

September 13, 2024

VIA EMAIL DELIVERY

Cody Campbell  
Connor Jones  
Texas Department of Housing and Community Affairs  
221 East 11th Street  
Austin, Texas 78701-2410

Re: Request for an Extension of the Placed in Service date for Trailside Estates (the "Development"), TDHCA Nos. 22228, 23815

Greetings:

We represent Trailside Estates, L.P. ("Owner"), which applied for and received \$1,575,000 in Housing Tax Credits in 2022 for a 74-unit senior development in Tyler, Texas. The Development also requested and received a finding of Force Majeure from the TDHCA Board on 6/15/2023 which extended the Placed in Service Date to December 31, 2025.

### **Background**

At the time of Application, total costs were projected to be \$16,817,481. The permanent loan rate was assumed to be 5.75%, credits were priced at \$0.87, and a Deferred Developer Fee of \$107,611 was projected. Since the Housing Tax Credits were awarded, costs have increased significantly and, based off of the current set of permit plans, are now expected to be \$20,434,065, a 21% increase. Actions by the Federal Reserve to increase interest rates have the projected interest rate for this transaction now at 8.5% and credit pricing has dropped to closer to \$0.83. The Development now has a Deferred Developer Fee of \$227,580 assuming a TCAP allocation and a tax exemption. It is anticipated that the Federal Reserve will reduce interest rates soon but it is difficult to predict the specific effect any rate cut will have on the interest rate or credit pricing until the market settles down and shakes out.

This development has applied for MFDL funds and appears to be in line for an award at the November 7, 2024 TDHCA board meeting. Assuming this Placed-in-Service extension is granted, the Development will quickly move forward to closing in February of 2025 and begin construction in February or March of 2025.

The Owner has continued to push forward with the development to bring needed affordable housing to Texas residents, hoping that market conditions would change or some other means of achieving financial feasibility would be found. It has proceeded with the Development expended considerable funds to accomplish the following:

- Acquisition of the land
- Completion of most environmental and remediation work
- Completion of architectural and engineering plans
- Application for building permits

All of these efforts have been undertaken in good faith with full intent to complete the project.

The Development has applied for TCAP funds through the Multifamily Direct Loan Program NOFA 2024-3. These funds are intended, at least in part, to assist past recipients of 9% credits. It appears that the Development is in line to receive an award of funds which will make the development financially feasible and allow the development to close on financing and begin construction. However, the process of reviewing, underwriting, and documenting the application for TCAP funds is not expected to be complete until October of 2024 and the TDHCA Board is expected to address the funding request at its meeting on November 7, 2024. We are asking that this Placed-in-Service extension request be heard at the November 7th board meeting also. The extension will be required prior to closing to assure investors and lenders that there will be enough time to meet the Placed-in-Service deadline. This would place the anticipated closing in February of 2025 and the beginning of construction in February or March of 2025. See Exhibit A.

Accordingly, the Development is requesting that the Board continue its finding that this development meets the requirements of the Force Majeure provisions on Section 11.6(5) of the QAP and extend the Placed in Service Deadline to December 31, 2026.

### **Support for Force Majeure Conditions**

Pursuant to Section 11.6(5) of the QAP, a Force Majeure event includes Acts of God; changes in law, rules, or regulations; and supplier failures or materials or labor shortages that make construction activity impossible or materially impede its progress. TDHCA is aware of the general construction market conditions that have changed dramatically since Applications were submitted in the first quarter of 2022. The disruptions that started with the pandemic have not eased or only eased marginally. While certain materials costs have stabilized, other materials and labor costs have accelerated. The CBRE Producer Price Index for Construction Materials saw increases of almost 19% in 2021, 14% in 2022, and 5% in 2023. Although inflation has slowed, the cumulative impact of the past three years of inflation cannot be understated. The Federal Reserve has increased interest rates to levels that have not been seen in decades. The interest rate hikes have been compounded by decreases in credit pricing as investors demand higher returns. The combination of these factors establishes grounds for continuing the Board's finding of Force Majeure and accompanying relief. The owner was not able to anticipate or control the factors that have made the Development financially infeasible.

### **Factors for Consideration**

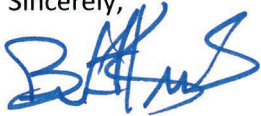
In accordance with Section 11.6(5) of the QAP, we believe Owner meets TDHCA's requirements for the relief sought, in that:

1. Owner has proven up delays resulting from force majeure events, including supplier failures and materials and labor shortages that continue after origination during the COVID-19 pandemic, along with the interest rate changes imposed by the Federal Reserve. The delays materially impede Owner's ability to engage in construction activity.
2. When Owner submitted its Tax Credit Application in early 2022, it had no way of knowing what was to come with market conditions that are now commonly referred to as "unprecedented."

3. Owner has endeavored to mitigate the delays by acquiring the land and commencing predevelopment activity.

We believe Owner has satisfied TDHCA's requirements for a reallocation of Tax Credits under Section 11.6(5) of the QAP and requests that this matter be considered at the next available Board meeting with a recommendation for approval. We greatly appreciate TDHCA's commitment of these resources to assist affordable housing and developments awarded tax credits in 2021 and 2022. We respectfully request the extension of the Placed in Service date to allow us to take advantage of those funds and get this shovel-ready development closed and under construction. If any additional information is required, please feel free to contact us.

Sincerely,



Brian H. Kimes  
Senior Vice President



EXHIBIT A-TIMELINE

March 2022	Housing Tax Credit application submitted
March 2022-March 2024	Working with lenders, investors, general contractors, engineers, and architects to try and address financial gaps caused by COVID's impact on the economy
June 2022-June 2023	Worked with legislature to create State Tax Credit to close financial gaps
July 2022	TDHCA approves award of Housing Tax Credits
September 2022	Closed on land
September 2022-September 2024	Work on getting out of Liberty Utility District, work with Liberty Utility District on getting service agreement in place and lift station design approved, work with TXDOT on road and trail-crossing alignment, work with neighbors on easements
February-September, 2024	Discussions with East Texas HFC re: potential partnership
April 2024	Application for MFDL funds submitted
April 2024	Submitted application for FHLB AHP funds-likely to be unsuccessful
May-October 2024	TDHCA MFDL application review and underwriting
October 2024	Anticipated signature of MOU with East Texas HFC
November 2024	Anticipated approval of MFDL funding by TDHCA Board
February 2025	Anticipated closing
February or March 2025	Anticipated start of construction
December 2025	Current Placed in Service deadline
October 2026	Construction completion assuming an 18-month construction period
December 31, 2026	Requested Placed in Service Extension