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CAPITAL AREA HOUSING FINANCE CORPORATION

APPLICATION FOR FINANCING  
QUALIFIED RESIDENTIAL RENTAL PROJECTS

INSTRUCTIONS AND APPLICATION FORM

EFFECTIVE SEPTEMBER 1, 2024

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## INTRODUCTION

The following Instructions (the "*Instructions*") set forth the procedure for submitting an application to the Capital Area Housing Finance Corporation (the "*Corporation*") for financing qualified residential rental projects. The Instructions also summarize the requirements an applicant (an "*Applicant*") must satisfy to qualify for financing as set forth in the Act (as hereinafter defined), the Texas state ceiling allocation statute, the rules and regulations of the Texas Bond Review Board, the Internal Revenue Code (the "*Code*") and Treasury Regulations, rulings and procedures implementing the Code. No attempt is made by the Corporation to describe these requirements in a full or comprehensive manner in the Instructions. Applicants must consult their own legal counsel regarding such requirements, including any requirements of the Texas Department of Housing and Community Affairs (the "*TDHCA*") and not rely on the Corporation, its counsel or advisors for information concerning such requirements.

The Corporation was created under the Texas Housing Finance Corporations Act of 1979 (the "*Act*"), Chapter 394 of the Local Government Code, as amended, by the Counties of Bastrop, Blanco, Burnet, Caldwell, Fayette, Hays, Lee, Llano and Williamson and the City of San Marcos, Texas. The Corporation's primary purpose is to assist individuals of low and moderate income to obtain decent, safe, sanitary and affordable housing located within the boundaries of one of the member local governments. The Corporation is authorized by the Act to issue special revenue bonds to finance qualified residential rental projects for this purpose.

### ARTICLE I. GENERAL REQUIREMENTS.

The Corporation will not issue bonds to provide financing for any residential development that has not satisfied, as determined by the Corporation, the general requirements set forth in this Article I and all requirements of the Act and the Code as determined by Bond Counsel. The Corporation reserves the right to impose additional specific requirements with respect to any particular residential development. Compliance with the Instructions does not and shall not be deemed to constitute a commitment or assurance that financing will be provided by the Corporation.

*Applicant.* The Applicant must be an existing entity with sufficient financial resources to satisfy all costs, expenses and indemnifications to be incurred hereunder and in connection with the bond issuance. The Applicant must submit a financial statement evidencing compliance with this requirement with the delivery of the application.

*Public Purpose.* Prior to the issuance of bonds, the Board of Directors of the Corporation (the “Board”) must have made a finding that financing of such residential development will promote the public purposes set forth in Section 394.002 of the Act.

*Residential Rental Property.* The owner of the residential development, unless the owner is a 501(c)(3) corporation, shall have entered into contractual arrangements that demonstrate, to the satisfaction of the Corporation, that such residential development is to be owned and operated as a qualified residential rental project within the meaning of Section 142(d) of the Code and applicable regulations thereunder, for the longer of the Qualified Project Period (as hereinafter defined) or the period during which such bonds remain outstanding.

For purposes of the Instructions, the term “*Qualified Project Period*” means the period beginning on the first day on which 10% of the units in such residential development are occupied and ending on the later of (i) the date that is fifteen (15) years after the date on which at least 50% of the units in such residential development are first occupied, (ii) the first day on which no bonds issued to finance or refinance such residential development are outstanding or (iii) other land use restriction deed requirements which exceed (i) or (ii).

*Tenant Income.* Under the Act, at least 90% of the rental units must be occupied by individuals of low and moderate income. The Board is required by the Act to determine this income standard. The terms “*low income*” and “*low and moderate income*” as used in the Instructions have the same meaning as “low and moderate income” in the Act.

The project must meet, at a minimum, the Internal Revenue Service safe harbor test of 20% of the units occupied by tenants earning no more than 50% of the Area Median Income or 40% of the units occupied by tenants earning no more than 60% of the Area Median Income. The Corporation may also place additional restrictions on the project to ensure that it satisfies a public purpose with at least 90% of the units being affordable as defined by the Board.

*Occupancy Requirements.* The Act requires the Applicant to set aside at least 5% of the rental units (if there are twenty (20) or more units in the project) for elderly individuals of low income or families of low or moderate income in which an elderly individual is the head of household. “*Elderly*” means sixty (60) years of age or older. Alternatively, the Applicant may pay the Texas Department on Aging a one-time fee, payable at closing, equal to 0.10% of the total principal amount of the bond issue.

*Tax-Exemption of Bond Interest.* The Applicant must comply with all provisions of Section 103 of the Code pertaining to the requirements for the tax exemption of the bond interest as determined by Bond Counsel.

*Acquisition and Rehabilitation Projects.* The Corporation will not finance an acquisition and rehabilitation project unless the Applicant demonstrates that the project to be acquired and rehabilitated will be capitalized with adequate reserves.

*Property Tax Exemption/Payment in Lieu of Taxes.* If an exemption from ad valorem taxes is being sought, the Applicant must prove that the transaction will not underwrite but for the exemption. The Applicant must also describe in detail the proposed uses of the funds generated by the advalorem tax exemption. The Corporation generally requires a PILOT program for each project requesting exemption from ad valorem taxes. Each project will be evaluated separately, and the requirement and terms of the PILOT program will be determined by the Board.

Where a property tax exemption is being sought, the borrower of the proceeds of the bonds issued by the Corporation will be a limited partnership formed with the Corporation or a related entity as general partner and the Applicant or a related entity as special limited partner. The terms of the partnership and the rights and obligations of the parties thereto will be as set forth in a Memorandum of Understanding (“MOU”) between the Corporation and the Applicant. The adoption of an official intent resolution as described herein is separate and apart from the approval of an MOU and does not obligate the Corporation to enter into an MOU or indicate an intention to execute an MOU.

*Location of Project.* The residential development must be located entirely within the boundaries of one or more of the Corporation’s sponsoring political subdivisions.

*Third Party Reports.* The Corporation may obtain underwriting, marketing, appraisal and physical needs assessment reports (the “Third Party Reports”) from independent third parties at the expense of the Applicant.

*Regulatory Approvals.* The Applicant is responsible for obtaining all regulatory approvals (zoning, special permits, utility connections, etc.) necessary for development of the project.

*Rating or Private Placement.* The Corporation will not issue bonds to finance a qualified residential rental project unless the bonds receive a rating in at least the “A” category from Standard and Poor’s Ratings Services or Moody’s Investors Service unless the bonds are sold by private placement.

If the Applicant plans a private placement of the bonds, the Applicant must furnish the Corporation with an investment letter from the prospective purchaser of the bonds that is satisfactory to the Corporation and its General Counsel. In addition, the bonds must be in denominations of \$100,000 or more and be subject to transfer restrictions acceptable to the Corporation.

*Bond Counsel and General Counsel.* The Corporation has retained Chapman and Cutler LLP as Bond Counsel for its bond issues. The Corporation will be represented by its General Counsel in connection with each bond issue. The fees and expenses of Bond Counsel and the Corporation’s General Counsel are to be paid by the Applicant.

*Partnership Counsel.* The Corporation has retained Chapman and Cutler LLP to act as Partnership Counsel in bond transactions where the Corporation has an ownership interest in the project. The fees and expenses of Partnership Counsel are the responsibility of the Applicant.

*Financial Advisor.* The Corporation has retained Hilltop Securities Inc. as Financial Advisor for its bond issues. The fees and expenses of the Financial Advisor are the responsibility of the Applicant.

*Rebate Analyst.* The Corporation has retained Hilltop Securities Asset Management, LLC as Rebate Analyst for its bond issues. The fees and expenses of the Rebate Analyst are the responsibility of the Applicant.

*Underwriter/Placement Agent and Trustee.* The Corporation will select a qualified trustee for the bond issue. The Applicant may engage an underwriter or placement agent mutually acceptable to the Applicant and the Corporation. The fees and expenses of the foregoing parties are the responsibility of the Applicant.

*Official Intent.* U.S. Treasury Regulations permit the Corporation to declare its official intent to issue its bonds so that project costs may be paid from a portion of the issue proceeds. If the Applicant satisfies all of the requirements for issuance of the Corporation's bonds as set forth in this Article I and the application procedures set forth in Article II below, the Executive Director of the Corporation will schedule a meeting of the Board to consider adopting a resolution evidencing the intent of the Corporation to issue its bonds to finance the Applicant's qualified residential rental project. The Applicant will be notified of the date, time and place of such meeting and should appear at the Board meeting to answer questions about the project.

Adoption of an official intent resolution is solely at the Corporation's discretion and adoption does not obligate the Corporation to issue the bonds. No person may represent, directly or indirectly, to a potential purchaser of the bonds, or to anyone else, that the Corporation has agreed to finance the Applicant's project until the Corporation adopts a final bond resolution authorizing the issuance of its bonds. An official intent resolution expires when the application expires.

*Public Hearing and Approval.* Section 147 of the Code requires the Corporation to conduct a public hearing on the project at a location convenient to members of the public likely to be interested in the project, which may be held by conference call with access via a toll-free phone number. The Corporation's Bond Counsel will schedule and advertise the hearing and notify the Applicant's contact person of its date time and place. The costs of such advertisement and any rental or other fees associated with the hearing location, if applicable, are the responsibility of the Applicant. The Corporation will designate a hearing officer to conduct the hearing. A representative of the Applicant should appear at the hearing and be prepared to answer questions about the project.

Section 147 of the Code also requires approval of the project by the chief elected executive officer of the local government in whose jurisdiction the project will be located. For locations outside the City of San Marcos, the chief elected executive officer is the County Judge. For projects located in the City of San Marcos, the chief elected executive officer is the Mayor of San Marcos.

The Corporation's General Counsel will prepare the certificate of approval and present it to the appropriate official for signature. It is the Applicant's responsibility to secure the approval.

*State Ceiling Allocation for Private Activity Bonds.* Unless the Applicant is a 501(c)(3) corporation, the Applicant must receive from the Texas Bond Review Board a reservation of the state's private activity bond allocation in an amount equal to the total principal amount of the private activity bond issue requested of the Corporation. Bond Counsel will prepare and file the

application with the Texas Bond Review Board for the Corporation on behalf of the Applicant. The Applicant must cooperate fully with Bond Counsel in preparing the application and must certify that all information in the application is correct and complete before it is filed with the Texas Bond Review Board.

*Priority Election for Low Income Housing Tax Credits.* Unless the Applicant is a 501(c)(3) corporation, the Applicant must elect, by checking one of the boxes in item 6 on the application form cover, one of three Low Income Housing Tax Credit priorities. An Applicant that elects priority 1 or 2 must also apply for a 4% Low Income Housing Tax Credit award from the Texas Department of Housing and Community Affairs (“TDHCA”).

*TDHCA/State Law Requirements.* The Applicant is responsible for compliance with all applicable TDHCA rules and regulations and all applicable laws of the State of Texas, including, but not limited to, the requirement under Chapter 1372 of the Texas Government Code that the amount of the bond financing not exceed 55% of the aggregate basis of the project (and the land upon which the project will be located) as evidenced by an independent accountants’ report.

## ARTICLE II. APPLICATION PROCEDURE.

*Application Submission.* The Applicant must complete an application form, which is available at the Corporation’s website, [www.cahfc.org](http://www.cahfc.org). The application form may be completed online. The Applicant must answer all questions completely and accurately. If the Applicant requires additional space for an answer, or if a question requires an attachment, the Applicant may attach letter-sized continuation sheets that may be inserted following the page of the application form that it supplements. The question number should be clearly marked on the continuation sheets and should be numbered sequentially. For example, continuation sheets pertaining to question 2.4 should be marked 2.4-1, 2.4-2, 2.4-3, etc.

The Corporation may request additional information not required by the application form. The Applicant agrees to furnish such additional information in writing within a reasonable time after receipt of the Corporation’s request. The Corporation may also modify the requirements of the application form if necessary, to accommodate changes in law or to obtain a complete and accurate understanding of the Applicant’s project.

The Corporation is subject to the Texas Public Information Act and all information in its files, including the completed application, is subject to disclosure unless made confidential by the Texas Public Information Act.

The individual signing the application cover sheet represents that he or she read and understands the Instructions and the application form, that the information contained in the application form is correct and complete, that the Applicant agrees to the terms and conditions set forth in the Instructions and the application form and that he or she is legally authorized to sign on behalf of the Applicant.

When the application is completed, print and bind the form pages, required attachments and continuation sheets into a single packet, sign and date the cover sheet and mail or deliver the signed original and a labeled thumb drive containing the complete executed application, together with checks for the Application Fee (as hereinafter defined), the Bond Counsel Review Fee (as

hereinafter defined) and the Bond Review Board Filing Fee (as hereinafter defined), if applicable, to:

Capital Area Housing Finance Corporation  
Attention: Jim Shaw, Executive Director  
4101 Parkstone Heights Drive, Suite 280, Austin, Texas 78746

In addition, a complete executed application should be sent via email to Lori Fisher, Director of Operations, at [lfisher@cahfc.org](mailto:lfisher@cahfc.org).

*Rejection of Application.* The Corporation may reject an application if it is (i) not received by the Corporation on or before the application deadline, (ii) not accompanied by the application fee or (iii) incomplete and the Applicant fails to complete the application within a reasonable time after the Corporation's request for completion.

*Expiration of Application.* An application expires (i) if it is withdrawn by the Applicant, (ii) if the Corporation does not adopt a resolution of official intent within ninety (90) days from the date of the application, (iii) if the Applicant does not receive an allocation reservation from the Texas Bond Review Board (if required), (iv) if the Applicant does not receive the Low Income Housing Tax Credits applied for from the Texas Department of Housing and Community Affairs, (v) if the reservation or the tax credits are withdrawn, cancelled or expire or (vi) if the Corporation does not issue the requested bonds within one hundred eighty (180) days from the later of (x) the date of the adoption of the resolution of official intent or (y) if applicable, the date of the allocation reservation from the Texas Bond Review Board. All action taken by the Corporation on an application becomes void when the application expires.

In the event an application expires, the Applicant may resubmit an application for the project upon payment of the fees and costs set forth in Article III below. No credit will be given for fees paid in connection with the expired application.

### ARTICLE III. FEES AND COSTS

*Application Fee.* A nonrefundable fee of \$5,000 for a private activity bond issue or for a 501(c)(3) Applicant (the "*Application Fee*") for the Corporation staff review of the application (by check made payable to the Corporation). In connection with private activity bond issues, \$5,000 must be paid as compensation to Bond Counsel (the "*Bond Counsel Review Fee*") for preparing and filing the application with the Texas Bond Review Board (by check made payable to Chapman and Cutler LLP) and \$5,000 must be paid as compensation to the Financial Advisor (the "*Financial Advisor Review Fee*") for application and due diligence review (by check made payable to Hilltop Securities Inc.). In addition, an Applicant applying for a private activity bond issue must submit a check for the Texas Bond Review Board filing fee in the amount of \$5,000 payable to the Texas Bond Review Board with its application (the "*Bond Review Board Filing Fee*"). If the Corporation does not adopt a resolution of official intent for the Applicant's project, the Corporation will return the Bond Review Board Filing Fee and the Bond Counsel Review Fee. The \$5,000 Application Fee owed to the Corporation and the Financial Advisor Review Fee are not refundable whether or not the Corporation adopts an official intent resolution.

*Issuance and General Counsel Fee.* The Corporation shall be paid an issuance fee equal to 0.75% of the total principal amount of bonds issued (the "*Issuance Fee*") and the General Counsel shall be paid the fee as described below (the "*General Counsel Fee*"), each payable at closing, subject to the immediately succeeding sentence. In the event that the Application expires or bonds are not issued, the Corporation and General Counsel are entitled to (i) 25% of the Issuance Fee and General Counsel Fee, calculated based on the amount of the volume cap reservation, if a TEFRA hearing has been held by the Corporation or (ii) 50% of the Issuance Fee and the General Counsel Fee if the Corporation's Board has passed its final bond resolution, calculated based on



the aggregate principal amount of the bonds approved by the Board, which amounts are due and payable immediately upon the earlier of (A) the expiration of the Application or (B) the termination of the bond issuance. If the bonds are issued, no portion of the Issuance Fee or the General Counsel Fee is refundable.

*Annual Administrative Fee.* 0.15% of the total principal amount of the bonds issued (the “Annual Administrative Fee”). The first three (3) years of the Annual Administrative Fee are payable to the Corporation at closing and the remaining Annual Administrative Fees are payable to the Corporation beginning on the fourth anniversary of the closing and on each subsequent anniversary so long as any of the bonds are outstanding. For bond issuances that are expected to be outstanding for less than 10 years, ten (10) years of the Annual Administrative Fee are payable at closing.

*Engagement of Bond Counsel and Partnership Counsel.* The Applicant (or a related entity) must sign the engagement letters of Chapman and Cutler LLP and pay the required retainer prior to the scheduling of the public (TEFRA) hearing. The engagement letters must be executed by an existing entity with financial resources acceptable to Chapman and Cutler LLP.

*Closing Fees and Costs.* The Applicant is responsible for rating agency fees, bond printing costs, placement costs, insurance premiums, filing and recording fees, the Texas Bond Review Board closing fee, the Texas Department on Aging fee (if elected), the costs of transcript preparation and distribution and any other fees and costs of closing.

*Fee Schedule.* The following fee schedule sets forth the Corporation’s approved fees for Bond Counsel, General Counsel, Partnership Counsel and the Financial Advisor for the Corporation’s multifamily bond issues. The following fees do *not* include expenses. While these fees are the standard fees for the Corporation’s bond issuances, they can be increased as negotiated depending on specific deal factors, including delays in the financing schedule and the complexity of and changes to the financing structure.

	ISSUE AMOUNT	FEE
Bond Counsel	\$19,999,999 or less \$20,000,000 or more	\$125,000 \$125,000 <i>plus</i> \$5.00 per \$1,000 of Bonds in excess of \$20,000,000
General Counsel	Any issue amount	\$5,000, plus \$1.25 per \$1,000 of Bonds issued (+ \$10,000 for Partnership transactions)

Partnership Counsel	\$19,999,999 or less \$20,000,000 or more	\$125,000 \$130,000
Financial Advisor	Any issue amount	\$10,000 <i>plus</i> \$2.00 per \$1,000 of Bonds issued (+ \$50,000 for Partnership transactions where CAHFC is the issuer of Bonds)

ARTICLE IV. INDEMNITY AGREEMENT.

For the purpose of inducing the Corporation to accept, review and act upon the Application and to issue the obligations therein contemplated, the Applicant hereby agrees to indemnify and hold harmless the Corporation, its officers, directors, employees, agents and representatives, from and against all costs, losses, damages, expenses and liabilities of any kind arising from or in connection with the Corporation's acceptance, review, approval or disapproval of such Application for financing, or the issuance, offering, sale or delivery of the bonds of the Corporation therein contemplated, or the design, acquisition, construction, rehabilitation, installation, operation, use, occupancy or maintenance of the residential development described in such Application. It is expressly agreed that the provisions of this Article IV shall survive (i) any approval or disapproval of such Application and (ii) whether or not any such bonds are issued.

EXECUTION AND ACKNOWLEDGEMENT

The undersigned Applicant hereby acknowledges that it has read and understood the terms and conditions set forth in the Instructions and agrees to be bound by the same.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Name of Applicant

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Accepted:

Capital Area Housing Finance Corporation

By: \_\_\_\_\_

James E. Shaw  
Executive Director