

# CSH Park Boulevard Lofts, Ltd.

3701 Kirby Drive, Suite 860  
Houston, Tx 77098

June 27, 2024

TDHCA  
221 E. 11th Street  
Austin, TX 78701  
Attn: Cody Campbell

RE: Request for Return and Reallocation of Tax Credits – Force Majeure under 10 TAC 11.6(5)  
Park Boulevard Lofts (TDHCA Application #23061)

Dear Mr. Campbell,

CSH Park Boulevard Lofts, Ltd. (the “Applicant”) received an award of 2023 9% Low Income Housing Tax Credits (the “HTCs”) for Park Boulevard Lofts (the “Development”) located in Houston, Texas. The Applicant is working diligently with the Investor and Construction Lender to close the transaction. Although the closing was initially anticipated to occur prior to June 15<sup>th</sup>, 2024 and has been delayed, the development team is currently and confidently targeting a closing on or before July 31<sup>st</sup>, 2024 with construction starting prior to August 31<sup>st</sup>, 2024. As detailed below, the Development has suffered a variety of delays from various sources. The delays have been outside the control of the Applicant. Furthermore, the broad economic conditions have created circumstances where lower tax credit pricing and higher interest rates have required numerous redesign and repricing of the construction plans toward value engineering and maintaining Feasibility. The Applicant believes the circumstances, individually and collectively, constitute “force majeure”.

The Applicant requests that the Board (TDHCA) consider and approve this request to return the 2023 Credits for Park Boulevard Lofts (#23061) in exchange for an allocation of 2024 housing tax credits under 10 TAC 11.6(5). If approved, the force majeure exchange would allow Park Boulevard Lofts to meet the Placed-In-Service (“PIS”) deadlines and satisfy a requirement from the Investor that the Applicant request a placed-in-service extension.

## **SUDDEN AND UNFORESEEN CIRCUMSTANCES OUTSIDE THE APPLICANT’S CONTROL**

### **1. 2024 Houston Derecho - Direct Impacts:**

- The 2024 Houston Derecho (as named by the National Weather Service) struck the Houston area on May 16<sup>th</sup> and May 17<sup>th</sup> resulting in extensive damage and closure to home, businesses, and government offices in addition to vast power outages affecting millions of people.
- The Insurance Agent for the construction period insurance such as builders risk as well as partnership and contractor liability insurance coverages is a Houston based company. The offices of the Insurance

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Agent were damaged directly from the storm. Prior to the storm, the Insurance Agent had gone to market and was working towards obtaining the requisite insurance coverages in order to provide the proof of insurance in anticipation of Closing by June 15<sup>th</sup>. Damage to their offices and inability to work from their offices created a delay in the Insurance Agent providing insurance coverage and insurance certificates required by the Investor and Construction Lender as a condition to close. Subsequently, the closing has been delayed and will now occur prior to July 31<sup>st</sup>, 2024

- The General Contractor for the Development is a Houston-based construction company. The offices of the Contractor were without power for an extended period following the storm. This has delayed value engineering, final bidding and preparation of the construction documents required to close with the Investor and Construction Lender.

### 2. Delays due to Design Changes, Permitting and Approvals:

- The Applicant has experienced delays due to significant design changes, prolonged approvals, and a lengthy overall permitting process with the City of Houston.
- The Houston permitting and other local government offices were closed following the storms.
- The lengthy inefficient process and several changes to the requirements following initial submissions and preliminary approvals as depicted below have caused delays that have been outside the Applicant's control:

#### Timeline of Key Milestones and Approvals from City of Houston:

Wastewater Capacity Request	07/31/2023
Wastewater Capacity Reservation	08/30/2023
Performance Standard Submittal	10/10/2023
Drainage Plan Submitted	10/14/2023
Building Plan Submittal	11/16/2023
Sitework Plan Submittal	12/15/2023
Initial Plat Preparation	12/27/2023
Preliminary Plat Approved	01/11/2024
Final Plat Review Meeting	02/29/2024
Plat signed by City of Houston	03/07/2024
Plat Recorded by County Clerk	03/14/2024
Recorded Plat Received	03/21/2024
City Changes Water & Sewer Design	05/14/2024
City Approves New Utility Concept	05/16/2024
City Requires New Easements (Sidewalk)	05/17/2024
Building Plan Resubmission	05/29/2024
City Requires New Easements (Sanitary)	05/30/2024
Easement Review Meeting with City	06/12/2024
Final Site Plan Resubmission	06/21/2024
Site Development Permit	07/15/2024-anticipated
Building Permit	07/17/2024--immediately following site permit

### 3. Delays Due to Supplier, Materials and Labor Shortages

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- The construction industry has been working through upheaval since the commencement of the pandemic. Higher costs due to labor and material shortages remain a problem. The lead time to get certain construction materials and supplies has increased causing delays.
- The Houston derecho impacted communication and utilities as electricity and other infrastructure were down for days in some areas and extending into multiple weeks for certain parts of the City due to extensive damage to transmission lines and other infrastructure.
- City of Houston Permitting and other government offices were closed following the storms with staff unavailable to coordinate on matters related to permitting and other approvals. Issuance of permits and other approvals have been delayed. Site development permits for Park Boulevard Lofts are pending making way for a path to start construction after closing on the financing. The building permit is still pending and will be issued shortly after the site development permit is approved. The anticipated timing for release of the building permits has caused a delay to vertical construction and thus achievement of placed-in-service. The anticipated placed-in-service date would be just after December 2025 and mostly in January 2026.
- The General Contractor for the Development is Houston-based and lost power, electricity, and communication for multiple days, leading to delays in pre-closing and construction deliverables which have delayed closing.
- With limited labor, the main utility provider (CenterPoint) pulled office staff and reassigned personnel to focus on repairing damaged infrastructure after the Houston derecho. New construction projects in the design phase became low priority for CenterPoint rendering staff unavailable temporarily to actively participate in preclosing design and coordination with design team and the Contractor. The delay to preclosing design coordination has contributed to the delayed closing.
- Linger effects of the Houston derecho will continue to impact the construction and development in the local market due to re-assignment of staff and manpower (labor) to focus repair of utilities and damaged infrastructure.
- Construction budgets due to higher prices for materials and labor shortages following inflation rates at an all-time high have created challenges to maintaining feasibility. Overcoming the challenges has required time consuming coordination with various members of the development team including Architects, Engineers, Contractors, Lenders, and Investors.

#### **4. Summaries**

- As per the QAP, a Force Majeure event is the sudden and unforeseen circumstances outside the control of the Applicant, such as, acts of God which are fires, tornadoes, floods, significant or unusual rainfalls, explosions, or losses of necessary water or utilities as a direct result of a significant weather event. In addition, this also includes supplier failures or material and labor shortages. To the extent that the Force Majeure events make construction activity impossible, or materially impedes progress, a request for relief can be considered.
- Delays for Park Boulevard Lofts are a result of individual and collective circumstances such as the 2024 Houston derecho, temporary business closures, disruption to government services, widespread power outages and delayed utility coordination resulting shortages of materials and staff (labor). The conditions, individually and collectively, are Force Majeure events that have significantly impeded the Applicant's ability to close on financing and engage construction activities on a timeline that complies with the PIS deadline applicable to the Development.

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- The Houston derecho was entirely outside of the Applicant's control and could not have been foreseen.
- The Applicant attempted to mitigate the impacts to the materials and labor supply chains due to interest rate uncertainty and other market wide economic conditions by beginning to work with financing partners immediately upon receipt of an award.
- The Applicant attempted to mitigate the impact of the lengthy permitting and approvals by initiating plan preparation and making timely submissions to the City of Houston in addition to coordination with the CenterPoint. Despite the best efforts, the process has been inefficient and prolonged which was further impacted by the Houston derecho. Furthermore, the City required significant design changes following preliminary reviews and approvals. The inefficiency and the design changes could not have been foreseen by the Applicant.
- Force Majeure events have delayed the closing and construction progress of this Development, and continue to result in loss to the Development, and they could not have been foreseeable and mitigated through appropriate planning and risk management.
- The Development remains financially feasible, despite any ongoing delays. However, the Investor has requested that the Applicant submit for an extension to the placed-in-service date prior to closing.

### **CONCLUSION**

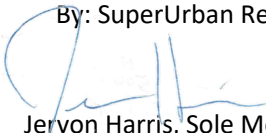
The Applicant kindly requests this matter for Park Boulevard Lofts be presented to the Board with a recommendation for approval for a Force Majeure Tax Credit Exchange. If any additional information is required, please feel free to contact me directly.

Your helpful attention to this matter is greatly appreciated.

Sincerely,

**CSH Park Boulevard Lofts, Ltd.**

By: SuperUrban Realty Ventures (HUB Participant)



Jervon Harris, Sole Member/Manager

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