action of another fiduciary as being proper under the Plan, and is not required under the Plan to inquire into the propriety of any such direction, information or action. It is intended under the Plan that each fiduciary shall be responsible for the proper exercise of its own powers, duties, responsibilities and obligations under the Plan. No fiduciary shall guarantee the Trust Fund in any manner against investment loss or depreciation in asset value. Any person or group may serve in more than one fiduciary capacity.

In carrying out their respective duties and responsibilities hereunder, the Administrator, the Trustee and, to the extent appointed, an Investment Manager, shall discharge such duties with the skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims.

**10.11 PROHIBITED TRANSACTIONS**

Neither the Employer nor any fiduciary shall cause the Plan to engage in any action or actions that would constitute a “prohibited transaction” as defined by Code Section 503. In accordance with Code Section 503, the Plan may not engage in any transaction by which any part of the Trust Fund is used for the following purposes:

**11.11.a** a loan or loans, without the receipt of adequate security and a reasonable rate of interest, to the Employer;

**11.11.b** the payment of any compensation, in excess of a reasonable allowance for salaries or other compensation for personal services actually rendered, to the Employer;

**11.11.c** the making of any part of its services available on a preferential basis to the Employer;

**11.11.d** the substantial purchase of securities or any other property, for more than adequate consideration, from the Employer;

**11.11.e** a sale of any substantial part of the securities or other property, for less than adequate consideration, to the Employer; or

**11.11.f** engaging in any other transaction which results in a substantial diversion of any portion of the Trust Fund to the Employer.

**10.12 MEANING OF SPOUSE**

Pursuant to the United States Supreme Court’s decision dated June 26, 2015 in the case styled *Obergefell v. Hodges*, as of that date, and in appropriate cases as of any earlier administratively feasible date, the term “spouse,” when used anywhere in this Plan, shall mean any person married to a Participant in any jurisdiction, regardless of the sexes of the spouses.

**IN WITNESS WHEREOF**, this Plan has been executed the \_\_\_\_ day of \_\_\_\_\_, ~~2013~~**2021**.

**EMPLOYER**

HOUSING AUTHORITY OF THE CITY OF SAN ANTONIO

BY:

\_\_\_\_\_, its



**TRUSTEE**

~~FROST NATIONAL BANK OF SAN ANTONIO~~

BY:

\_\_\_\_\_, its

**HOUSING AUTHORITY OF THE CITY OF SAN ANTONIO  
EMPLOYEES' MONEY PURCHASE PENSION PLAN AND TRUST**

**APPENDIX A: Special Entry Dates**

The Employer, Housing Authority of the City of San Antonio, grants "Special Entry Dates" to the following "Eligible Employees," as those terms are defined in Plan Sections 2.34, 4.1, and/or 4.2.

<b><u>Name of Eligible Employee</u></b>	<b><u>Special Entry Date</u></b>	<b><u>Other Identifying Information</u></b>
Paul Maggio	August 26, 2002	Chief Operating Officer
Sherry Austin	December 18, 2002	Operations Support Manager
Sonia Sconiers	January 1, 2003	Vice President Human Resources
Melanie K. Villalobos	January 2, 2003	VP Corporate Relations
Ruben Valdez	February 17, 2003	Customer Service Manager
Fabiola Ester Miranda	April 7, 2003	Client Services Manager
William G. Phillips	April 14, 2003	VP Asset Management
Brad D. McMurray	June 11, 2003	Asset Manager
Edward Hinojosa	July 1, 2003	Chief Financial Officer
Ricardo Crespo	July 16, 2003	Security Manager
Philip G. Perez	August 4, 2003	Treasury Analyst
Gary Linton	September 15, 2003	Customer Service Assistant Manager
Henry A. Alvarez III	August 16, 2004	Chief Executive Officer
Janet Bell	December 27, 2004	Customer Service Representative
Timothy Alcott	January 1, 2006	Chief Legal Officer
Lourdes Castro Ramirez	April 13, 2009	President/Chief Executive Officer
Muriel Rhoder	June 6, 2011	Auditing Manager
Leo J. Alonzo	October 1, 2011	Chief of Community Safety and Security

**BOARD OF COMMISSIONERS  
Operations Committee**

**RESOLUTION 6147, IN SUPPORT OF THE REMOVAL OF THE CUSTODIAN OF THE HOUSING AUTHORITY OF THE CITY OF SAN ANTONIO EMPLOYEES' MONEY PURCHASE PENSION PLAN AND TRUST, AND APPOINTMENT OF SUCCESSOR CUSTODIAN**

DocuSigned by:  
*Ed Hinojosa Jr*  
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**Ed Hinojosa, Jr.**  
Interim President and CEO

DocuSigned by:  
*Muriel Rhoder*  
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**Muriel Rhoder**  
Chief Administrative Officer

DocuSigned by:  
*Janie Rodriguez*  
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**Janie Rodriguez**  
Director of Human Resources

**REQUESTED ACTION:**

Consideration and appropriate action regarding Resolution 6147, in support of the removal of the Custodian of the Housing Authority of the City of San Antonio Employees' Money Purchase Pension Plan and Trust, and appointment of successor Custodian.

**FINANCIAL IMPACT:**

None

**SUMMARY:**

On May 20, 2021, the Board of Commissioners (the "Commissioners") approved the restatement of the Housing Authority of the City of San Antonio Employees' Money Purchase Pension Plan and Trust (the "Plan"), generally effective July 1, 2021; and Section 9.2.b. of the Plan provides that the Plan Trustee may serve as Custodian of assets of the Plan's Trust, or, alternatively, the Housing Authority may retain bank or depository trust company other than the Plan Trustee to serve as a Custodian of such assets and, if it does so, shall enter into a custody account agreement under which the duties of such Custodian shall be of a custodial, clerical and record-keeping nature.

The recommended changes are to to remove the current Plan custodian, BMO Harris Bank N.A., and appoint Matrix Trust Company as the successor custodian, with both actions to be effective August 13, 2021.

**STRATEGIC GOAL:**

SAHA employees thrive in career and professional development.

**ATTACHMENT:**

Resolution 6147

**San Antonio Housing Authority  
Resolution 6147**

**RESOLUTION 6147, IN SUPPORT OF THE REMOVAL OF THE CUSTODIAN OF THE HOUSING AUTHORITY OF THE CITY OF SAN ANTONIO EMPLOYEES' MONEY PURCHASE PENSION PLAN AND TRUST, AND APPOINTMENT OF SUCCESSOR CUSTODIAN**

**WHEREAS**, the Housing Authority of the City of San Antonio has previously adopted and continues to maintain the Housing Authority of the City of San Antonio Employees' Money Purchase Pension Plan and Trust (the "Plan") for the benefit of its eligible employees and their beneficiaries; and

**WHEREAS**, the Board of Commissioners of the Housing Authority of the City of San Antonio most recently amended and restated the Plan effective July 1, 2021; and

**WHEREAS**, the Board of Commissioners retains the right under the terms of the Plan to remove the Plan custodian and appoint a successor custodian; and

**WHEREAS**, the Board of Commissioners desires to remove the current Plan custodian, BMO Harris Bank N.A., and appoint Matrix Trust Company as the successor custodian, with both actions to be effective August 13, 2021.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Commissioners of the Housing Authority of the City of San Antonio, hereby:

1. Approves Resolution 6147, in support of the removal and replacement of the current Plan custodian.
2. Removes the current Plan custodian, BMO Harris Bank N.A., and appoints Matrix Trust Company as the successor Plan custodian, effective August 13, 2021.
3. Authorizes BMO Harris Bank N.A. to transfer the assets of the Plan's trust to Matrix Trust Company as successor custodian, in accordance with written instructions from the successor custodian without further action from the Plan Sponsor or any officer thereof, and to take such additional actions as may be necessary to effectuate such transfer.
4. Directs the Interim President and CEO, and/or his delegate, to execute any and all documents in connection with the successor custodian appointment and take such actions and execute such documents as they deem advisable or necessary to implement the foregoing resolution.

**Passed and approved the 3rd day of June 2021.**

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**Ana M. "Cha" Guzman  
Chair, Board of Commissioners**

**Attested and approved as to form:**

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**Ed Hinojosa. Jr.  
Interim President and CEO**



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HOUSING AUTHORITY  
Opportunity Lives Here

# Different Models for Mixed Income Developments

Timothy E. Alcott, Chief Legal and Real Estate Officer  
Lorraine Robles, Director of Development Services and  
Neighborhood Revitalization

				Est Closing				Income Mix							
Financing				Date	TotalDevCost	# Units	PH	30%	40%	50%	60%	70%	80%	Market	
<b>Financing Closed (under Construction)</b>															
1604 Lofts	D2	NRP	4% Tax Credits & Bonds	Closed	\$56,663,651	324		33		0	224		67	0	
Aspire at Tampico*	D5	Mission DG	4% Tax Credits & Bonds	Closed	\$33,392,549	200		9	10	18	70	20	9	64	
Trader Flats (The Scott)	D4	NRP	4% Tax Credits & Bonds	Closed	\$56,012,579	324		33		0	224		67	0	
Artisan at Ruiz	D1	Franklin	9% Tax Credits	Closed	\$21,165,791	102		11		41	50		0	0	
Majestic Ranch	D7	Hogan	4% Tax Credits & Bonds	Closed	\$46,084,260	288		0		0	288		0	0	
Culebra Crossing	D6	Lynd	HUD 221(d)(4)	Closed	\$50,123,889	327		0		0	0		164	163	
Mira Vista	D7	Hogan	4% Tax Credits & Bonds	Closed	\$45,296,164	312		0		0	312		0	0	
Kitty Hawk Flats	Converse	NRP	4% Tax Credits & Bonds	Closed	\$40,503,098	212		22		0	135	55		0	
Legacy at Alazan*	D5	NRP	9% Tax Credits	Closed	\$19,155,261	88	40				40		0	8	
100 Labor	D1	Franklin	HUD 221(d)(4)	Closed	\$52,302,614	213		27		17	0		0	169	
Watson Road (Frontera Crossing Apartments)	D4	NRP	4% Tax Credits & Bonds	Closed	\$60,130,966	348			18	18	294	18	0	0	
Copernicus (Seven07 Lofts)	D2	NRP	4% Tax Credits & Bonds	Closed	\$55,345,264	318			17	17	267	17	0	0	
<b>Total</b>					<b>\$536,176,086</b>	<b>3056</b>	<b>40</b>	<b>135</b>	<b>45</b>	<b>111</b>	<b>1904</b>	<b>110</b>	<b>307</b>	<b>404</b>	
<b>Board Has Approved</b>															
<b>Board Provided Final Approval</b>															
St. John's Square	D1	Weal	4% Tax Credits & Bonds	Pending Loan	\$71,547,459	252		0		54	0		0	198	
Potranco	D4	Lynd	Conventional Loan	Pending	\$50,945,546	360		0		0	36		144	180	
Josephine	D1	Lynd	Conventional Loan	6/2021	\$61,339,167	259		0		0	26		104	129	
Vista at Interpark	D9	Atlantic Pacific Comm	9% Tax Credits	5/2021	\$17,700,449	64		7		16	41				
Vista at Everest	D1	Atlantic Pacific Comm.	9% Tax Credits	Pending	\$18,109,812	64		7		16	41				
Bristol at Somerset	D4	Popoon	4% Tax Credit & Bonds	8/2021	\$59,554,244	348		0	0	0	348	0	0	0	
<b>Total</b>					<b>\$279,196,677</b>	<b>1347</b>		<b>14</b>	<b>0</b>	<b>86</b>	<b>492</b>	<b>0</b>	<b>248</b>	<b>507</b>	
<b>Board Approved Bond Inducement</b>															
The Granada	D1	Mission DG	4% Tax Credit & Bonds	7/2021	\$51,000,000	249		137	45	14	TBD		TBD	TBD	
Artisan at Springview*	D2	Franklin	4% Tax Credits & Bonds	Pending	\$57,000,000	305		31		0	274		0	0	
Horizon Pointe	D2	Integrated Realty Group	4% Tax Credits & Bonds	Pending	\$55,096,879	312		20	35	106	0	151	0	0	
<b>Total</b>					<b>\$163,096,879</b>	<b>866</b>		<b>188</b>	<b>80</b>	<b>120</b>	<b>274</b>	<b>151</b>	<b>0</b>	<b>0</b>	
<b>Board Approved the Developer</b>															
Victoria Commons - North Pond*	D1	Catellus	4% Tax Credits & Bonds	Pending		TBD		TBD		TBD	TBD		TBD	TBD	
Victoria Commons - South Pond*	D1	Catellus	HUD 221 (d)(4)	Pending				TBD		TBD	TBD		TBD	TBD	
Victoria Commons - Townhomes*	D1	Catellus	TBD	Pending		TBD		TBD		TBD	TBD		TBD	TBD	
Snowden Road*	D7	SAHA	9% Tax Credits	Pending	\$21,517,120	135		14		54	67				
Fiesta Trails	D8	NRP	9% Tax Credits	Pending	\$20,389,133	74		8		30	36				
<b>Total</b>					<b>\$41,906,253</b>	<b>209</b>		<b>22</b>	<b>0</b>	<b>84</b>	<b>103</b>	<b>0</b>	<b>0</b>	<b>0</b>	
<b>Pending Board Consideration</b>															
Alazan Courts*	D5	TBD	TBD	Pending Board Consideration											
Flores	D1	Mission DG	TBD	Pending Board Consideration		403		46		61	0	75	61	160	
Paio Alto	D4	Streamline	4% Tax Credits & Bonds	Pending Board Consideration	\$61,181,908	336		8	8	8	295	17			
Sunshine	D1/9	OCI Group	4% Tax Credits & Bonds	Pending Board Consideration	\$86,347,948	403		46		75		75	47	160	
Zarzamora Commons	D4	Vaquero Ventures	4% Tax Credits & Bonds	Pending Board Consideration	\$64,524,538	300					300				
<b>Total</b>					<b>\$212,054,394</b>	<b>1442</b>	<b>0</b>	<b>100</b>	<b>8</b>	<b>144</b>	<b>595</b>	<b>167</b>	<b>108</b>	<b>320</b>	
<b>Grand Total</b>					<b>\$1,232,430,289</b>	<b>6,920</b>	<b>40</b>	<b>459</b>	<b>133</b>	<b>645</b>	<b>3,368</b>	<b>428</b>	<b>663</b>	<b>1,231</b>	



# FREQUENTLY ASKED QUESTIONS

- **What is the Texas Department of Housing and Community Affairs (TDHCA) Housing Tax Credit (HTC) program?** The HTC program is one of the primary means of directing private capital toward the development and preservation of affordable rental housing for low-income households.
- **How is the HTC program funded?** The HTC program is funded by the U.S. Treasury Department and is overseen by the Internal Revenue Service. Federal Regulations guiding the program can be found in IRC Code Section 42.
- **What is the purpose of the HTC program?** The HTC program was designed to:
  1. Provide a source of equity financing for the development of affordable housing;
  2. Maximize the number of affordable units added to the state's housing supply;
  3. Ensure that the state's affordable housing supply is well maintained and operated, serving as a credit to the communities in which affordable housing is constructed and operated; and
  4. Prevent losses in the state's supply of affordable housing.



# FREQUENTLY ASKED QUESTIONS

- **How do Housing Tax Credits Work?** Tax credits are awarded to eligible participants to offset a portion of their federal tax liability in exchange for the production or preservation of affordable rental housing. The value associated with the tax credits allows residences in HTC developments to be leased to qualified households at below market rate rents.
- **Is there more than one type of Tax Credit?** Yes. Tax Credits are awarded under either the 4% or 9% programs. Four percent (4%) tax credits are awarded to developments that use tax-exempt bonds as a financing component and are awarded on a non-competitive basis throughout the year. Nine percent (9%) tax credits are highly competitive; available credits are determined for each region based on a Regional Allocation Formula (RAF). Applicants seeking 9% credits will compete for credits during the annual application cycle that begins based on the date published in the Qualified Allocation Plan (QAP). Applicants will be scored and ranked on criteria such as financial feasibility, local support, size and quality of proposed units, amenities, and services to be provided.

# MIXED INCOME DEVELOPMENTS

## Three Types of Mixed Income Developments

---

- 9% Tax Credits
- 4% Tax Credits
- Public Facility Developments

# SELF DEVELOPMENT

- Utilizing land owned by SAHA or an entity under SAHA
- SAHA staff works with consultants to secure tax credits and project development
- The agency:
  - Hires General Contractor
  - Retains ownership
  - Provides guarantees for lease-up and operating deficits
  - Provides property management services
  - Receives larger portion of developer fee (consultants paid from developer fee)
  - Receives 100% of cash flow
  - Fully responsible for securing funding and filling financial gaps

# EXAMPLES OF SELF DEVELOPMENT

## Multifamily

- Snowden - 9% Tax Credits
  - 135 Units

## Single-Family

- Blueridge - Single Family Homes
  - 40 Homes
- Villas de Fortuna - Single Family Homes
  - 28 Homes

- Palm Lake - Single Family Homes
  - 11 Homes
- Sunflower - Single Family Homes
  - 9 Homes

# WHAT REVENUE IS SHARED ON TAX CREDIT DEALS?

8

- **Developer Fee (15%)**
- **Cash Flow**
- **Ownership at Year 15 (“The back-end”)**

# DEVELOPER FEE - RISK VS. REWARDS

A Developer must provide guarantees for the project

- Construction Loan Guarantee
  - Guarantee the repayment of this loan if an unanticipated event occurs.
- Construction Completion Guarantee
  - Construction completion must be in time for the delivery of the tax credits.
- Operating Deficit and Lease Up Guarantees
  - The property has approximately a 1.15 DCR, and reserves are fully funded, and it will be released.
- Tax Credit Guarantee
  - 15 years of tax credit compliance

If SAHA provides one or more of these guarantees, it will get a bigger share of the revenue.

# DEVELOPER FEE SPLITS

- Traditional Model- 75%-25% split to 70% -30% split
- Legacy at Alazan - 55%-45%
- 100 Labor and Zarzamora have 50%-50% splits

## Items to Note:

- If SAHA owns the land, the split has been 40-45% Developer Fee.
- Snowden Road, we own the land and have applied for the tax credits. If we guarantee the tax credits, did the pre-development work and design, then we would get the developer fee and cash flow.
- Mirasol Homes - SAHA hired the general contractor directly without a developer.



# HOW IS CASH FLOW SHARED?

- Traditional model has a 50% split.
- A few developers do not participate in cash flow, but provide all guarantees.
- Another Developer does not participate in cash flow if SAHA provides tax credit guarantees.

# HOW IS OWNERSHIP SHARED IN YEAR 15?

12

- SAHA wants to own 100% in year 15 for the bargain purchase price.
  - Outstanding debt plus exit taxes
- Many housing authorities use the  $\frac{1}{3}$  model.
  - Housing authority receives  $\frac{1}{3}$  of the developer fee, cash flow, and back end.
- SAHT offers to give up a negotiated percentage of the backend for more developer fee.

# ARTISAN AT RUIZ



# LEGACY AT ALAZAN



# RECENT 9% TRANSACTIONS

14

1. **Legacy at Alazan** (2019 award)
  - Total Development Cost: \$19,155,261.00
  - PH (40), 60% AMI (40), Market (8)
2. **Artisan at Ruiz** (2019 award)
  - Total Development Cost: \$21,165,791.00
  - 30% AMI (11), 50% AMI (42), 60% AMI (50)
3. **Vista at Interpark** (2020 award)
  - Total Development Cost: \$17,700,449.00
  - 30% AMI (7), 50% AMI (16), 60% AMI (41)
4. **Vista at Everest** (2020 award)
  - Total Development Cost: \$18,109,812.00
  - 30% AMI (7), 50% AMI (16), 60% AMI (41)
5. **Fiesta Trails** (2021 award pending)
  - Total Development Cost: \$20,389,133.00
  - 30% AMI (8), 50% AMI (30), 60% AMI (36)
6. **Snowden Road** (2021 award pending)
  - Total Development Cost: \$21,517,120.00
  - 60% AMI (135)

# 4% TAX CREDIT AND BOND TRANSACTIONS

- Projects that receive at least 50 percent of their funding through tax-exempt bond financing are eligible for 4 percent tax credits.
  - Subject to Bond Volume Cap
- Tax Credits are awarded as a matter of right.
  - Eligible Basis (Good Costs)
- Much Larger Developments with economies of scale.
- Location is typically determined by QCT and DDA's.
  - However, some QCT and DDA's will not work because of negative attributes.
- Income Averaging
- Lower percentage of tax credits so more debt on the property.



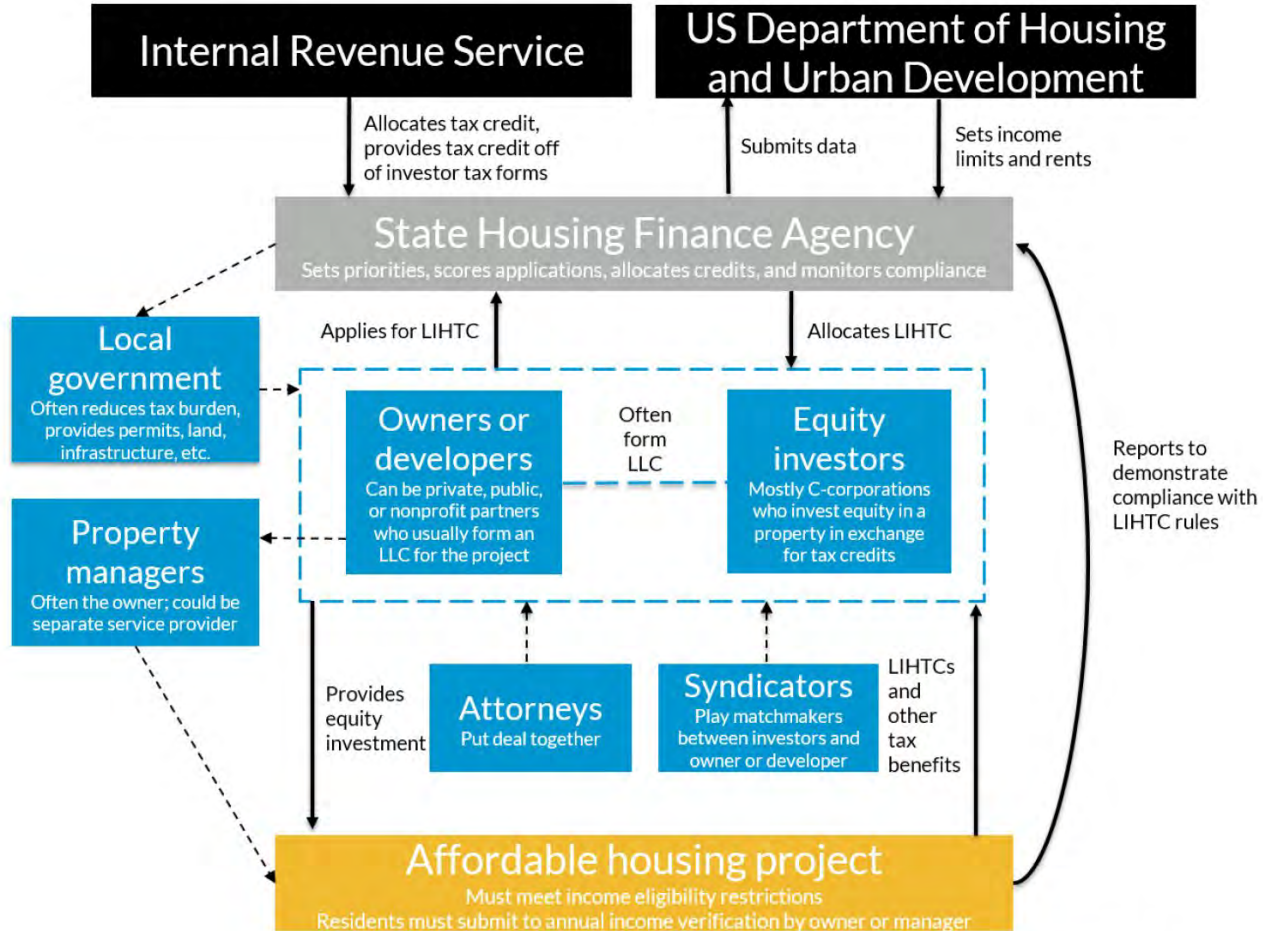


**MIRA VISTA**



**MAJESTIC RANCH**







# EXAMPLES OF 4% TAX CREDITS

18

1. **Majestic Ranch** (2019 award)
  - Total Development Cost: \$46,084,260.00
  - 60% AMI (288)
  
2. **Mira Vista** (2020 award)
  - Total Development Cost: \$45,296,164.00
  - 60% AMI (312)
  
3. **1604 Lofts** (2020 award)
  - Total Development Cost: \$56,663,651.00
  - 30% AMI (33), 60% AMI (224), 80% AMI (67)
  
4. **Copernicus** (2020 award)
  - Total Development Cost: \$55,345,264.00
  - 40% AMI (17), 50% AMI (17), 60% AMI (267), 70% (17)
  
5. **Watson** (2020 award)
  - Total Development Cost: \$60,130,966.00
  - 40% AMI (18), 50% AMI (18), 60% AMI (294), 70% (18)

# EXAMPLES OF PUBLIC FACILITY DEVELOPMENTS

## 1. **Culebra Crossing**

- Total Development Cost: \$50,123,889.00
- 80% AMI (164), Market (163)

## 2. **100 Labor**

- Total Development Cost: \$52,302,614.00
- 30% AMI (27), 50% AMI (17), Market (169)

## 3. **Josephine**

- Total Development Cost: \$61,339,167.00
- 60% AMI (26), 80% AMI (104), Market (129)

**JOSEPHINE**



## Culebra Crossing



# PFC TRANSACTIONS

- SB 591 may be passed.
- Revenue from PFC transactions directly assist the lowest income residents pursuant to SAHA's Development Policy.
- Law Requires 50% of the units at 80% AMI.
- SAHA requires 10% of the units at 60% AMI and 40% at 80% AMI.
- Most PFC transactions are done through the SAHT, not SAHA.
  - SAHA requires better deal terms for the agency.
- The percentage of lower income units based on bedroom size is equal to the development as a whole.
- Must accept Housing Choice Vouchers.
- The 60% AMI units tenants must not pay more than 30% of their income.



# QUESTIONS?



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# Wi-Fi EXPANSION TIMELINE UPDATE

May 20, 2021

# WI-FI EXPANSION

## TOPOLOGY, SECURITY AND DESIGN

### The Plan

#### Priority 1 - Big 3

- Cassiano Homes
- Lincoln Heights
- Alazan-Apache

#### Design

- Saturate residential area for accessibility inside the home
- Install Fiber backbone at larger properties, copper at smaller properties to manage costs
- Implement innovative Mesh and Solar Mesh Wi-Fi technologies

#### Security

- Open Public Wi-Fi accessed by any device
- Content Filtering for undesirable sites
- Public Wi-Fi with no password needed for access





# WI-FI EXPANSION

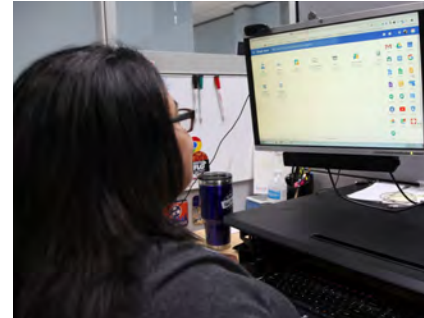
## BUDGET AND EXPENDITURES

### The Budget

- \$3 Million Dollar **budget approved** as of July 1, 2020
  - \$2 Million for **52** PH properties
  - \$1 Million for **24** Beacon Properties

### Expenditures

- Labor
  - One Dedicated Wi-Fi Technical Support Analyst Hired as of 5.5.21 - Begins work 5.24.21
  - Concurrent contractor teams for electrical, cabling, and mounting of Wi-Fi Equipment
  - Hardware, electrical, and bandwidth Costs
  - Labor costs for 60% dedicated time of 2 internal IT staff



# PHASE 1 BIG 3 UPDATE

# VIA TECHNOLOGIES – BIG 3 PROGRESS

## CASSIANO HOMES

- Large trees blocking Line of Sight, solution was to move access point to Building 18.
- WAP moved to Kroker Way building for power connection (Jobs Plus).
- **Estimated delivery of fiber is June.**

## LINCOLN HEIGHTS

- Currently in the testing phase of the appliances. Building 20 is currently in need of interior power.
- Property has been walked by staff for testing of signal saturation.
- Experiencing connectivity issue with the cement or cinder block walls and the signals availability from inside the homes.
- **Estimated delivery of fiber is July.**

## ALAZAN-APACHE

- Document for permits for phase 1 and 2 has been signed and has been returned to electrician for submittal.
- New electrical meters and installation continues.
- Guadalupe Cultural Arts building approved usage of rooftop to mount PtP Microwave.
- **Estimated delivery of fiber is July.**



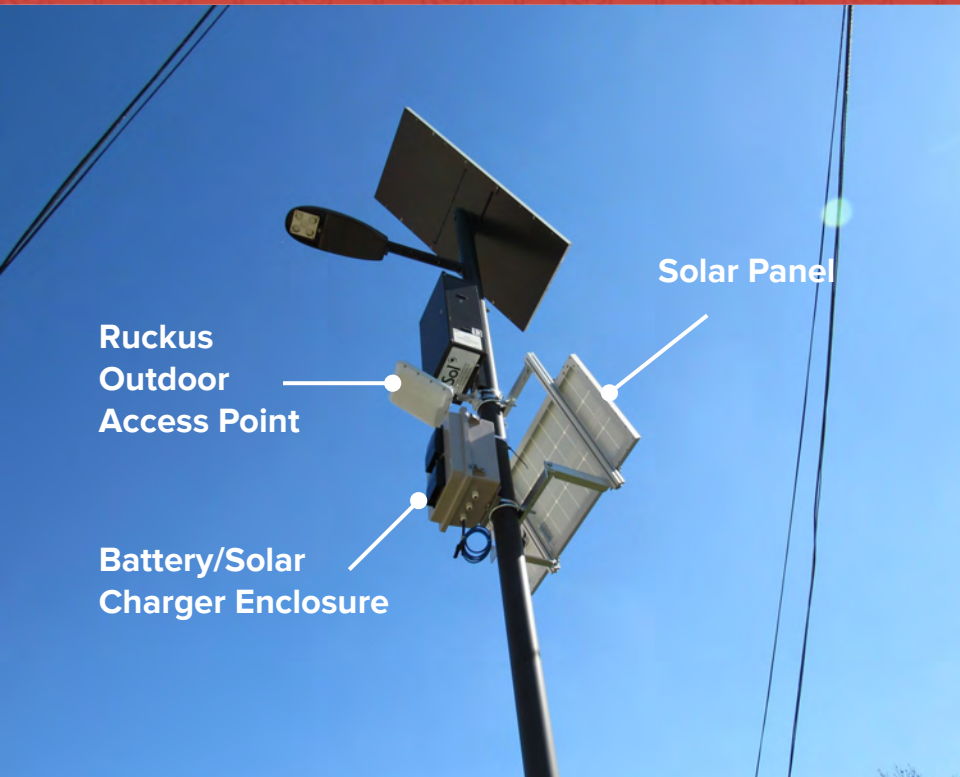
# ALAZAN-APACHE COURTS

## RUCKUS POINT-TO-POINT BACKHAUL CONNECTION



# CASSIANO HOMES SOLAR POLES

## SMARTI SOLAR POLE



Battery/Solar Charger Enclosure



Ruckus Outdoor Access Point



# LINCOLN HEIGHTS

## RUCKUS POINT-TO-POINT BRIDGE AND OUTDOOR WIRELESS ACCESS POINTS



# LINCOLN HEIGHTS COVERAGE MAP





# BUDGET EXPENSES

## FISCAL YEAR 2020–2021

10

**Total Approved Budget for both PH and Beacon: \$ 3,000,000.00**

**Big 3 VIA Technologies Costs <\$ 586,447.00>**

**Alazan additional electrical house panels meters <\$ 45,515.00>**

**Cassiano additional house panels <\$ 25,750.00>**

**Equipment In-House IT (25 Properties) <\$ 63,298.00>**

**Cabling, Electrical, and Mounting (25 Properties) <\$ 195,650.00>**

**1 GB COAX upgrades Big 3 <\$ 1,575.00>**

**Grande Bandwidth Big 3 (3yr) <\$ 178,200.00>**

**Total Budget Remaining \$ 1,903,565.00**

**COSA Bandwidth Donation +\$ 178,200.00**

**\$100,000 Mozilla Grant +\$ 100,000.00**

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Final Budget  
Remaining  
FY2020–2021:  
**\$2,181,765.00**

# PROJECTED BUDGET EXPENSES

## FISCAL YEAR 2021–2022

11

<b>Carry Over budget</b>	<b>\$2,181,765.00</b>
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### **Estimated Broadband Costs**

<b>Public Housing and Beacon (69) Properties</b>	<b>&lt;\$690,672.00&gt;</b>
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<b>Total Available for Full Turnkey Solution (35) Properties</b>	<b>\$1,491,093.00</b>
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<b>Public Housing and Beacon Communities (35)</b>	<b>TBD</b>
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<b>Award Completion by End of May 2021</b>	<b>COSTS TBD</b>
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# CHALLENGES AND DELAYS

12

**COVID 19 – Keeping SAHA staff and contractors healthy and available to build the concurrent crews.**

## **Bandwidth Challenges – Grande permit delays**

- GB Fiber will not be delivered until June/July 2021
- Installed 1 GB COAX for testing and connectivity sooner than later – Mid-April of 2021
- Permit delays – fiber, adding electrical meters
- Trees trimming and Arborist certification delays
- Cement blocks and cement buildings



# CONCURRENT TIMELINE

## CREWS OF 3–6 TEAMS

### PHASE 1

**AUGUST -  
JULY 2021**

Top 3 PH Family  
Properties

- Cassiano Homes
- Lincoln Heights
- Alazan-Apache

### PHASE 2

**JANUARY –  
AUGUST 2021**

In house IT team  
Installations  
Beacon and PH  
(25)

### PHASE 3

**JANUARY –  
AUGUST 2021**

Turnkey  
Remaining  
Beacon and PH  
Properties (35)

### PHASE 4

**JULY –  
AUGUST 2021**  
GO LIVE

**GOAL:** Project Completion by August 2021

# PARTNERSHIPS



# QUESTIONS?





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# RECRUITMENT UPDATE

Fiscal Year Activity: July 1, 2020 - May 3, 2021

# Department Details - Full Time Status Activity

- Public Housing
- Assisted Housing Programs
- Beacon Communities
- Community Development Initiatives
- Construction Services, Development Services, and Neighborhood Revitalization
- All Other Departments
- Total FT Staff By Department
- Other Actions

# Public Housing

## 07/01/2020 through 05/03/2021

3

FT Headcount on 07/01/2020:	*182
Hires	44
Terminations / Resignations	- 19
Transfer	- 2
Transfer	+ 1

\* Increased by 2 due to Military Leave and LOA

Total FT Headcount: 206

Budgeted FT Positions: 240

Variance: 34

# Public Housing

## 07/01/2020 through 05/03/2021

4

VACANT POSITIONS	TEMPORARY / WOC STATUS	PRE HIRE ACTIVITY
5 Client Service Specialists	2 Temp Status	
20 Maintenance Technicians	4 Temp Status	3
1 Porter	1 Temp Status	
1 Sr. Analyst, EIV PIC	1 WOC	
1 Sr. Community Mgr	1 Temp Status	2
5 Sr. Maintenance Technicians		
1 Trainer	1 WOC	

# Assisted Housing Programs

## 07/01/2020 through 05/03/2021

5

FT Headcount on 07/01/2020: 73

Hires 20

Terminations / Resignations - 15

Transfers - 3

Total FT Headcount: 75

Budgeted FT Positions: 91

Variance: 16

# Assisted Housing Programs

## 07/01/2020 through 05/03/2021

6

VACANT POSITIONS	TEMPORARY / WOC STATUS	PRE HIRE ACTIVITY
1 Admin. Specialist I	1 Temp Status	
2 Customer Service Reps		1
7 Housing Asst. Specialists		4
1 Policy Analyst, FHP		1
1 Sr. Customer Service Rep		
2 Sr. Housing Asst. Specialist		
1 Trainer	1 WOC	
1 Waitlist Analyst	1 WOC	



# Beacon Communities

## 07/01/2020 through 05/03/2021

7

FT Headcount on 07/01/2020: 58

Hires	38
Terminations / Resignations	-15
Transfer	-1
Transfers	2

Total FT Headcount: 82

Budgeted FT Positions: \* 137

\*Decreased by 2 due to budget review

Variance: 55

Positions on Hold: 29

Active Status Search: 26

# Beacon Communities

## 07/01/2020 through 05/03/2021

8

VACANT POSITIONS	TEMPORARY / WOC STATUS	PRE HIRE ACTIVITY
4 Asst Community Managers	2 Holds	1
1 Client Support Coordinator	1 Hold	
4 Community Managers	3 Holds	
11 Leasing Agents	1 Temp Status - (5 Holds)	
20 Maintenance Technicians	6 Temp Status - (8 Holds)	2
6 Maintenance Supervisors	3 Holds	

# Beacon Communities

## 07/01/2020 through 05/03/2021

9

VACANT POSITIONS	TEMPORARY / WOC STATUS	PRE HIRE ACTIVITY
1 Maintenance Supv II	Hold	
1 Portfolio Leasing Manager	Hold	
1 Project Manager	Hold	
2 Sr. Community Manager	1 Hold	1
2 Sr. Leasing Agent	1 Hold	1
1 Sr. Maintenance Technicians	Hold	
1 Trainer	Hold	

# Community Development Initiatives

## 07/01/2020 through 05/03/2021

10

FT Headcount on 07/01/2020: 40

- Hires 9
- Terminations / Resignations -9
- Transfers 2
- Transfers -1

Total FT Headcount: 41

Budgeted FT Positions: 50

Variance: 9

Positions on Hold: 1

Active Status Search: 8

# Community Development Initiatives

## 07/01/2020 through 05/03/2021

11

VACANT POSITIONS	TEMPORARY / WOC STATUS	PRE HIRE ACTIVITY
1 Budget Analyst		
1 Digital Inclusion Manager		
1 Donor Relations Coordinator	Hold	
2 E&D Case Management Spec.		1
2 FSS Case Management Spec.		2
1 Resident Service Coord. Spec.	1 Temp Status	
1 Resource Spec.		

# Construction Services and DSNR

## 07/01/2020 through 05/03/2021

FT Headcount on 07/01/2020: 16

Hires	3
Terminations / Resignations	-1
Transfer	3

Total FT Headcount: 21

Budgeted FT Positions: 23

Variance: 2



# Construction Services and DSNR

## 07/01/2020 through 05/03/2021

VACANT POSITIONS	TEMPORARY / WOC STATUS	PRE HIRE ACTIVITY
1 Asst Director, Construction Services		
1 Construction Project Manager		

# All Others

## 07/01/2020 through 05/03/2021

14

FT Headcount on 07/01/2020: 83

Hires 12

Terminations / Resignations -10

Transfers -1

Total FT Headcount: 84

Budgeted FT Positions: 95

Variance: 11

Positions on Hold: 1

Active Status Search: 10

# All Others

## 07/01/2020 through 05/03/2021

15

VACANT POSITIONS	TEMPORARY / WOC STATUS	PRE HIRE ACTIVITY
1 Accounting Supervisor	Hold	
1 Auditor I	1 WOC	
1 Financial Analyst II (Accounting)		
1 IT Application Support Analyst		
1 IT Systems Administrator		
1 IT WiFi Tech Support		1

# All Others

## 07/01/2020 through 05/03/2021

16

VACANT POSITIONS	TEMPORARY / WOC STATUS	PRE HIRE ACTIVITY
1 Payroll Coordinator	1 Temp Status	
1 Purchasing Agent		
1 President and CEO	1 Interim	
1 Property Financial Analyst		
1 Sr. Asset Manager		

# Total FT Staff By Department

## 07/01/2020 through 05/03/2021

17

TOTALS FOR THE PERIOD 07/01/2020 through 05/03/2021								
Department	FT HC ON 07/01/2020	FT HIRES	TRANSFERS	Add C&D	FT TERMS	CURRENT FT HC	BUDGETED FT	VARIANCE FT
Public Housing	182	44	-1	225	-19	206	240	34
Assisted Housing Programs	73	20	-3	90	-15	75	91	16
Beacon	58	38	1	97	-15	82	137	55
Community Development Initiatives	40	9	1	50	-9	41	50	9
Construction	10	2	1	13	-1	12	14	2
DSNR	6	1	2	9	0	9	9	0
Policy And Planning	3	1	0	4	0	4	4	0
Public Affairs	6	0	0	6	0	6	6	0
Security	2	2	0	4	-1	3	3	0
Asset Management	3	0	0	3	-1	2	4	2
Executive	9	0	0	9	-1	8	9	1
Finance and Accounting	19	3	0	22	-2	20	23	3
General Services	6	0	0	6	0	6	6	0
Human Resources	8	3	0	11	-2	9	9	0
Innovative Technology	9	1	0	10	-2	8	11	3
Internal Audit	5	0	-1	4	0	4	5	1
Legal	2	0	0	2	0	2	2	0
Procurement	7	1	-1	7	-1	6	7	1
Regulatory Oversight	2	1	1	4	0	4	4	0
Risk Management	2	0	0	2	0	2	2	0
<b>TOTAL</b>	<b>452</b>	<b>126</b>	<b>0</b>	<b>578</b>	<b>-69</b>	<b>509</b>	<b>636</b>	<b>127</b>

# Recruitment Actions - Since 07/01/2020

18

37 Promotions - Must Backfill Vacant Positions

6 Current Working Out of Class (WOC) - Interim Promotions

## Temporary Status Activity

- 18 Active Temporary Status Employees
- 46 Temporary Status to Full Time Hires
- 126 Total Temporary Assignments

SAHA On Site Job Fair - Upcoming June 4, 2021



# QUESTIONS?

## SAN ANTONIO HOUSING AUTHORITY

May 20, 2021

## MEMORANDUM

To: Board of Commissioners

From: Ed Hinojosa, Jr., Interim President and CEO

Presented by: George M. Ayala, Director of Procurement

RE: Procurement Activity Report

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DS  
EHJ

Through the first calendar quarter ending March 31, 2021, the San Antonio Housing Authority's (SAHA) Procurement Department issued 13 formal and 5 informal solicitations, receiving a total of 92 responses. This resulted in an average of responses per formal solicitation of 4.08 and 7.80 responses per informal solicitations, for an overall average response rate of 5.11 per solicitation. New contracts awarded through the first calendar quarter ending March 31, 2021, were \$8,354,137.63; contract renewals in the amount of \$6,719,705.00, and \$1,615,000.00 in blanket awards, which resulted in a grand total awarded of \$16,688,842.63. Of this total, \$1,505,679.00 or .090 percent, was awarded to Small, Women-Owned, and Minority Business Enterprises (SWMBE), and \$900,000.00 or .053 percent, was awarded to Section 3 business concerns.

Through the first calendar quarter ending on March 31, 2021, SAHA contractors reported 50 new hires; and of that number, 22, of the new hires qualified as Section 3 individuals, which represented 44% percent of all new hires. The Section 3 new hires were composed of seventeen (17) males and five (5) female individuals. The weighted average wage rate for these Section 3 individuals is \$ 15.24 per hour and the breakdown by category is as follows:

- 3 new Section 3 hires earned from \$10.00 to < \$13.00 per hour
- 5 new Section 3 hires earned from \$13.00 to < \$15.00 per hour
- 11 new Section 3 hires earned from \$15.00 to < \$17.00 per hour
- 2 new Section 3 hires earned from \$17.00 to < \$20.00 per hour
- 1 new Section 3 hire earned greater than \$20.00 per hour

Through the first calendar quarter ending March 31, 2021, SAHA has hired 8 Section 3 employees into full time positions within the agency.

**Current Solicitations:** There are currently two Invitation For Bids (IFB), and one Quick Quote (QQ), being advertised. The Invitation For Bids are for Background Investigation Reporting Services and Madonna Apartments Natural Gas Systems, Boiler Room, and Parking Lot Improvements; the Quick Quote is for Mosaic Artwork for Victoria Plaza Apartments.

**Closed/Pending Solicitations:** There are six solicitations that have closed and are currently being evaluated. The solicitations are for Risk Management Information System (RMIS), Employee Wellness Services, Painting of Metal Fence and Railings Central Office, WiFi Expansion Project Cabling, Mounting, and Electrical, T.L. Shaley Unit Conversion-Rebid, and Turnkey WiFi Expansion Project.

**SAN ANTONIO HOUSING AUTHORITY****May 20, 2021**

**Solicitations in Development:** Procurement is currently working on a number of solicitations for advertisement. These include Safety and Security Solar-LED Lighting, Water Softener Purchase, Installation, and Maintenance, Monterrey Park Bldg 9 & 10 Foundation Stabilization, Developer Pool, Visitor Management System for Central Office, Broadband Installation & Services WiFi Expansion Project, Bulk Pick Up Services Agency Wide, Debt Collection Services Agency Wide, Environmental Engineering Services Agency Wide, Vending Concessions for SAHA Properties Agency Wide, and Foundation Repairs, Plumbing, and Structural Improvements Agency Wide.

**Blanket Awards:**

<b>Contract Title</b>	<b>Number of Awards</b>	<b>Amount of Blanket Award</b>	<b>Projects Awarded 1st Quarter 2021</b>
Architectural and Engineering Services	8	\$1,500,000.00	\$39,052.26
Architectural & Engineering and Other Forensic Consulting Services	4	\$1,500,000.00	\$0.00
Backflow Inspection, Maintenance, Repair, and Installation	2	\$70,000.00	\$17,703.49
Bulk Pick Up Services	2	\$270,000.00	\$21,831.90
Carpet and Flooring Purchase, Replacement, and Installation	2	\$325,000.00	\$80,741.42
Consulting and Guidance on HUD and Other Affordable Housing Programs	2	\$100,000.00	\$633.75
Disaster Restoration of Operation Services	3	\$250,000.00	\$0.00
Electrical Maintenance & Repair	2	\$500,000.00	\$24,142.76
Engineering, Environmental	1	\$600,000.00	\$29,923.20
Engineering, Professional	3	\$1,500,000.00	\$19,813.68
HVAC, Residential Style Systems	3	\$1,200,000.00	\$90,720.53
Land Surveyor Services	3	\$75,000.00	\$0.00
Legal Services	9	\$500,000.00	\$8,118.50

## SAN ANTONIO HOUSING AUTHORITY

May 20, 2021

Bond/Mixed Finance Counsel	5	1% of Bond of Issue	
Special Counsel Board Matters	1	\$60,000.00	\$5,967.50
Make Ready Services for Public Housing	3	\$2,200,000.00	\$514,997.04
Mowing and Grounds Maintenance for Public Housing	4	\$1,000,000.00	\$150,415.94
Painting Services for Beacon Communities	2	\$200,000.00	\$76,255.08
Pest Control for Beacon Communities	2	\$220,000.00	\$7,144.07
Pest Control for Various SAHA Public Housing and Administrative Properties	2	\$500,000.00	\$21,267.00
Plumbing and Related Maintenance Services	2	\$2,200,000.00	\$297,932.90
Public Relations Consulting Services	2	\$150,000.00	\$25,872.20
Real Estate Appraisal Services, Residential	2	\$150,000.00	\$0.00
Real Estate Broker Services, Commercial	6	Maximum 6% fee; \$200.00/consulting and market analysis	\$40,000.00
Real Estate Broker Services, Residential	2	\$250,000.00	\$7,500.00
Security Services, Various	3	\$1,060,000.00	\$406,157.11 (COVID) \$495,535.75 (Non COVID)
Shingle roof repair and limited replacement	2	\$250,000.00	\$0.00
Temporary and Contract Personnel Services	4	\$3,089,060.00	\$703,931.86

**SAN ANTONIO HOUSING AUTHORITY**

**May 20, 2021**

**PROPOSED ACTION:**

None at this time.

**FINANCIAL IMPACT:**

Amounts paid according to award provisions.

**STRATEGIC OUTCOME:**

Supports all strategic outcomes.

**ATTACHMENT:**

Procurement Activity Report  
Business Enterprise Designations

### Procurement Activity Report as of May 3, 2021

#### Solicitations Currently being Advertised

SAHA Department	Type	Solicitation Name	Bidders Conference	Closes
Human Resources	IFB	Background Investigation Reporting Services	04/14/2021	05/04/2021
Asset Management	QQ	Mosaic Artwork for Victoria Plaza Apartments	N/A	05/11/2021
Construction Services	IFB	Madonna Apartments Natural Gas Systems, Boiler Room, and Parking Lot Improvements		05/25/2021

SAHA Department	Type	Solicitation Name	Date Closed	Ops Meeting May 20, 2021 and Board Meeting June 3, 2021
No Procurement Items				

#### Solicitations Under Evaluation

Human Resources	RFP	Employee Wellness Services	01/29/2021	Procurement Negotiations Due Diligence Evaluation
General Services	QQ	Painting of Metal Fence and Railings Central Office	03/26/2021	
Innovative Technology	IFB	WiFi Expansion Project Cabling, Mounting, and Electrical	04/14/2021	
PH/Construction Services	IFB	T.L. Shaley Unit Conversion-Rebid	04/19/2021	
Innovative Technology	RFP	Turnkey WiFi Expansion Project	04/27/2021	

Future Solicitations	Solicitation Name	Anticipated Month of Release
Construction Services	Safety and Security Solar-LED Lighting	May 2021
	Water Softener Purchase, Installation, and Maintenance	May 2021
	Monterrey Park Bldg 9 & 10 Foundation Stabilization	May 2021

Development Services	Developer Pool	June 2021
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Federal Housing Programs	Visitor Management System for Central Office	May 2021
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Innovative Technology	Broadband Installation & Services WiFi Expansion Project	May 2021
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Agency Wide	Bulk Pick Up Services	May 2021
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Agency Wide	Debt Collection Services	May 2021
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Agency Wide	Environmental Engineering Services	May 2021
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Agency Wide	Vending Concessions for SAHA Properties	May 2021
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Agency Wide	Foundation Repairs, Plumbing, and Structural Improvements	July 2021
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## Categories of Procurements

SAHA Department	Solicitation Name	Vendor	Amount	Date
<b>Awards Under President and CEO Expanded Authority</b>				
Construction Services	Measurement and Verification (M&V) and Energy/Sustainability Services	Group 14 Engineering	\$103,500.00	04/05/2021
Development Services	On-Call Real Estate Appraisal Services	Noble & Associates, Inc. dba Noble Appraisers, Inc., and T.C. Doctor & Associates, Inc.	\$250,000.00	04/13/2021
Risk Management	Risk Management Information System (RMIS)	LogicManager	\$39,350.00	05/03/2021
<b>Informal Awards Up to \$50,000</b>				
Innovative Technology	Email Encryption Renewal	Virtu	\$11,070.00	04/01/2021
Public Housing	Windshied replacement for five trucks at Lincoln Heights	East End Glass	\$8,750.00	4/13/2021
<b>IT Purchases (Resolution 6010 authorizing the use of Cooperative Purchasing Contracts and General Administration (GSA Federal Supply Schedules)</b>				
Innovative Technology	Rave Alert Software	Lyme Computer Systems through General Services Administration	\$51,414.00	04/23/2021



**SAHA** | SAN ANTONIO  
HOUSING AUTHORITY  
Opportunity Lives Here

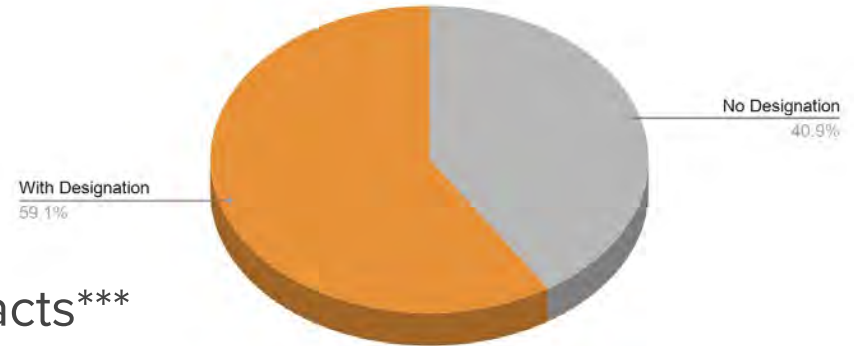
# Procurement Report

Business Enterprise Designations  
January through March 2021

# OVERVIEW

- 14 solicitations\*
  - 9 formal
  - 5 informal
- 88 total responses\*\*
  - 61% have a designation
- 31 responses were awarded contracts\*\*\*
  - 59% have a designation

Award Breakdown

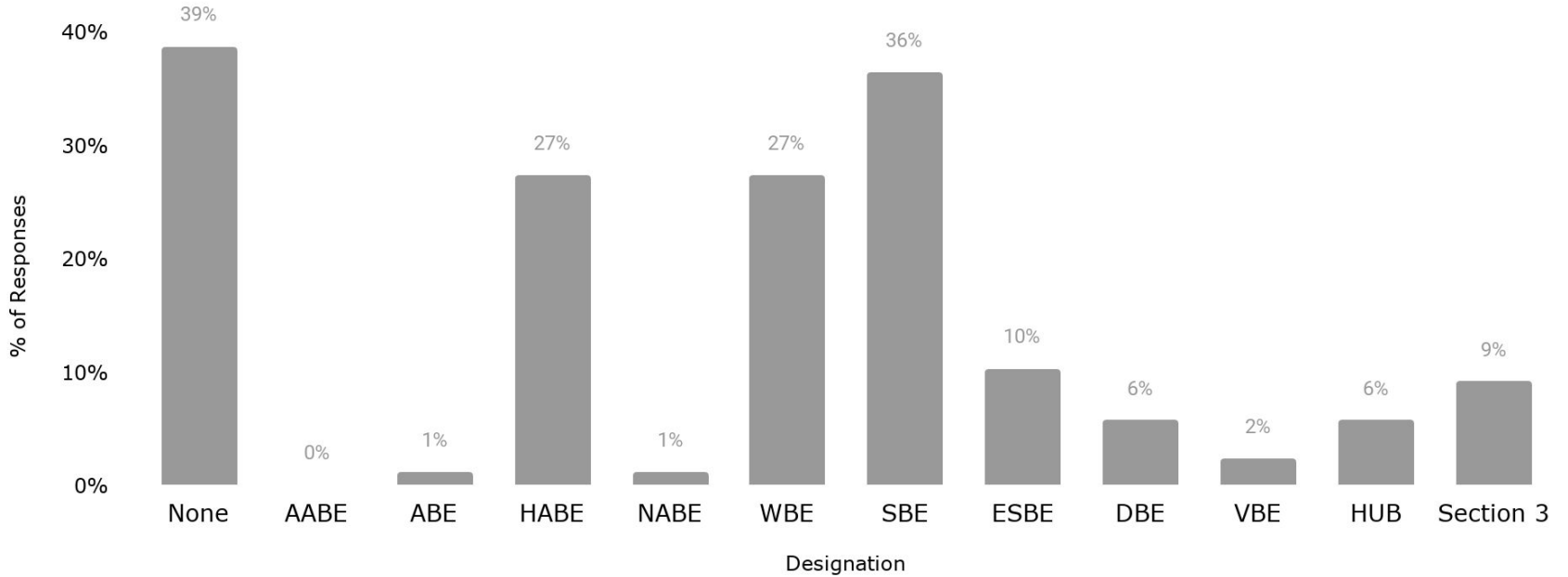


\*Solicitations that were also awarded during the reporting period

\*\*Includes vendors who responded to more than one solicitation, each response is counted separately

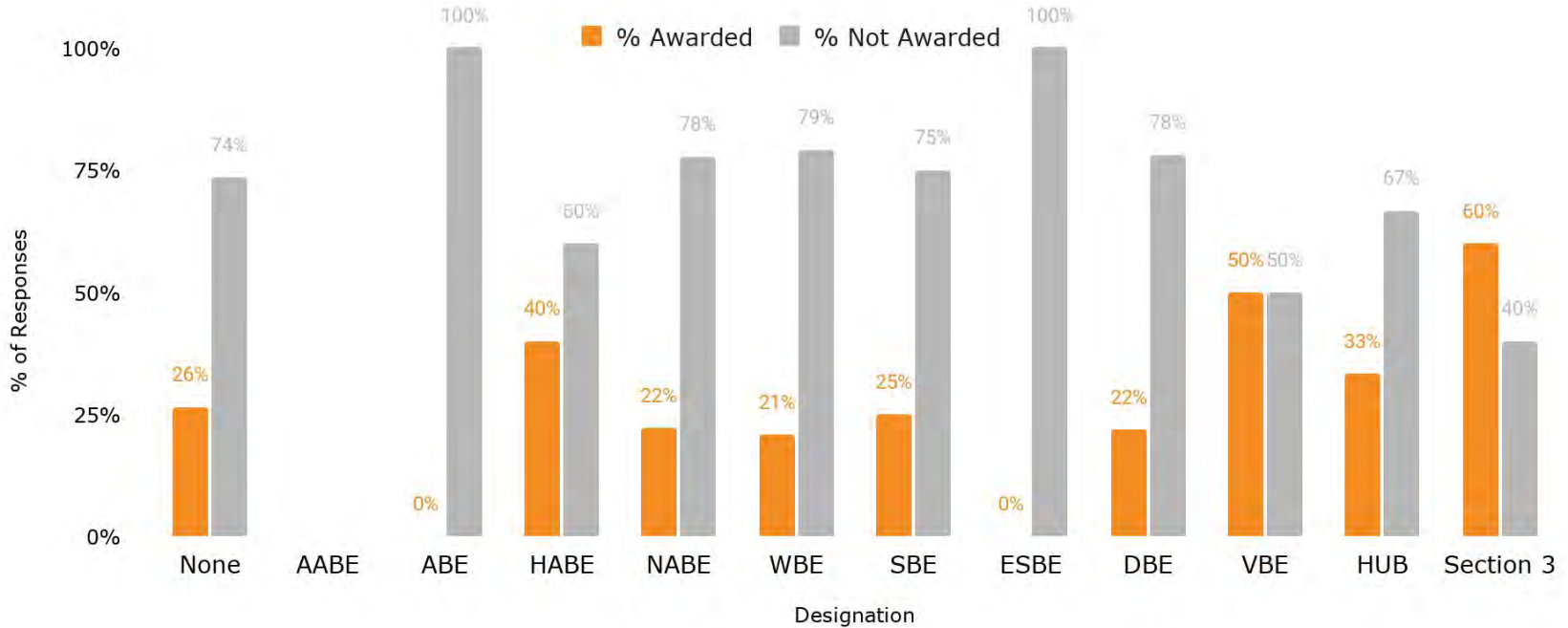
\*\*\*Includes multiple awards per solicitation, each awarded response is counted separately

# RESPONSES BY DESIGNATION



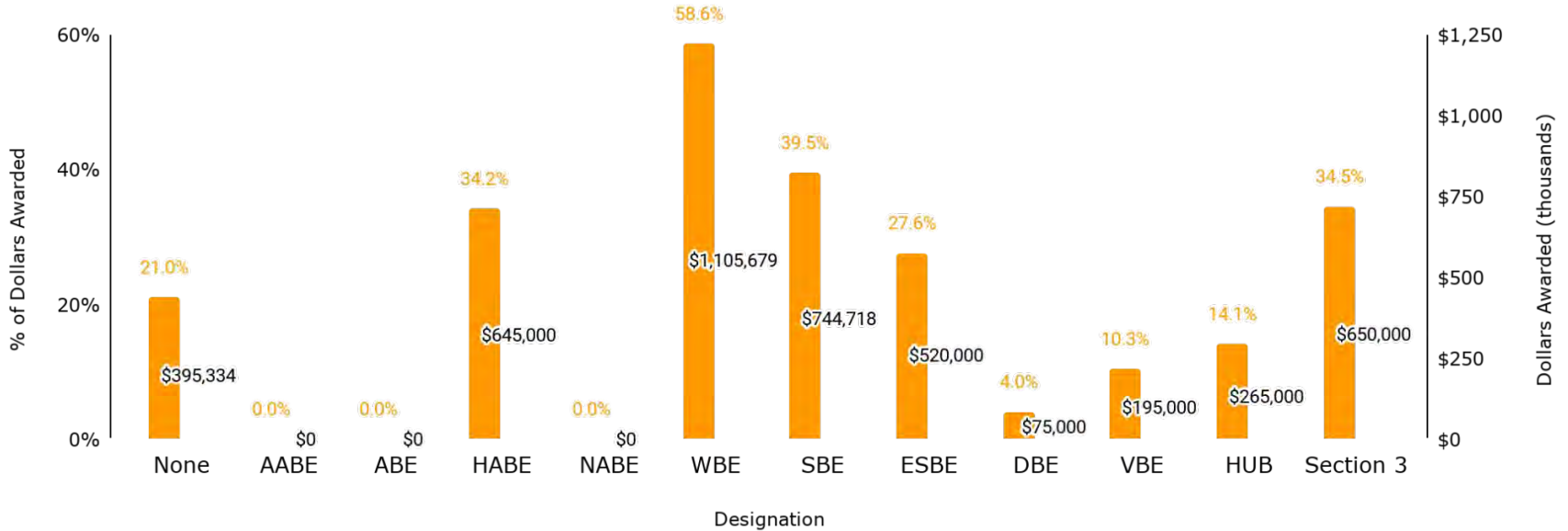
\*Percentages do not total to 100% because responders can have multiple designations.

# RESPONSE OUTCOMES BY DESIGNATION



\*Percentages do not total to 100% because responders can have multiple designations

# AWARDED AMOUNT BY DESIGNATION

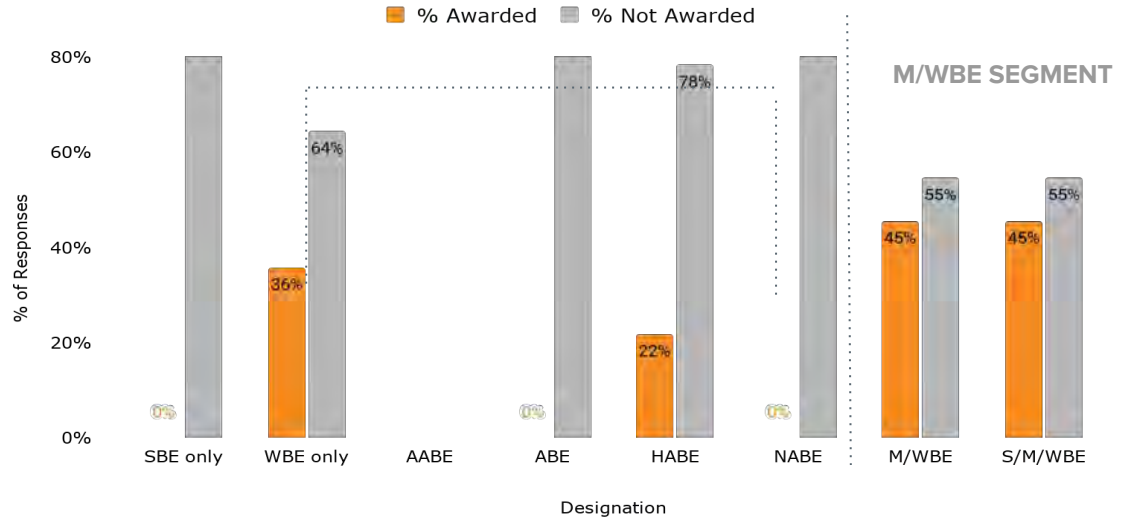


\*Percentages do not total to 100% because responders can have multiple designations



# RESPONSE OUTCOMES BY S/M/WBE

59% of responses awarded a contract were Small, Minority, and/or Woman Owned Enterprises (S/M/WBE)



\*Percentages do not total to 100% because responders can have multiple designations

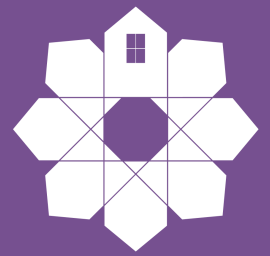
# DESIGNATIONS

<b>DESIGNATION</b>	<b>ACRONYM</b>
African American Business Enterprise	AABE
Asian American Business Enterprise	ABE
Native American Business Enterprise	NABE
Hispanic American Business Enterprise	HABE
Woman Business Enterprise	WBE
Veteran Business Enterprise	VBE
Small Business Enterprise	SBE
Emerging Small Business Enterprise	ESBE
Disadvantaged Business Enterprise	DBE
Historically Underutilized Business	HUB
Section 3	Section 3

For more information: <https://www.sanantonio.gov/SBO/Media-Resource-Center/Acronyms>

# QUESTIONS?





**SAHA**  
SAN ANTONIO  
HOUSING AUTHORITY  
Opportunity Lives Here



# FHP QUARTERLY UPDATE REPORT

**Fiscal Year 2020–21**

**Q3: January–March 2021**

# FHP WAITLIST REPORT

## HOUSING CHOICE VOUCHER WAITLIST

# 4,619

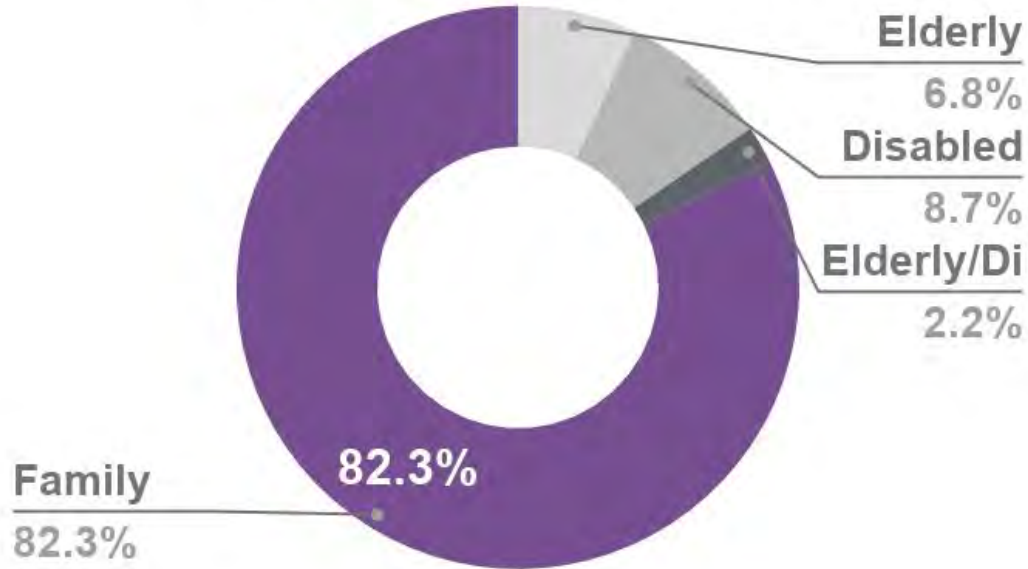
Total Number of Applicants on Waitlist

# 2,267

Total Number of Applicants Selected

# 1,712

Total Number of Applicants Removed from Waitlist



### TOP REASONS FOR REMOVAL

No Response

Letter Returned Undeliverable

### LEASE-UP SUCCESS RATE

The lease-up success rate was previously measured from the time a family was pulled from the waitlist to when they leased up, and is now being gauged from the time of the family's voucher issuance to lease-up.

# 19.9%

# FHP WAITLIST REPORT PUBLIC HOUSING WAITLIST

# 40,628

Total Number of Applicants on Waitlist

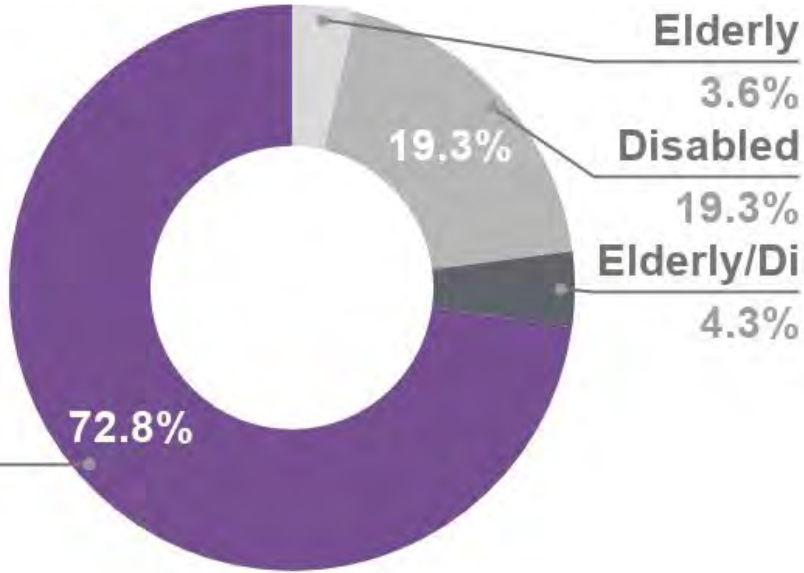
# 1,758

Total Number of Applicants Selected

# 1,204

Total Number of Applicants Removed from Waitlist

Family  
72.8%



## TOP REASONS FOR REMOVAL

No Response

Letter Returned Undeliverable

Applicant Requested Removal

## LEASE-UP SUCCESS RATE

The lease-up success rate for Public Housing decreased from 3.2% in FY21-Q2.

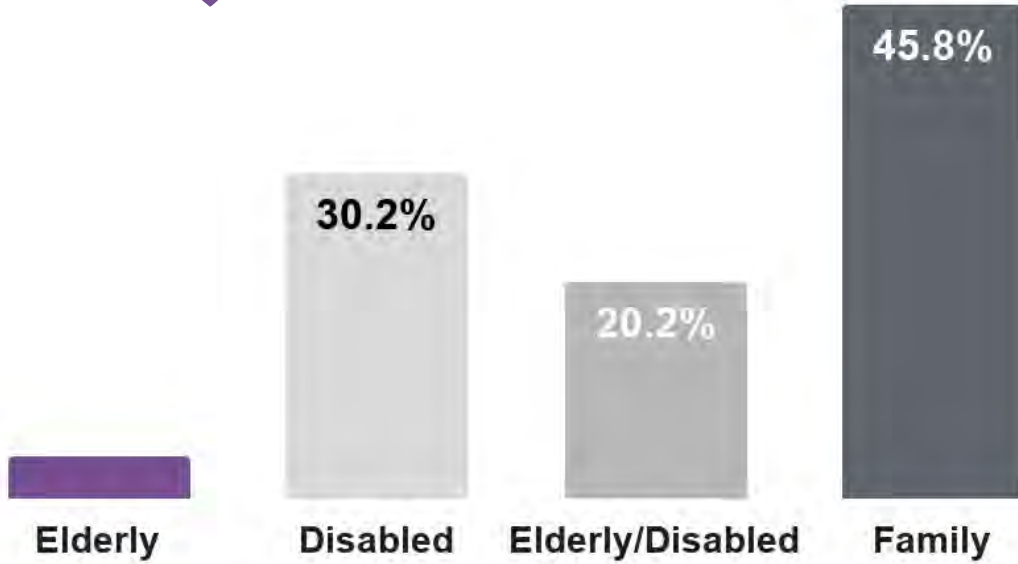
# 3.1%



# FHP DEMOGRAPHICS REPORT

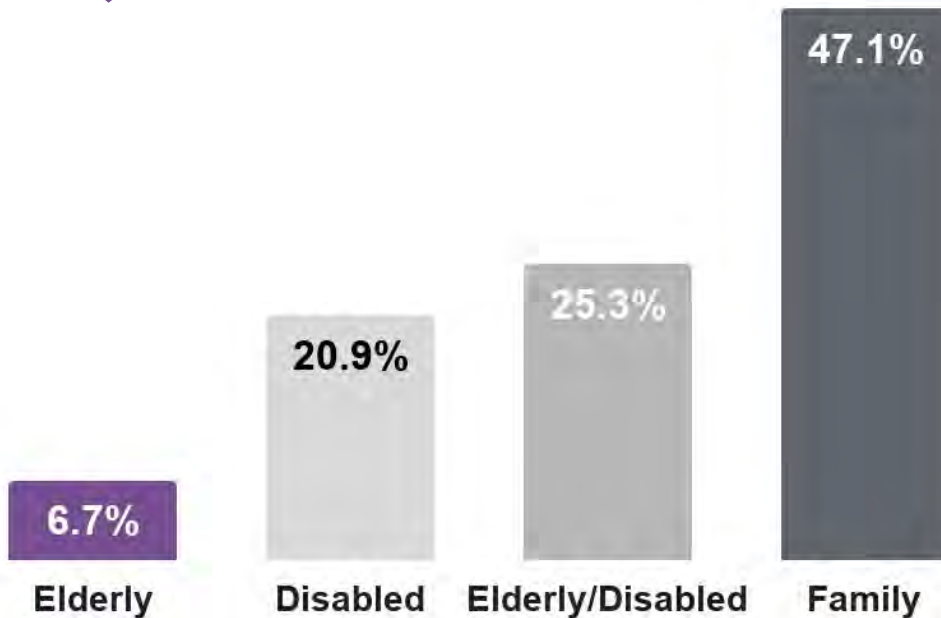
## ASSISTED HOUSING PROGRAMS

**12,822** Total Number of Families in AHP



## PUBLIC HOUSING PROGRAM

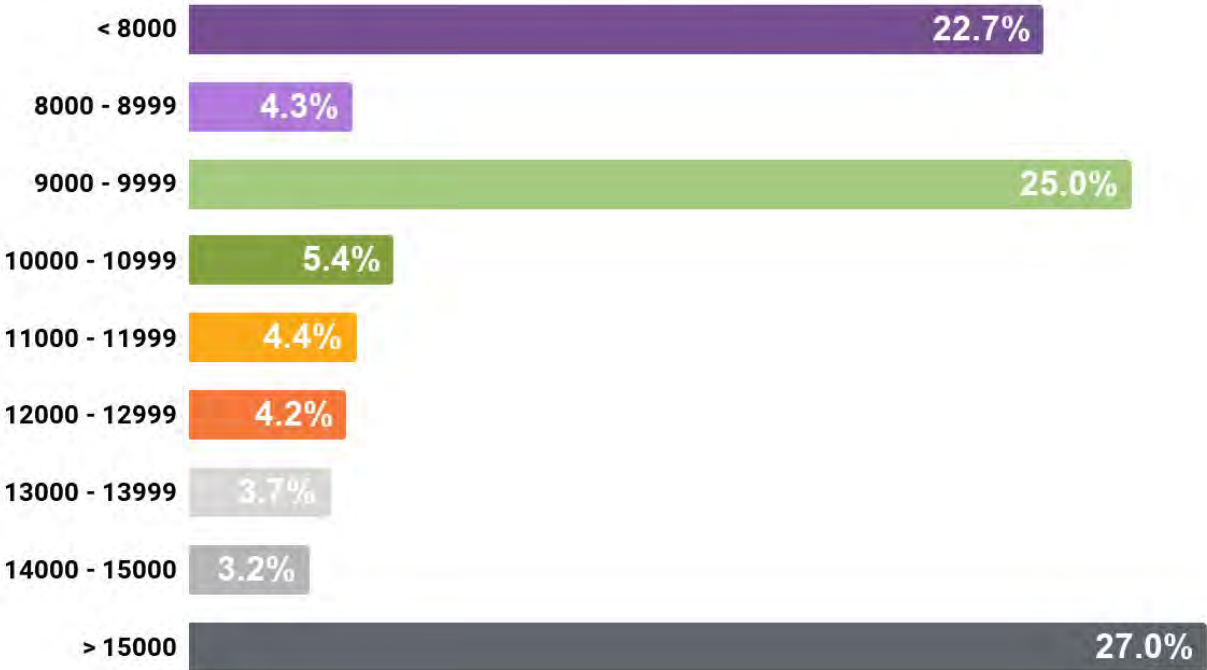
**5,585** Total Number of Families in PH



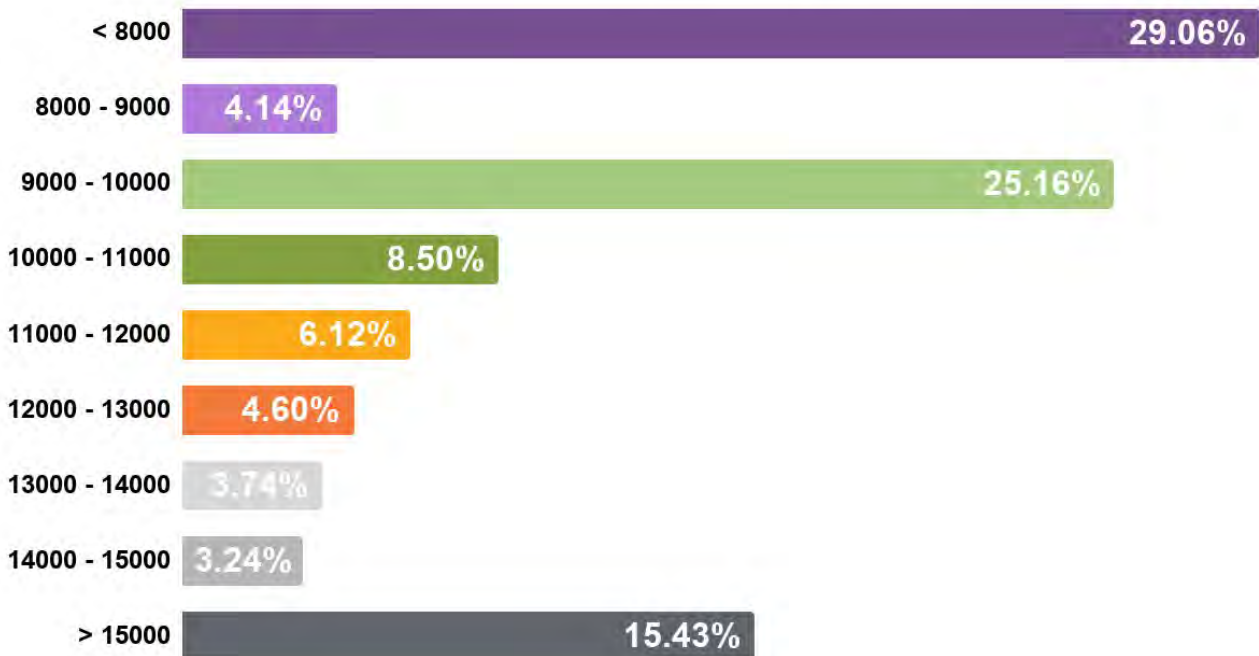
# FHP INCOME REPORT

# \$9,636 FHP MEDIAN GROSS INCOME

## AHP PERCENTAGE OF HOUSEHOLDS BY GROSS INCOME



## PH PERCENTAGE OF HOUSEHOLDS BY GROSS INCOME



# AHP UTILIZATION REPORT

## ACC\* UTILIZATION

# 91.7%

Units Available per ACC: 13,140



MONTH	JAN	FEB	MAR
UNITS LEASED	12,072	12,056	12,018
PERCENTAGE	91.9%	91.8%	91.5%

## MTW UTILIZATION

# 98.4%

Units Available per MTW: 12,240



MONTH	JAN	FEB	MAR
UNITS LEASED	12,072	12,056	12,018
PERCENTAGE	98.6%	98.5%	98.2%

\*Units available under the Annual Contributions Contract (ACC) reflect the number of vouchers available for leasing under HUD's funding commitment to the housing choice voucher program. Units available under the MTW baseline reflect the number of vouchers the Agency is obligated to serve under its MTW agreement. As an MTW Agency, SAHA is authorized to utilize HUD funding under the ACC for HUD approved non-leasing activities that support MTW initiatives.

# PH OCCUPANCY REPORT

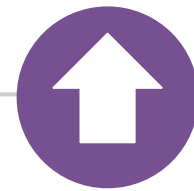
## AVERAGE OCCUPANCY RATE 95.9%



MONTH	JAN	FEB	MAR
UNITS LEASED	5,811	5,794	5,777
UNITS AVAILABLE	6,048	6,043	6,043
PERCENTAGE	96.1%	95.9%	95.6%

## AVERAGE NUMBER OF VACANCIES

The average number of vacancies increased from 221 in FY21-Q2. In FY21-Q3, move ins were delayed several weeks due to the February winter storm and staff devoted to food/water distribution in the subsequent weeks.



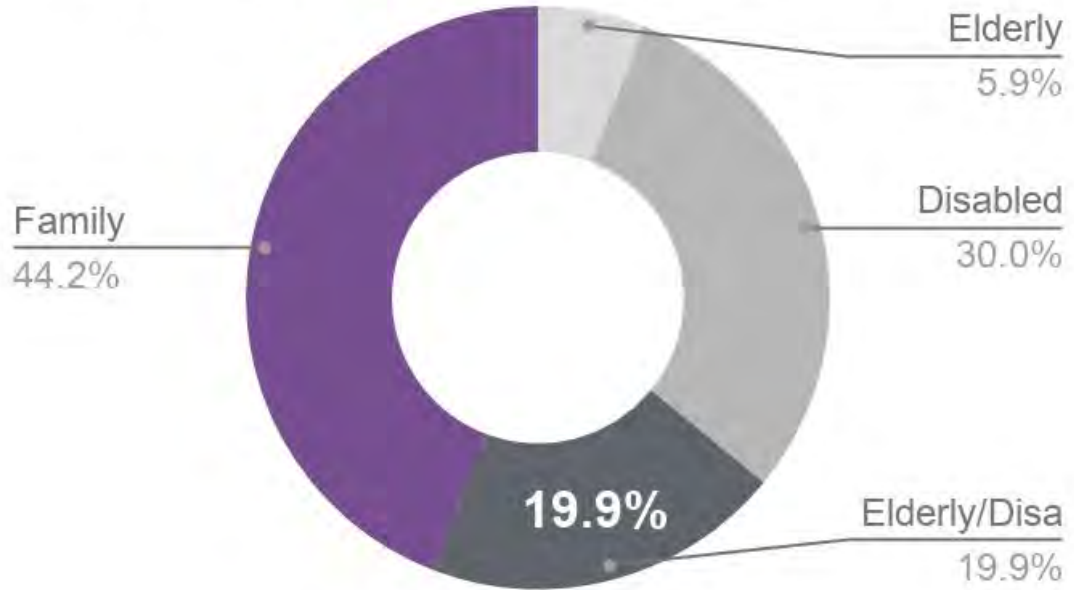
# 251

# FHP PROGRAM EXITS REPORT

## HOUSING CHOICE VOUCHER EXITS

# 337

Total Number of  
AHP Clients Exited



### TOP EXIT REASONS

Deceased: 25.2%

End of Participation (EOP): 17.2%

Failure to Recertify: 13.4%

# 8.7 Years

Average Tenure  
of Clients Exited

# FHP PROGRAM EXITS REPORT

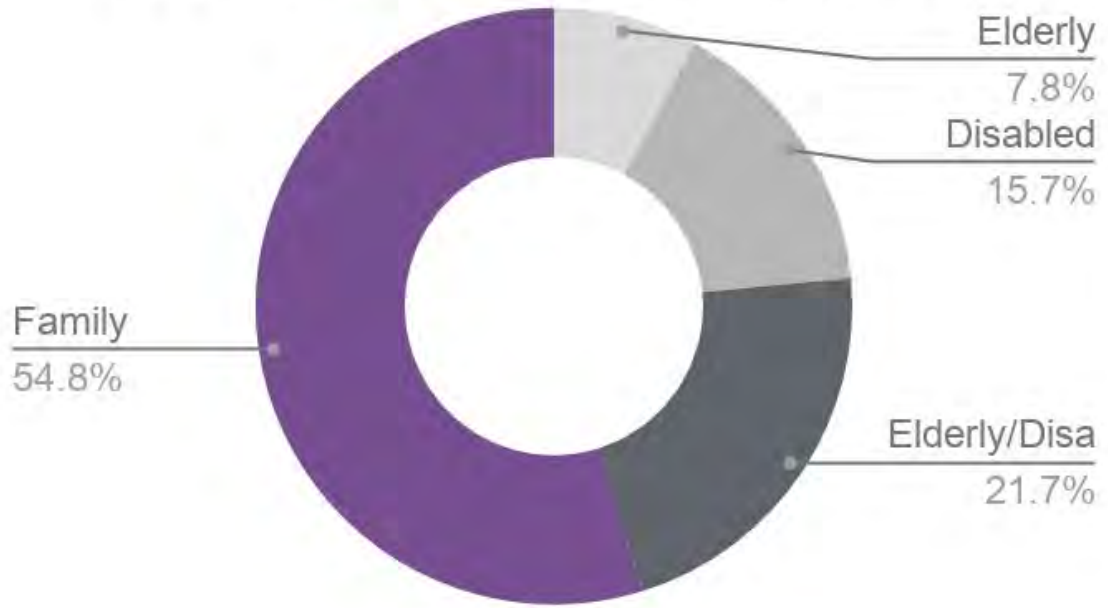
## PUBLIC HOUSING EXITS

# 166

Total Number of PH Clients Exited

# 8

Evictions Through Court



## TOP EXIT REASONS

Deceased: 25.3%

Abandoned Unit: 17.5%

Moved With No Reason Provided: 13.9%

# 4.4 Years

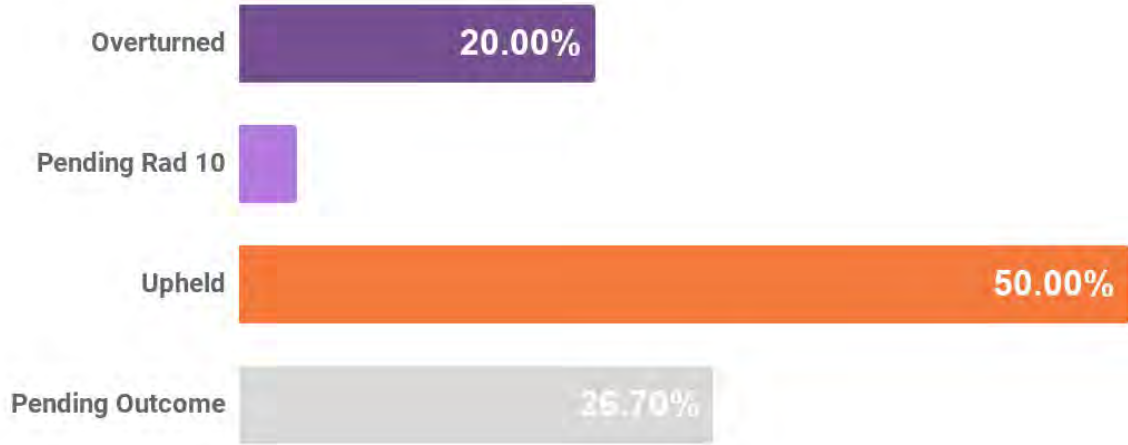
Average Tenure of Clients Exited



# FHP INFORMAL REVIEW/HEARING REPORT HOUSING CHOICE VOUCHER PROGRAM

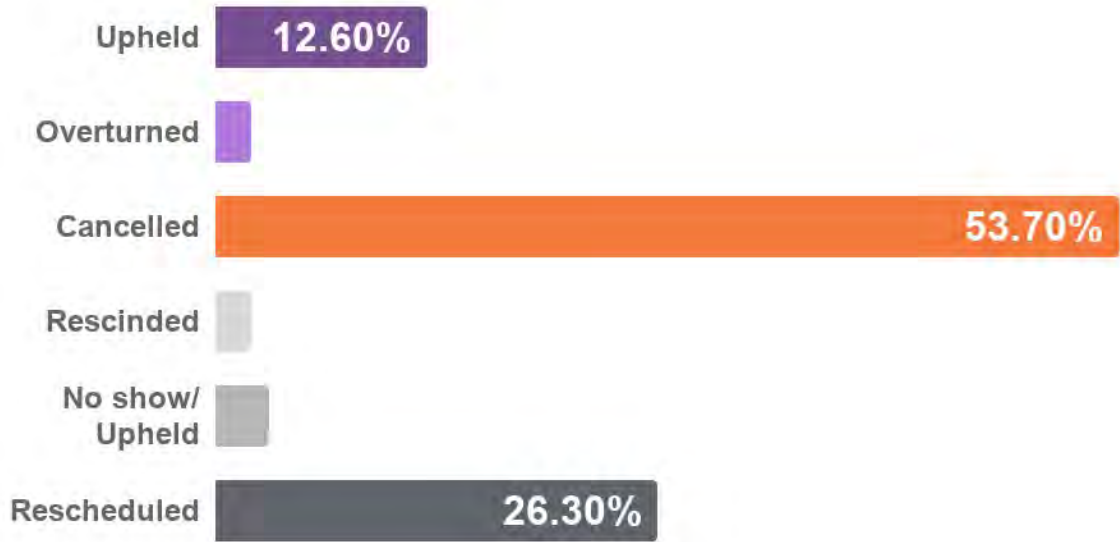
**Total Number of  
AHP Applicants v  
Requested Inform  
Review**

# 30



**Total Number of  
AHP Participants  
who Requested  
Informal Hearing**

# 95



## Top Reasons for Informal Review (Applicants)

- Criminal History: 46.7%**
- Expired Voucher: 26.7%**
- Late Pre-Eligibility App.: 10.0%**

## Top Reasons for Informal Hearing (Participants)

- Expired Voucher: 51.6%**
- Vacate w/o Notification: 11.6%**
- Lease Violations: 9.5%**

# FHP INFORMAL REVIEW/HEARING REPORT PUBLIC HOUSING PROGRAM

## Total Number of PH *Applicants* who Requested Informal Hearing

# 2



## Total Number of PH *Residents* who Requested Informal Hearing

# 3



### Top Reasons for Informal Hearing (*Applicants*)

No Response: 100.0%

### Top Reasons for Informal Hearing (*Residents*)

Transfer Withdrawal: 33.3%

Threat Assessment Denial: 66.7%

# SAFMR REPORT

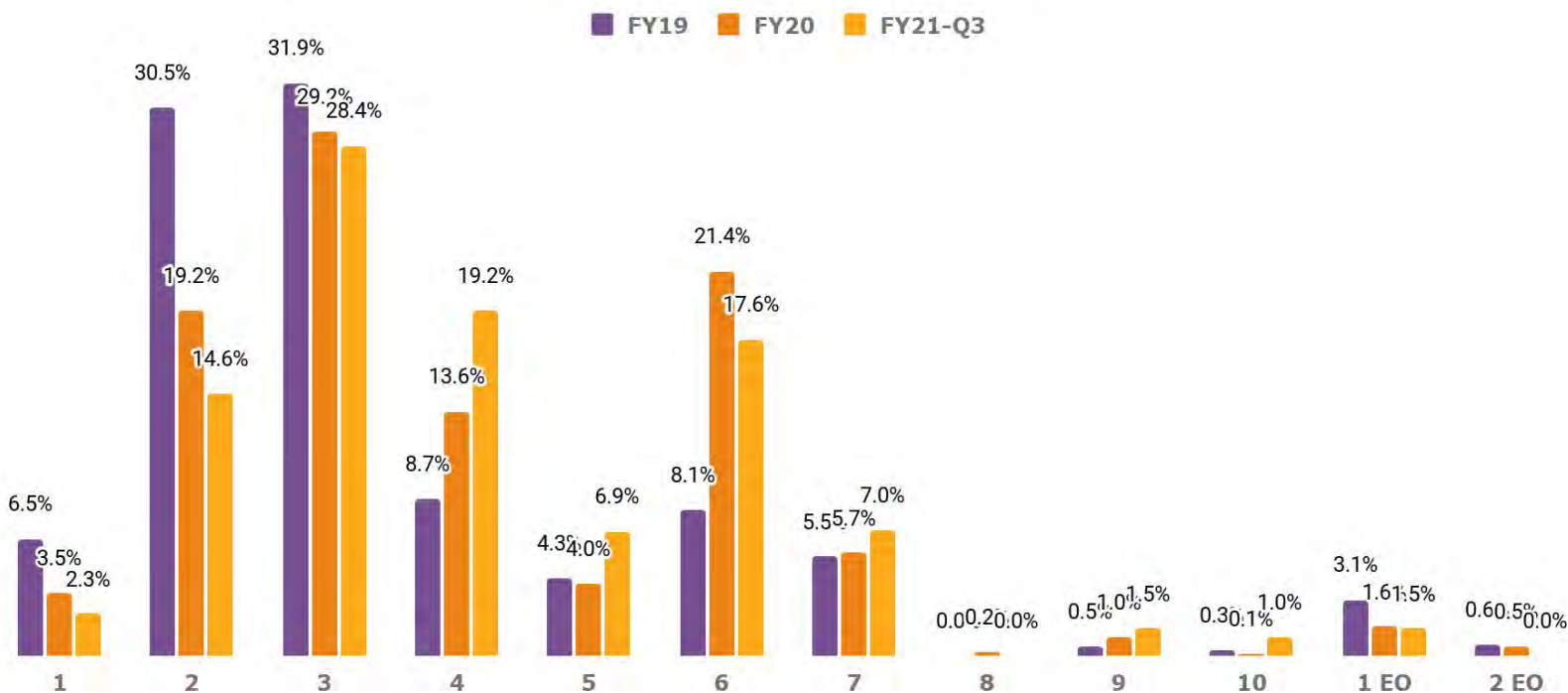
## MTW SAFMR

	FY21-Q2	FY21-Q3
<b>Average HAP</b>	\$655.90	\$629.00
<b>Average Contract Rent</b>	\$864.40	\$877.90

SAHA's implementation of Small Area Fair Market Rents (SAFMRs) breaks up area zip codes into 10 groups to reflect local neighborhood rental markets. This methodology advances SAHA's long-term goal of providing families with the opportunity to move to their preferred neighborhoods.

## New Admissions

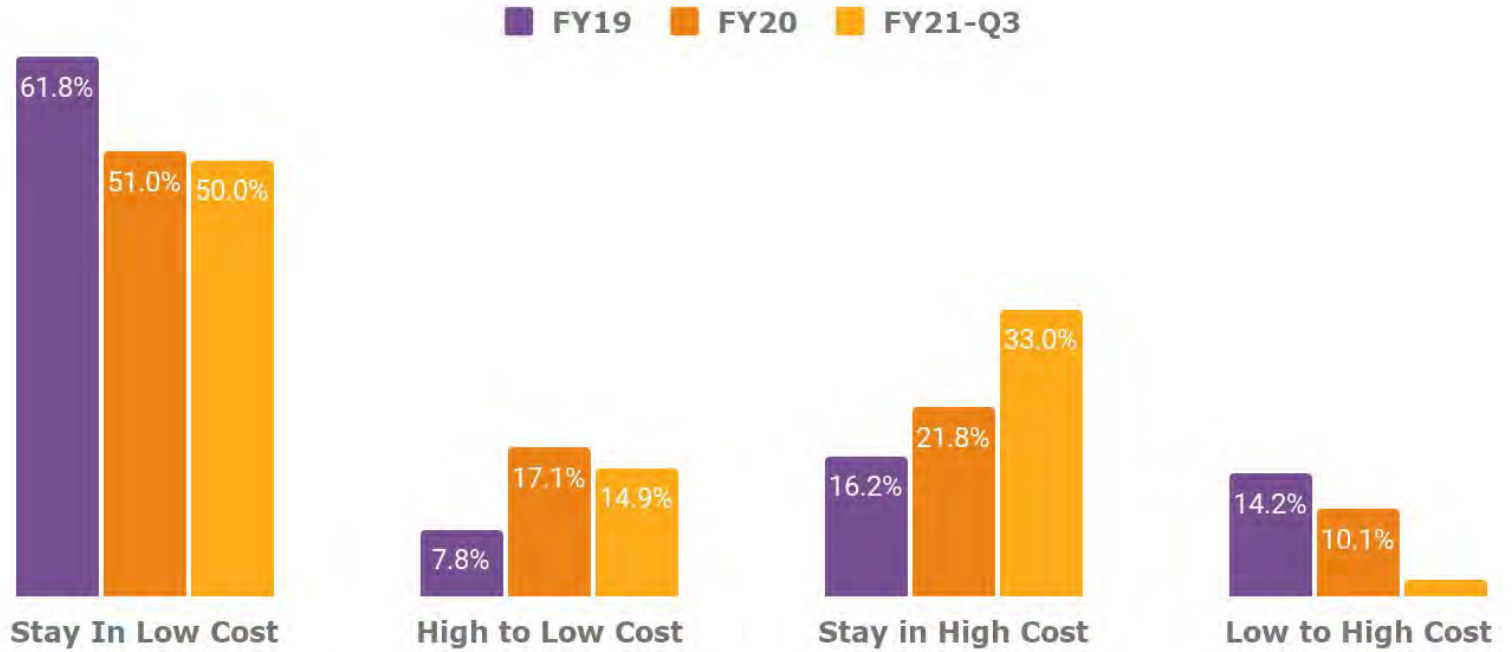
The graph below shows a comparison of new admissions between FY19, FY20 and FY21-Q3 by Groups. In FY21-Q3, there were a total of 130 new admissions.



# SAFMR REPORT

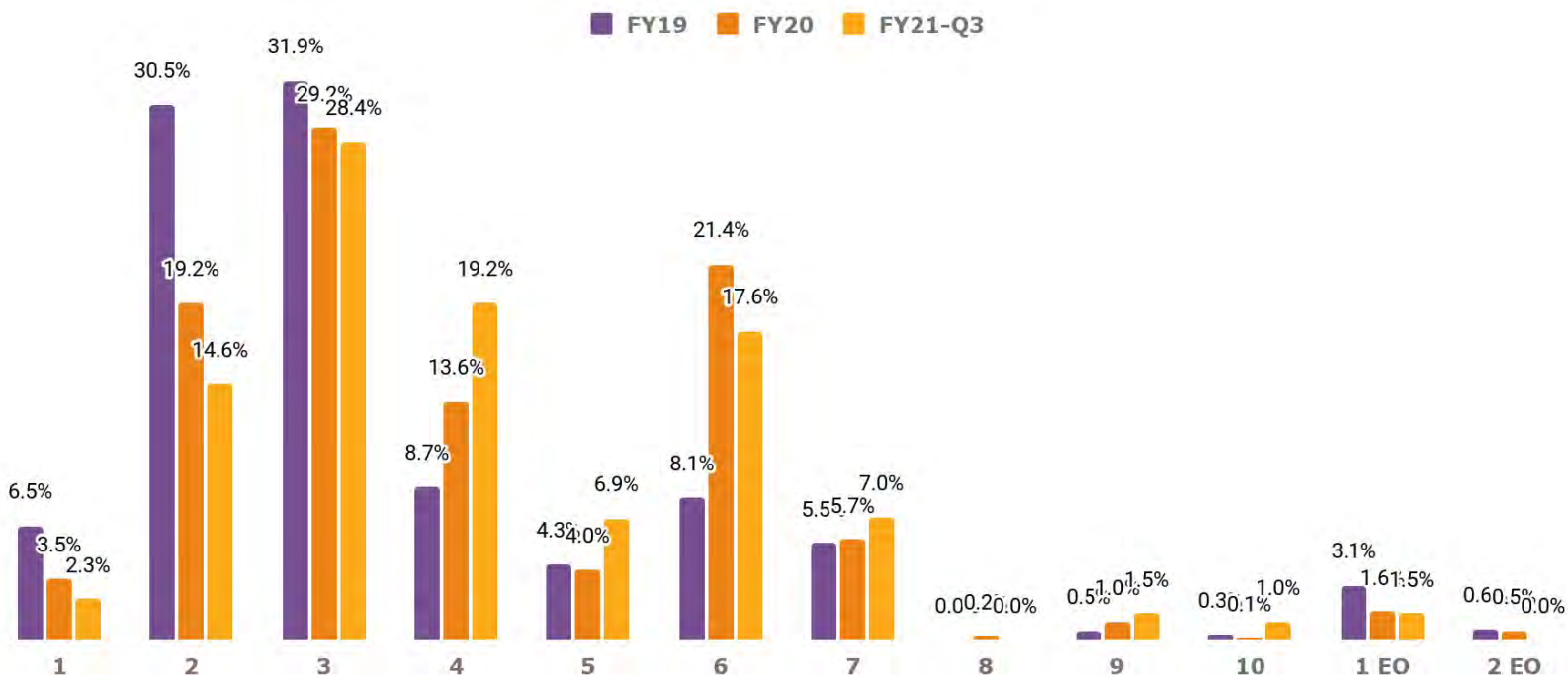
## Moves

The graph below shows a comparison of the geographic distribution of moving families between low-cost and high-cost neighborhoods. In FY21-Q3, there were a total of 94 moving families.



## In Place

The chart below shows a comparison of in-place families by Groups. In FY21-Q3, there were a total of 1,823 families that stayed in place (did not move).



# PH RENT PAYMENTS

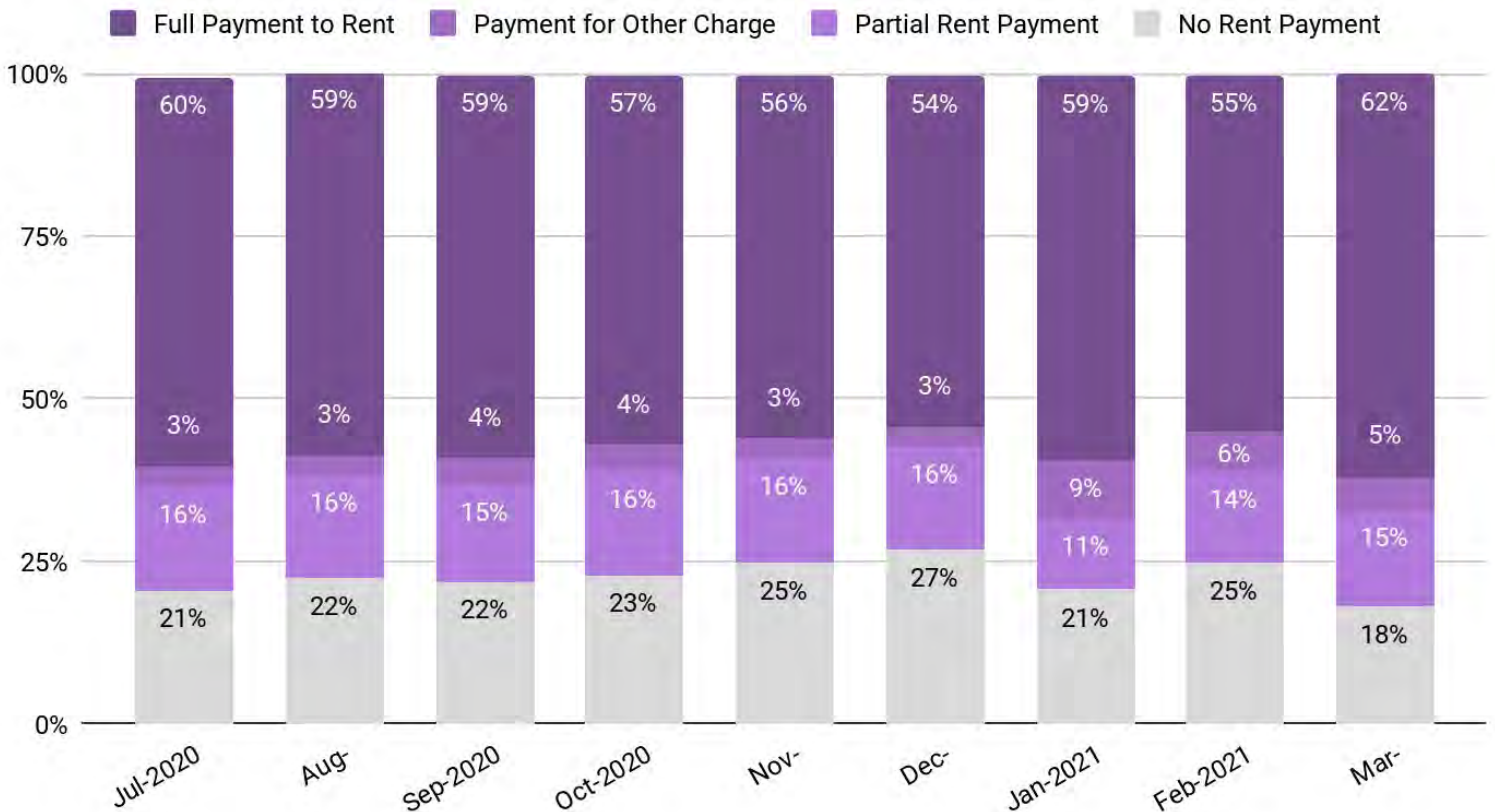
**SAHA has continually communicated with Public Housing residents through various methods to inform them that SAHA is not evicting at this time due to non-payment of rent, *although rent is still due each month.***

**Staff are taking every opportunity to update residents' income to lower their rent payment if they have experienced any income decreases or hardships, and are also assisting residents in setting up new repayment agreements to make payments toward debt over extended periods of time.**

## RENT PAYMENT STATUSES

Through staff efforts to communicate all rent payment options to residents, and checking on them continually to assist with any issues paying back rent and avoiding future debt, we have seen a decrease in the overall number of residents who are behind on rent or other charges.

This number decreased from FY21-Q2, which showed 25% of residents or more to be behind on rent payments. Staff are continuing to offer repayment agreements with extended time periods and reach out to residents for assistance.



# AHP STAFF TRAINING COMPLETED

**Below is the number of AHP staff certifications completed to date and the percentage of staff who have completed these certifications. New employees and vacancies are not included.**

**Certifications completed by AHP Operations staff such as Managers, Asst. Managers, and Housing Assistance Specialists.**

Fair Housing & Reasonable Accommodation Certification	<b>23</b>	<b>(88%)</b>
SAHA Leadership Program (optional)	<b>12</b>	<b>(46%)</b>
HCV Financial Management Specialist Certification	<b>5</b>	<b>(19%)</b>
HCV Program Management Certification	<b>4</b>	<b>(15%)</b>

**Certifications completed by Inspections staff such as Managers, Quality Control (QC) Inspectors, and Inspectors.**

HQS Certification	<b>15</b>	<b>(100%)</b>
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**Additional certifications completed by both Operations and Inspections.**

HCV Specialist Certification	<b>25</b>	<b>(61%)</b>
Rent Calculation Certification - AHP (optional)	<b>5</b>	<b>(12%)</b>
HCV Executive Management Certification	<b>8</b>	<b>(20%)</b>



# PH STAFF TRAINING

**Below is the number of PH staff certifications completed to date and the percentage of staff who have completed these certifications. New employees and vacancies are not included.**

**Certifications completed by PH Operations staff such as Community Managers, Asst. Community Managers, and Client Services Specialists.**

PH Specialist Certification	<b>27</b>	<b>(87%)</b>
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PH Management Certification	<b>20</b>	<b>(74%)</b>
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Rent Calculation Certification - PH (optional)	<b>12</b>	<b>(36%)</b>
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**Certifications completed by Maintenance staff such as Maintenance Superintendents, Maintenance Supervisors, and Maintenance Technicians.**

Certificate for Apartment Maintenance Technicians (CAMT)	<b>34</b>	<b>(68%)</b>
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Gas Operator Certification	<b>23</b>	<b>(46%)</b>
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Electrical Maintenance Technician Certification (EMT)	<b>59</b>	<b>(100%)</b>
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**Additional certifications completed by both Operations and Maintenance.**

Fair Housing & Reasonable Accommodation Certification	<b>40</b>	<b>(35%)</b>
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SAHA Leadership Program (optional)	<b>17</b>	<b>(15%)</b>
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# ON THE HORIZON

## HCV WAITLIST OPENING

- Anticipated opening in June 2021
- Waitlist will be open for 15 calendar days
- After waitlist closure, applications will be assigned a random number
- Applications assigned 1-15,000 will be placed onto the waitlist
- Email addresses will be required of all applicants
  - Partnering with community agencies to assist applicants with creation of email addresses and submitting applications
- Rapid notification of waitlist status will be provided to applicants through email

## ANTICIPATED TRAINING

Below are training topics estimated to be presented to staff before the end of FY21.

- Methods of Verification (FHP Operations)
- Move-Out Procedures (PH Staff)
- FY21-22 Policy & Procedure Updates (All Staff)
- Trauma Informed Care (All Staff)
- Continuing Customer Service and Working-from-Home (All Staff)

## OTHER PROGRAM UPDATES

- Establishing PH Eligibility Team at Central Office
- Implementing a formal process for Informal Conferences at PH properties prior to an Informal Hearing
- Updating Internal Audit Quality Control procedures for AHP and PH
- Working on Electronic Recertification process for AHP and PH
- Updating lobby queuing systems to allow for text check-in and more