

RESOLUTION NO. 24-01

RESOLUTION OF HARRIS COUNTY HOUSING AUTHORITY PUBLIC FACILITY CORPORATION ON ITS OWN BEHALF, AUTHORIZING THE SETTLEMENT OF CAUSE NO. 2017-71486, HUSSION STREET BUILDINGS, LLC PLAINTIFF, V. HARRIS COUNTY HOUSING AUTHORITY PUBLIC FACILITY CORPORATION, ET AL.

WHEREAS, the Harris County Housing Authority desired to issue tax-exempt debt to finance the development of affordable housing in Harris County, Texas; and

WHEREAS, the Harris County Housing Authority (HCHA) determined that the best way to achieve such a goal was to create a non-profit, public facility corporation as an instrumentality of the Authority; and

WHEREAS, the Harris County Housing Authority Public Facility Corporation (the "Corporation") was created pursuant to the provisions of the Texas Public Facility Corporation Act, as amended, Texas Local Government Code, Chapter 303 (the "Act"), by HCHA through unanimous resolution on September 15, 2004; and

WHEREAS, in September 2015 HCHA through its Development Partner (Fenix Estates) purchased a land site behind Hussion's property for the purpose of building an affordable housing project; and

WHEREAS, Fenix Estates I, LP, a Texas limited partnership in its capacity of Residential Borrower ("Residential Borrower") and Fenix Estates Commercial, LLC, a Texas limited liability company in its capacity as Commercial Borrower ("Commercial Borrower"), jointly and severally, and acting collectively as the *Borrower* of funds for the Fenix Estates Housing Project, executed a certain Multifamily Note in favor of Harris County Housing Authority Public Facility Corporation ("Governmental Lender") on May 19, 2017, as amended for the purpose of financing the construction of the multifamily apartment affordable housing project; and

WHEREAS, in May 2017 following the closing of the loan Fenix Estates contracted with Qualified Construction Inc., (Qualified) to provide General Contracting Services; and

WHEREAS, in October 2017 Hussion sent a demand notice to Qualified and HCHA-RA alleging that during construction its sewer line was cut; and

WHEREAS, HCHA Public Facility Corporation was named as a defendant in Cause No. 2017-71486, Hussion Street Buildings, LLC, v. Harris County Housing Authority Public Facility Corporation, et al.; and

WHEREAS, in February 2018 HCHA granted a five-foot sanitary sewer easement to Hussion on HCHA's property for the sole purpose of constructing a new sewer line at HCHA's cost to replace the damaged line; and

WHEREAS, in May 2018 HCHA notified Hussion of the completed the new sewer line and that Hussion could connect the sewer line at will utilizing the easement granted by HCHA; and

WHEREAS, in September 2018 Hussion filed a third Amended Petition adding Fenix Estates; and Fenix Estates Commercial, LLC among others; and

WHEREAS, on October 24, 2018, Harris County Housing Authority (HCHA) filed an intervention in the Hussion suit to condemn the property; and

WHEREAS, in June 2019 the additional drainage work between 1901 Hussion and Fenix Estates property along Coyle Street was completed; and

WHEREAS, Hussion adds HCHA as a Defendant to the lawsuit on November 6, 2019; and

WHEREAS, HCHA dismissed its condemnation suit against Hussion on June 10, 2021; and

WHEREAS, the Court ordered the parties to mediation on October 18, 2021; and

WHEREAS, the parties attended mediation in July 2023 with a private mediator, and reached consensus on most material disputes save and except the mechanism to determine the viability of being able to connect the installed 2018 sewer line to Hussion's sewer line at its exit point, thus no written agreement was entered into between the parties; and

WHEREAS, after mediation the parties continued to negotiate and in November 2023 HCHA contracted with a licensed plumber to identify Hussion's sewer line exit point, excavate the site for the exposure of the exit point and the 2018 sewer line, installation of a two-way cleanout, permitting for City inspection, and refill.; and

WHEREAS, in December 2023 HCHA's plumber excavated the site, identified the exit point from Hussion's building, installed a two-way cleanout and connected Hussion's sewer line to the 2018 sewer line located on HCHA's property. Hussion also contracted a plumber who performed a camera inspection of the sewer line and alleged to have identified a "belly" in the sewer line; and

WHEREAS, in March 2024, after both parties completed visual and camera inspections of the sewer line and returning different or inconsistent findings the parties agreed to request an after-hours City Inspection with the inclusion of an inline camera inspection of the sewer line and connection site. The City issued an orange ticket indicating that the site failed inspection but found no fault with the connection performed by HCHA's plumbers; and

WHEREAS, in May 2024 the parties continued to negotiate a settlement of the suit and after addressing both parties concerns relative to connecting to the 2018 sewer line versus repairing or replacing the sewer line, the parties reached agreement on all terms of settlement; and

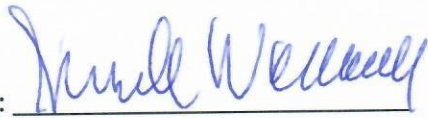
WHEREAS, on June 26, 2024, Harris County Housing Authority through its duly called and regularly scheduled meeting authorized through Resolution (24-23) the settlement and mutual release of all claims brought through Cause No. 2017-71486; and

WHEREAS, it is the parties' intent through this Resolution to settle the above numbered cause by mutual agreement and hereby request approval of such settlement.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors of HCHA Public Facility Corporation that:

1. Melissa Quijano, Secretary of HCHA Public Facility Corporation., is authorized to act on behalf of HCHA Public Facility Corporation., to negotiate to finality and execute an Agreement of Settlement and Mutual Release of Claims with Hussion Street Buildings, LLC, (Plaintiff) regarding the settlement of a legal dispute between Plaintiff and HCHA Public Facility Corporation., under the terms presented to the Board of Directors of HCHA Public Facility Corporation., in Executive Session;
2. Melissa Quijano is further authorized to perform all acts necessary and appropriate to carry out the purposes of this resolution.

PASSED by the Board of Directors this 21st day of August 2024.

President: 
Gerald Womack

Secretary: 
Melissa Quijano